

STATES OF JERSEY

Corporate Services Scrutiny Sub-Panel P.18, 7 Constitutional Amendments

WEDNESDAY, 17th MAY 2017

Panel:

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

Senator S.C. Ferguson

Deputy K.C. Lewis of St. Saviour

Witnesses:

Deputy A.D. Lewis of St. Helier

[10:48]

Deputy J.A.N. Le Fondré (Chairman):

So thank you all for attending. This is the public hearing of the Corporate Services Scrutiny Sub-Panel looking into P.18, which is basically 7 constitutional amendments. I should give apologies, firstly from the Constable of St. Martin who, unfortunately, cannot be with us today and who is the fourth member. Obviously, Deputy, as you are aware, you have the normal notice to your right, which hopefully you have fully read, digested and understood. To people in the public seating, as I am sure you are all aware, please make sure mobile phones are off and no interruptions. We know you have got a very tight timeframe as well. What we will try and do is if we can go for reasonably concise answers if possible. Obviously if we think we have got enough and need to move, because we do have a question plan, we will just indicate and usually, at the moment, by me sticking up my hand. Right, for the purposes of the recordings I am Deputy John Le Fondré. I am Chairman of the panel.

Deputy K.C. Lewis of St. Saviour:

Deputy Kevin Lewis, Vice-Chairman.

Senator S.C. Ferguson:

Senator Sarah Ferguson, member of the panel.

Deputy A.D. Lewis of St. Helier:

Deputy Andrew Lewis, proposer of the amendments to the P.18 ...

Deputy J.A.N. Le Fondré:

Hopefully, nice easy start. Could you explain the reasoning behind your 2 amendments to P.18?

Deputy A.D. Lewis:

The first amendment, one, is simply to bring the boundaries back to what the public were expecting them to be as they were consulted on during the referendum in probably an 18-month consulting process with the parishes and the general public concerning boundaries. It is exactly the sort of thing that you should then put to referendum if you change them. We are not having a referendum so I feel it is quite important that they are reinstated with what was originally accepted by the public. Not accepting just that, to make them as compliant as possible with the Venice Convention, of course it helps that as well by about 3 per cent. That might sound insignificant but if you look at the spread of results that you would have been presented, for example, just from the last debate, you will see that the Venice Convention makes it particularly compliant in certain districts more so than is currently before you.

Deputy J.A.N. Le Fondré:

Okay. Now, just to be clear that is the reference to your addendum that you lodged?

Deputy A.D. Lewis:

That is right.

Deputy J.A.N. Le Fondré:

Okay, which is the amendment in amendment 2 addendum.

Deputy A.D. Lewis:

The addendum, that is right. That would have been in the original amendment but we were waiting for Professor McLean to look at it to make sure it was correct.

Deputy J.A.N. Le Fondré:

Okay. Sorry, so just to clarify that what you presented has been verified by Professor McLean?

Deputy A.D. Lewis:

Yes, they have.

Deputy J.A.N. Le Fondré:

Okay, and that was done by ...

Deputy A.D. Lewis:

Through the Greffier.

Deputy J.A.N. Le Fondré:

Through the Greffier, okay. The second one is, why have you lodged your second amendment?

Deputy A.D. Lewis:

Second amendment is ... I am of firm belief that we should have accepted the referendum results and there is an opportunity to consider that again. We have had a few fairly close votes on this in the past and the public are still saying to me that they have lost a bit of confidence in the States, it was not recently, but particularly the fact that they, when asked about something and they spoke, the referendum result was then ignored. So there is an opportunity here, having had a huge consultation process, huge amount of work done by the commission over almost 2 years, that there is research that that information should be taken into account. It was in the form of the proposal made by them which was then voted on by the public and still, yet, we have not got that in place. So this was the last opportunity to have that considered again.

Deputy J.A.N. Le Fondré:

Right. Just to be clear then, I will do it this way round, can you explain then the rationale for the removal of Senators with an Island-wide mandate?

Deputy A.D. Lewis:

Well, super-constituencies, as they have been called, I would rather call them just large districts, they replace the Island-wide mandate because you end up with people being elected on quite large mandates, obviously not as large as a Senator would be. But having said that, in the last by-election Senator Ferguson, of course, won it with a few thousand votes and the turnout at that was low, less in fact than the turnout for the referendum, yet that was perfectly valid as a democratic decision.

Deputy J.A.N. Le Fondré:

Just to pick up on a couple of points around that I suppose. Obviously what you are tying your amendments into then is essentially the outcome of the 2013 referendum, as in the options put forward under that and the result of that, yes?

Deputy A.D. Lewis:

Yes.

Deputy J.A.N. Le Fondré:

How would you respond to, certainly a point that has been made, I think very recently but also said in the past, that on the referendum that more people voted for options A and C rather than option B?

Deputy A.D. Lewis:

Because that is not what it was about. There were 2. There was the first vote and then they were combined with A and B afterwards so you need to take into account A and B, not C because it was a different election process, as you know. It was not first past the post.

Senator S.C. Ferguson:

Well, hang on a minute. You keep talking about the 2 options. There were 3 options.

Deputy A.D. Lewis:

There were 3 options and only 19 per cent voted for C. It was overwhelmingly in favour of A and B.

Deputy J.A.N. Le Fondré:

What I was going to then ask is ... obviously the other issue within that lot was the fairly low turnout, I know you have just made reference to the senatorial results, but on a referendum on a fairly major constitutional change that there was only, I am going to say, 27 per cent, I think it was around that number, 26 per cent of registered voters who voted on it. So can you clarify perhaps why you think that gives sufficient depth to their justification for such a change?

Deputy A.D. Lewis:

Well, you may know that I have some background in market research and the M.O.R.I. (Market and Opinion Research International) Poll was an example where only 1,000 people were interviewed and you get a good result from that. But when you have 17,000 people respond to effectively a questionnaire with 3 questions then that has some validity. That is very valuable research. Normally when you research an entire population even a quarter per cent will be valid as useful data. So I would absolutely counter the accusation that this was not valid. If I just use the example of the by-election again, in St. Brelade, your parish, there was ...

Deputy J.A.N. Le Fondré:

Sorry, for the tape Senator Ferguson ...

Deputy A.D. Lewis:

... in the by-election ... for the sake of Senator Ferguson, 23 per cent voted in the by-election but 27 per cent voted during the referendum but was that not valid?

Deputy J.A.N. Le Fondré:

I am not expressing a view. I am just probing and I just trying to say, so 2 schools of thought and then we will move on. One is that constitutional change is a more permanent change than an individual standing for a post that has been approved, if that makes sense.

Deputy A.D. Lewis:

In which case the States should have set a ceiling as to what had to be achieved in terms of turnout, or proportion of vote, before they agreed the election at the referendum. The referendum, the questions of, and having the referendum was agreed by the States Assembly and approved by the States Assembly so it is no surprise what was in the questions and what the referendum was about. I think it is a perfectly valid result. That is an enormous turnout, 17,000 people.

Deputy J.A.N. Le Fondré:

The second question I was going to ask ...

Deputy A.D. Lewis:

These people they are interested of course. A lot of people would not have participated because they just simply were not interested.

Deputy J.A.N. Le Fondré:

The second question I was going to ask is, and again then we will move on, there is an argument that says that a M.O.R.I. Poll and, as you may or may not be aware, we are going to be conducting a M.O.R.I. Poll, is hopefully a statistically objective representative sample of the Island and what is done that they have to fulfil, as I understand, certain criteria according to age and other demographics so you have got a statistically representative sample of the Island. Whereas, there is an argument on a low turnout that a referendum is almost a self-selecting sample so therefore it could distort.

Deputy A.D. Lewis:

It is a different type of research. You are quite right, the M.O.R.I. Poll was slightly more scientific but it still was a very small sample, only a thousand, and then when you look at it across the parishes it was weighted by parish. So, for example, 17 were asked in St. Mary, because that is the proportionality of it when you are dealing with a thousand people. So it is more scientific, yes. But if you take a quantum of ... we are talking about 2 different types of research, if you want to give them labels. There are qualitative and quantitative. I would regard the M.O.R.I. Poll as qualitative. It is a small sample. I would regard the referendum as quantitative because a lot of people were asked this question so that has just as much validity. So 17,000 people responding to a referendum of which the vast majority voted, albeit in 2 rounds, A and B, I think is a resounding endorsement of what the public would like to see.

Deputy J.A.N. Le Fondré:

Okay. Let us move on.

Deputy K.C. Lewis:

Do you think that in any true referendum it should be a simple yes/no?

Deputy A.D. Lewis:

No, I do not. If the States had felt that they would have rejected the referendum questionnaire which was debated on for a long time in the States and some of you may have been there.

Deputy K.C. Lewis:

But do you think it would be preferable it would have a simple yes/no referendum?

Deputy A.D. Lewis:

In some cases, yes, but in this instance, no, because it was not straightforward. They had already agreed to keep the ... well, agreed. The research and the consultation has shown that the people wanted to maintain the role of Constable. So once you had that; that kind of muddied the waters. If you were just going for one single representative, as Clothier, then that would have been a simple yes/no answer.

Deputy K.C. Lewis:

It was the muddied waters we were trying to get to.

Deputy A.D. Lewis:

There was the muddy waters of that but also there were issues about districts as well. So it was not a straightforward yes/no.

Deputy J.A.N. Le Fondré:

Can I just ask, this is recollection, so again just if you would like to give some comment and then we will follow up? My recollection on the Electoral Commission side was that they left the question open on Constables and it was almost an either/or, which is why A and B came together. I am not clear precisely what consultation and research they did and how clear the research was.

Deputy A.D. Lewis:

Well, to me the commission's report, it is very clear, that there was a strong feeling from the parishes that the parish link should be maintained and that they saw the role for the Constable, yes, and that came from the consultation.

Deputy J.A.N. Le Fondré:

No, that is okay. I was not too sure if they had done a study essentially or if it was parish ...

Deputy A.D. Lewis:

Yes, they did. Well, they did more than that. They did a lot of qualitative research using a lot of people through parish meetings and others over a long period of time and it became very clear to them that that link with the parish was far too important historically and socially important, therefore it was left in there as a choice.

Deputy J.A.N. Le Fondré:

That is okay. We will follow up on it. Right, keep moving forward. How do you think the proposed super-constituency model will impact on the functioning of the parish system?

Deputy A.D. Lewis:

I think it will benefit hugely. I already sit in a large district where we have 4 Deputies and the greater number in St. Helier is 10 and that would increase under this anyway. So the Constable is able to draw upon a huge range of expertise and all of us in St. Helier are working on different projects in different ways. Whereas, I have just been to see a constituent now and they happen to live in ... well, have a business in St. Peter so if they want to get hold of the Deputy there, who happens to be a Minister at the moment, it is quite difficult: who else do they call? Well, maybe the Constable but if there were 4 Deputies in that district they could call somebody else, for example they could call, in that case, the Deputy of St. Ouen because he would be in that district so you have got much more resource as a constituent to call upon when you need it and the Constable himself has got a lot more calling in of input, if you like, in the way the parish is run from 4 people rather than just one.

[11:00]

It strengthens the Constable's role because he is or she is then the most important person in the parish.

Deputy J.A.N. Le Fondré:

Right, keep going. Can you explain why your super-constituencies are different to the main proposition, you have touched on it already, but just elaborate? So P.18 is the main proposition and it has a certain grouping of super-constituencies. You are obviously amending that.

Deputy A.D. Lewis:

I am not amending it. I am bringing it back to what was originally agreed.

Deputy J.A.N. Le Fondré:

Well, you are amending the P.18 proposition which is ...

Deputy A.D. Lewis:

I am because I am at a loss as to why Senator Farnham amended that other than, perhaps, to persuade certain parishes to vote in favour of his amendment because ... and I think a number of States Members were not entirely aware that those changes had been made when they voted for it. They were very familiar, at that point, with the commissioner's report and what had been put to the people in 2013. A lot of Constables had already given thought as to how this could work and then suddenly, at the ninth hour, when that amendment was lodged, those constituency boundaries changed and they have not been consulted on, whereas the original boundaries that were proposed by the commission were consulted on and have been very clearly understood by the public for a long time.

Deputy J.A.N. Le Fondré:

Just to be clear, so in your view the main proposal coming out of P.18, i.e. before your amendment, has not been consulted upon?

Deputy A.D. Lewis:

The main proposal ...

Deputy J.A.N. Le Fondré:

So P.18, as in the proposition, before your amendment: so in other words what P.P.C. (Privileges and Procedure Committee) have lodged, has not been consulted upon with the public.

Deputy A.D. Lewis:

The boundaries have not been consulted on. The concept of having the larger districts absolutely has been and the public have said: "Yes, we like that." But what they have not been consulted on is the boundary changes because when they were consulted they were different.

Deputy J.A.N. Le Fondré:

Right, okay. So the specific detail of the proposition has not been consulted upon?

Deputy A.D. Lewis:

No.

Deputy J.A.N. Le Fondré:

Right.

Deputy A.D. Lewis:

I think if you were doing a major boundary change in the U.K. (United Kingdom), you have the Boundaries Commission. We do not have a Boundaries Commission but we have an Electoral Commission that effectively performed a similar function during that process of consultation.

Deputy J.A.N. Le Fondré:

Now, obviously in your view between the proposals from Senator Farnham and the proposals from yourself; which are more balanced in terms of population?

Deputy A.D. Lewis:

Well, mine are much more balanced. It is clear that under the Venice Convention straightaway it is 48 per cent instead of 53 per cent. So straightaway it is more equitable and in particular, obviously in St. Helier, but the anomaly that Senator Farnham's amendment throws up is we then have 8 Senators. Now, what I consistently do not understand is ...

Deputy J.A.N. Le Fondré:

Sorry, just to cut you off. Just to clarify you have got 2 amendments, are you proposing your first amendment separately to your second or are they combined?

Deputy A.D. Lewis:

Separate.

Deputy J.A.N. Le Fondré:

So your first amendment also includes Senators?

Deputy A.D. Lewis:

Yes.

Deputy J.A.N. Le Fondré:

Whereas your second one it takes them out?

Deputy A.D. Lewis:

Well, all I am amending is the boundaries in my first amendment. The second amendment is I am proposing that we go back to what to the public agreed in the referendum and we stick ... the large districts are replacing the Island-wide mandate to give everybody the opportunity to elect people on a large mandate rather than just a few. In other words ...

Deputy J.A.N. Le Fondré:

So if you want to continue because you said Senator Farnham had brought the super-constituency in but then with Senators.

Deputy A.D. Lewis:

Yes. So that ends up with a, dare I say it, perhaps unparliamentary but a bugger's muddle, because the Island-wide mandate was being replaced by the large districts for similar reasons. So you had to get elected on a much larger mandate than currently happens in most parishes and most districts. You are looking at 2,000 to 3,000 votes to get elected or top the poll anyway. Whereas, as you know, in some parishes there is either no election at all, which is frequent in the rural parishes, or you have a very low number of votes in some areas where, you know, a few hundred votes would elect your Deputy so that stops that happening and that is pretty important. What I do not understand is how 8 is going to work. Already it is problematic. Any research will show that when you have 8 on a ballot paper, of course it is not 8, it could well be 16 or 32, when you are asking the public to select 8 from that, say 30 candidates, the last 2 are often, almost an afterthought, no disrespect to Senator Ferguson, but that is why the numbers of votes cast for the last 2, 7 and 8 is very low. Whereas if you had 6, which is what Senator Ozouf proposed in his amendment, then that is less likely to happen and, of course, we used to have 12 and 12 would be almost impossible to do unless you did it in 2 tranches but, of course, the States put through an amendment to the States of Jersey Law some time ago for a general election. You cannot have a general election if you have 2 phases of Senators being elected. So the general election is what has partly caused this problem. You then reduce the number of Senators, 8 is not really workable. Nobody has come back with an amendment to suggest we should increase it. Everyone is shouting quite loudly at the moment, not everybody, a lot of people are shouting quite loudly at the moment about the retention of Senators. Well, why have they not brought an amendment to increase the number of Senators then?

Deputy J.A.N. Le Fondré:

Okay. Can you explain in terms of the super-constituency boundaries, why you are basing them on population compared, for example, to registered or eligible voters, some people have even suggested on voter turnout?

Deputy A.D. Lewis:

Because that is the recommendation of the commission.

Deputy J.A.N. Le Fondré:

Actually the commission makes references to all of those options I think.

Deputy A.D. Lewis:

Yes, and they favoured the population and in most measurements, when you are measuring against the Venice Convention, it is based on population because electoral roll fluctuates. Population is as it is as per the census.

Deputy J.A.N. Le Fondré:

Now, this has just become a point that has been made very recently, because of the low turnout in St. Helier a point has been made that because the number of representatives in St. Helier is increasing that because of the low turnouts that fewer voters, effectively, will have a disproportionate impact. How would you respond? Or disproportionate influence.

Deputy A.D. Lewis:

I would say quite clearly that those that are elected in St. Helier have a lot of work to do, got a large population to service, and even if they have not voted they deserve to receive that attention and service and there is a lot more of them, obviously, in the urban area. So in the same way in London you have a lot of different electoral districts because of the size of the population.

Deputy J.A.N. Le Fondré:

So is the rationale essentially that because the population in St. Helier has increased therefore St. Helier should have greater representation?

Deputy A.D. Lewis:

Yes. I mean it has always been underrepresented.

Deputy J.A.N. Le Fondré:

Okay. Does reducing the total number of States Member by 5, as in your second amendment, have a negative impact on the workings of the States Assembly in your opinion?

Deputy A.D. Lewis:

No, and I would like to elaborate on that. Some would say, which do you change first, machinery of government or electoral reform? To be honest there is not a yes/no answer to that. You can do it either way but you have got to start somewhere. You have to do one before the other, whichever way you want to look at it. My own view is that unless you change the structure the machinery of government will never change. So I say you change the electoral process first. There are lots of things that we do as a parliament that we perhaps do not need to do or do not need to do or could do differently. When you have less people you are then forced to do it. The same thing happens in a corporation. If you have got less people in your organisation you become more efficient, you do things differently. I will give you a couple of examples. Should we have Members of States sitting on a planning committee? Do they all need to be from the States? Possibly not. Do we need as many scrutiny panels as we currently have? Could we have lay members on scrutiny panel like we have on P.A.C. (Public Accounts Committee)? There are all sorts of things you could do to make this work more efficiently and better. I would also like to think that we are going to get some better quality candidates that are going to get elected on a much larger mandate so it is quite possible there would be better quality candidates who are capable of doing more. So there are all sorts of ways that you can change the machinery of government. We have 11 ministries at the moment. Do we need 11 ministries for the size of the island that we have at the moment? No, I think you could probably do it with half of that. The more ministries you have got the more Ministers you require, the more Assistant Ministers you require, the more administration you require. As soon as you start reducing that from the top, which is basically the parliament, then all your other structures will shrink and that will eventually have an impact on the costs to the public sector.

Deputy J.A.N. Le Fondré:

There is a potential alternative argument, which is that if you have less politicians the influence of the public sector will grow and you will not achieve the efficiencies you are seeking in the public sector.

Deputy A.D. Lewis:

Not if you reduce the public sector because you have reduced the number of ministries, because I would see your public sector shrinking. I do not think that would be the case. The study that was done by the commission clearly outlined lots of examples whereby many jurisdictions manage perfectly well with a lot less politicians per head of population.

Deputy J.A.N. Le Fondré:

Okay. I am just going to pick up on another comment which was made in the last debate by the Constable of St. Mary, who was also a member of the commission. 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 an assistant ministerial position. That led people to believe that there was spare capacity in the system. That is not the case today.” Then she continues slightly later: “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 on other members of our committee being on either scrutiny in an urgent hearing or in a ministerial role. Sir, we are working absolutely at the limits of what is reasonable.” How would like to you respond?

Deputy A.D. Lewis:

I have the same thing in front of me here, so I thought you might ask that. I accept that, which is exactly why I quoted the Planning Committee as one example. Why have we got 7 politicians on planning? They should be the ultimate appeal body so that when you, as a parishioner, have a problem with a planning application you can go to your politician. Half the time in St. Helier I have got 3 Deputies that sit on the panel at St. Helier that are conflicted. So I do not personally feel that we should have as many politicians involved in the Planning Committee. They should be lay people with expertise that rotate when they are conflicted. So that is just one example whereby you can reduce the impact on politician’s time.

Deputy J.A.N. Le Fondré:

So am I right in saying that the issue there would be you would have a lay person, with experience, would that be either a heritage person or an architect for example?

Deputy A.D. Lewis:

It could be anything like that, absolutely.

Deputy J.A.N. Le Fondré:

Would they not potentially be conflicted anyway because of their professional involvement?

Deputy A.D. Lewis:

Yes, they could, absolutely so if there was a specific application that they were conflicted against, of course, you would rotate them with people that were not conflicted with that client or that particular development.

Deputy J.A.N. Le Fondré:

Okay. Let us move forward. You have made reference to the Venice Commission Code of Good Practice in Electoral Matters as the rationale behind aspects of the amendments. Is the code obligatory or advisory?

Deputy A.D. Lewis:

Well, it is neither. It is an obligation. It is not legally binding but it is an obligation that a modern democracy should be observing.

Deputy J.A.N. Le Fondré:

Does that not mean it is advisory?

Deputy A.D. Lewis:

No. Well, I think advisory is too weak a word. It is like saying, is the Human Rights Convention, you have to abide by it. Well, no, it is a convention.

Deputy J.A.N. Le Fondré:

No, but we are signed up the Human Rights Convention and therefore it is legally binding.

Deputy A.D. Lewis:

We are and as a parliament ...

Deputy J.A.N. Le Fondré:

So for Jersey, is it advisory or is it obligatory? Is it mandatory because it is a code of ...

Deputy A.D. Lewis:

It is not mandatory, no.

Deputy J.A.N. Le Fondré:

Okay, thank you. Should all aspects of the code be followed?

Deputy A.D. Lewis:

Whenever possible, yes, but it is there as a guide. It is there to develop good practice and that is what we should be endeavouring to do.

Deputy J.A.N. Le Fondré:

So just to explore that a bit further. So for things such as same number of votes attributable to each area. So in both of your amendments St. Helier has 6 Deputies ... I just wanted to make sure I am

quoting the right ones ... and obviously everyone else has either 4 or 5, therefore the principle of equal voting power is not being applied.

Deputy A.D. Lewis:

No, because in our current system with the numbers of Members we have, and Constables in particular, it is impossible to get it completely equal unless you go down the Clothier route.

Deputy J.A.N. Le Fondré:

But under the Electoral Commission proposals they did manage to have an equal number of votes in each area.

Deputy A.D. Lewis:

In the commission's?

Deputy J.A.N. Le Fondré:

Yes.

Deputy A.D. Lewis:

No, they did not.

Deputy J.A.N. Le Fondré:

They did. They had either ... hang on.

Deputy A.D. Lewis:

Because my proposal is exactly the same as the commission's.

Deputy J.A.N. Le Fondré:

No, option A is each choosing 7 Deputies and option B was each choosing 5 Deputies.

Deputy A.D. Lewis:

The only difference is that I have added 2 in St. Helier. The only thing I have done is added 2 in St. Helier to create greater ...

Deputy J.A.N. Le Fondré:

Yes. So what is the justification under the code of ...

Deputy A.D. Lewis:

Because it creates greater equity in St. Helier.

Deputy J.A.N. Le Fondré:

But it does not meet the criteria of equal voting power elsewhere.

Deputy A.D. Lewis:

But neither did the commission's.

Deputy J.A.N. Le Fondré:

Yes, it did.

Deputy A.D. Lewis:

No, it is impossible to get it completely equal.

Deputy J.A.N. Le Fondré:

Well, the Electoral Commission's proposals were: "Each voter would cast 6 votes for States Members, with 5 Deputies within their electoral district and one for their parish Constable." So in terms of Deputies everybody had 5 and under option A there would have been 6 large districts each choosing 7 Deputies that included ...

Deputy A.D. Lewis:

Yes. So option A would have been more compliant.

Deputy J.A.N. Le Fondré:

So that is saying that both of them had equal numbers of Deputies and option B.

Deputy A.D. Lewis:

Option A did. Yes, but the reason why it has increased in St. Helier is because there was not equity in St. Helier.

Deputy J.A.N. Le Fondré:

But I am just asking, because we made reference to the Electoral Commission and the equal voting power then the logic would be that you should have a set and equal number of votes across each voter super-constituency including St. Helier.

Deputy A.D. Lewis:

Well, no, because the districts are a different size.

Deputy J.A.N. Le Fondré:

No, what I am trying to say is you were tying into the Electoral Commission.

Deputy A.D. Lewis:

No. What you have got to remember is in St. Helier you have one Constable. In the other districts, for example where you have got 4 parishes combined, you have got 4 Constables.

Deputy J.A.N. Le Fondré:

No. All I am saying is that you have made reference to following the outcome of the Electoral Commission and the referendum but under the referendum it is 5 Deputies for each electoral district including St. Helier and what you have got is not what was in the referendum.

Deputy A.D. Lewis:

I know that. One of the deficiencies in that proposition was, there still was not enough equity in St. Helier. That is why I have added 2 more in it.

[11:45]

Also you said earlier that you felt that there was not enough Members in the Assembly. The other proposition reduced it by a further 2.

Deputy J.A.N. Le Fondré:

Which other proposition?

Deputy A.D. Lewis:

The commission's proposition was 42, mine is 45.

Deputy J.A.N. Le Fondré:

You have got 44 and 48.

Deputy A.D. Lewis:

That is right so it is 44 whereas the commission's was 42.

Deputy J.A.N. Le Fondré:

Yes, but the principle I was trying to establish was the issue around equal voting power and tying into the referendum. One big argument seems to be from your suggestions ...

Deputy A.D. Lewis:

But there is more equality in what I am proposing because the greater population is in St. Helier and now it would have 2 representatives, so increase it.

Deputy J.A.N. Le Fondré:

So is the driving force principally that there is a demand for greater voter equity in St. Helier, in other words greater representation because the population has gone up? That is one of the driving forces.

Deputy A.D. Lewis:

Yes, that is one of the drivers behind it, yes. People would claim the population has massively increased in the last 25 years. It has only increased by about 13,000 to 14,000 people but nevertheless most of that is in St. Helier. So, yes, there are reasons for doing that but there always has been inequity in St. Helier, even when the population was 15,000 to 20,000 less.

Deputy J.A.N. Le Fondré:

Okay.

Senator S.C. Ferguson:

Had you not thought that perhaps St. Helier has grown to the size where it perhaps needs to be split into 2 with 2 Constables?

Deputy A.D. Lewis:

It is. Oh, 2 Constables. Well, then you have got into a whole realm of changing the parish system, the parish law, everything, and it would be somewhat bizarre anywhere else to have 2 mayors in one town, which is basically what you would be saying.

Senator S.C. Ferguson:

Well, in order to get equity, more equity between the parishes. That is really why I ask.

Deputy A.D. Lewis:

Well, it is already split into 2 districts, as you are aware, but our current system, having Constables still involved in the States, which the public have voted on twice now, does not enable you to take further steps like you are suggesting if you have the Constable. The Constable is an ancient role based on parish boundaries and the commissioner's report, and all the consultation that was done, has revealed that people feel that is very important. So if you start removing the Constable from St. Helier or splitting him into 2 then that goes against all the principles that the public say they wanted to retain which was the parish culture, traditions and history and that strong parish link. There is an argument that St. Helier requires more resource to run itself, act as a town council, which is what would happen in most places, but that is a debate for another day, and then you may well have a bit

more resource in St. Helier running it but that would probably be in terms of the secretariat rather than the politicians. Does that answer your question? But I see where you are coming from there, Senator.

Senator S.C. Ferguson:

No. It was a point made to me by somebody in St. Helier.

Deputy J.A.N. Le Fondré:

Just to, I suppose, close off from one area. So it is going back to the code, the Venice Commission's code. Are you of the view then it should be followed in its entirety if we are applying the code?

Deputy A.D. Lewis:

No, as you quite rightly say, it is a code. It is not a law. So it is there as a guideline and each jurisdiction is quite different and we are quite unique. If you follow the code there completely we would not have the disparity in some parishes. No matter how you want to work it if you include the Constables in the mix you cannot ... it is very difficult to get it completely compliant with Venice. You have seen the figures here. Well, it is near on impossible. So if you wanted to be completely compliant you would completely throw away your parish system.

Deputy K.C. Lewis:

Did you say earlier on that the code was obligatory?

Deputy A.D. Lewis:

No.

Deputy K.C. Lewis:

How did you phrase it? An obligation?

Deputy A.D. Lewis:

It is an obligations yes. It is an obligation to comply, as much as you possibly can, with good practice. There are lots of conventions around the world that you could say: "We should do that in Jersey too." Eventually, often Jerseys come round to doing those things but in their own way because small jurisdictions cannot sometimes afford to do all of these things in exactly the same way as a large jurisdiction. It is not a suggestion you should not take every effort you can to follow that good code of practice, that good way of doing things, which is what Jersey generally tries to do.

Deputy J.A.N. Le Fondré:

Okay. It does suggest it should be done on pretty well a rolling basis; that seats should be redistributed every 10 years outside election periods and things like that and is that something you would endorse, it is?

Deputy A.D. Lewis:

Anything we can do to increase democracy in Jersey that still matches up with our culture and the way we like our Island to run and operate should be considered.

Deputy J.A.N. Le Fondré:

By “culture” do you mean ... you just referred to the parish system, is that part of it?

Deputy A.D. Lewis:

The parish system, yes. Very much so, yes. I am a staunch supporter of the parish system and you asked and probed, quite rightly earlier, how important was that in deliberations that I have had and the commission has had. It was clearly, from all the consultation they have done, very important to people, the parish system, and that will be strengthened with this.

Deputy J.A.N. Le Fondré:

So your view is that super-constituencies, because you are retaining the Constables, that super-constituencies will not damage the parish system.

Deputy A.D. Lewis:

It will strengthen it.

Deputy J.A.N. Le Fondré:

It will strengthen it, okay.

Deputy A.D. Lewis:

Because suddenly the Constable has got 4 people to talk to.

Deputy J.A.N. Le Fondré:

Just again, I think, just to bring things together as it were. So in your view how closely do your amendments reflect the results of the 2013 referendum?

Deputy A.D. Lewis:

Very closely. In fact more closely than you might imagine because, if you remember, you referred to early in the interview, there was 2 options that colluded, A and B. Now, with A there was clearly

a desire to have one category member, yes? But we did not, we ended up with 2, A and B was added together. Sorry, what was your question again?

Deputy J.A.N. Le Fondré:

I said, how closely do your amendments reflect the results of the referendum?

Deputy A.D. Lewis:

So in the referendum result if you look at the St. Helier results clearly it was mainly A which would have involved more Deputies in St. Helier so my amendment reflects more closely the overall global results of the referendum than what was proposed originally.

Deputy J.A.N. Le Fondré:

No, you either have the referendum based on the questions that were asked; you cannot change it.

Deputy A.D. Lewis:

No. But because we did not have a first past the post election. The referendum, what it does is it acknowledges the desire from St. Helier to have more representation, which was clearly the result of the referendum.

Deputy J.A.N. Le Fondré:

Okay. Just probing slightly again just to get your views on the ... because we have talked about the Venice Commission. There is a Venice Commission, which has a further code, on referenda and they state: "That the question put to the vote must be clear. It must not be misleading. It must not suggest an answer." That is fair enough. "Electors must be informed of the effects of the referendum and voters must be able to answer the questions asked solely by yes/no or a blank vote."

Deputy A.D. Lewis:

Yes, and that is where I say it is a code, it is a best practice, but it does not reflect the makeup and heritage and everything of every single country.

Deputy J.A.N. Le Fondré:

No. The point I was getting to is that obviously if you are stating that as a direct quote, how does that compare to the fact that voters did not have a yes/no or blank vote, they had an A, B or C and then they had a second round?

Deputy A.D. Lewis:

The consultation clearly said they wanted to preserve the parish system. You then had to ask that question. You could not have ...

Deputy J.A.N. Le Fondré:

But it is how the vote ...

Deputy A.D. Lewis:

... a yes/no answer because ...

Deputy J.A.N. Le Fondré:

But that then tends to imply that the referendum was not compliant with the Venice Commission Code.

Deputy A.D. Lewis:

I already said that there should be flexibility in that code. You do not follow it rigidly. It depends on your jurisdiction and how you operate locally. So it is not a law, it is a code of best practice, and when it comes to preserving your heritage and your parish system that, I am afraid, trumps having a civil ...

Deputy J.A.N. Le Fondré:

But this is how you ask the question. It is not ...

Deputy A.D. Lewis:

Yes. So in order to preserve the parish system we needed to ask that question. So you could not have a yes/no. The States debated this. You look at the Hansard. They debated this infinitum and agreed that, no, we need to preserve the parish system therefore we have to ask this question. So there was only really 2 questions, either keep the Constables or not, A or B. C was the status quo. There was no change. So if you want to keep it as it is, we have already got rid of 4 Senators by decree in the States, that is what is going to happen in the next election so that is the status quo. So C was not a change. That was what we already had.

Deputy J.A.N. Le Fondré:

So in your view it was too difficult a question to ask and that it was not capable of having a yes/no or a blank vote?

Deputy A.D. Lewis:

Absolutely, yes. You could have done but that would have run a coach and horses through what the public had told us through the commission's review that they wanted to preserve the parish system.

Senator S.C. Ferguson:

Do you think perhaps the question was wrong?

Deputy A.D. Lewis:

No, I do not think it was...

Deputy J.A.N. Le Fondré:

We are not asking about the subject matter. We are asking how the question was put to the public.

Deputy A.D. Lewis:

No, I do not think so at all. I think it was perfectly clear. It would not have been ...

Senator S.C. Ferguson:

But if there is an obligation surely this is part of the obligation.

Deputy A.D. Lewis:

But there is an obligation there to have complete equity of voting. We cannot do that with our system but yet we have done it. So what you do is you model what is a best practice model with what suits your jurisdiction and getting as close as possible to best practice.

Deputy J.A.N. Le Fondré:

But there is going to be makeups. There is going to be iterations or, what is the word I am looking for ... if this is what they aim for, in terms of the constitutional changes, you are going to fall either side of that because, as you say, it is always a moving feast because population changes and so you can have some objectives there but it is not about whether you are at 5 per cent either side of the average or 7 per cent or 3 per cent below, this is about how you put the question to the public. They are quite clear here, it said: "The voters must be able to answer the questions asked solely by yes/no or a blank vote." Now, we are exploring an idea obviously, if that is what they state and obviously that was not ...

Deputy A.D. Lewis:

Yes, but in this jurisdiction with what had happened with the 12-month consultation process the commission ran, it was clear that you could not do that because that is not what the public were saying to the commission. They wanted to maintain the parish system. So you could not ask the question in the way that you are suggesting. You just could not do that. So I think what they put together, and bearing in mind it was not as simple as a yes/no answer, therefore what you do, and they did this, is you consult widely with the public, not in the 4 or 5 weeks that you are doing this, as admirable as what you are doing is. You cannot do it in 4 weeks, but they had pretty much 18

months of consultation. So they spent a lot of time with key stakeholders, interested parties, those that were interested in politics, explaining the rationale, explaining why these questions were likely to be asked if it was finally approved by the States, which it was. So it was not a matter of: "Oh, this is really complicated. We will not tell you what we are doing, we will just put this thing out and hope for the best." It was not like that at all. If you read the commission's report there was over a year of consultation explaining this. There was also a lot of effort put into explaining the referendum, a leaflet drop was made to every single household explaining this as well. A huge amount of media interaction on that as well. So it was not like the public that were interested suddenly were faced with a polling booth and having to cast a vote on a referendum not understanding it, some may have done I accept that, but there was a huge effort made and for the most part successfully telling the public, explaining to them why it was not a simple yes/no answer and how the decision had come to, because the commission's report is very clear as to why they came to that conclusion.

Deputy J.A.N. Le Fondré:

Kevin, you have got a question?

Deputy K.C. Lewis:

Yes, just a quick one. The main proposal, P.18, how the Island is basically subdivided; St. Clement, Grouville, St. Saviour, St. Martin and Trinity; St. John, St. Mary, St. Lawrence together; likewise St. Brelade, St. Peter and St Ouen. Why did you feel it necessary in the first amendment to subdivide the Island completely differently when the numbers have already been done?

Deputy A.D. Lewis:

I have not changed it. It is exactly the same as the commission proposed.

Deputy K.C. Lewis:

Well, see the main proposal ...

Deputy A.D. Lewis:

The main proposal has changed it. I have not changed this. Senator Farnham changed it.

Deputy K.C. Lewis:

Right. Do you think that is a better system or ...

Deputy A.D. Lewis:

Yes, absolutely, yes, but for 2 reasons. One the public was consulted on it and secondly it is more equitable as far as the commission guidelines are concerned.

Deputy K.C. Lewis:

In what sense, just by sheer numbers or ... there is not much difference between the 2.

Deputy A.D. Lewis:

Well, if you look at the addendum. If you look at the addendum you can see there ... have you got the addendum in front of you?

Deputy K.C. Lewis:

Yes.

Deputy A.D. Lewis:

If you look at the addendum it is very clear that it improves voter equity. In fact it improves it more in some parishes than others of course but overall it improves it by about 4 per cent.

Deputy J.A.N. Le Fondré:

Can I just pick up, I am sorry, with one of my final questions so it is a useful lead-in? Obviously at the bottom of your addendum you do say that: "Only 48.7 per cent of the population will be outside 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." The only clarification I would seek is that Senator Farnham claimed on Monday that the figure was 27 per cent under his scheme as opposed to the figures you are citing. How would you like to respond?

Deputy A.D. Lewis:

I do not know how on earth he has done that because even if you lay the Senators over the top of it, it has no impact at all because it is an Island-wide mandate.

Deputy J.A.N. Le Fondré:

So just to clarify, your figures were confirmed by ...

Deputy A.D. Lewis:

By Professor McLean.

Deputy J.A.N. Le Fondré:

Just for the record can you just clarify who Professor McLean is?

Deputy A.D. Lewis:

He was an expert brought in by the commission. I do not have his exact C.V. (curriculum vitae) in my head but he was an eminent academic that the States would have adjudicated ...

Deputy K.C. Lewis:

What date was that?

Deputy A.D. Lewis:

Well, Professor McLean originally adjudicated on the commission's report. The only thing that has changed is 2 Deputies have been added in so it is quite easy to recalculate that and the Deputy Greffier put forward those ... when I submitted the original proposition, my proposition, P ... I cannot remember what it was now.

Deputy J.A.N. Le Fondré:

P.133.

Deputy A.D. Lewis:

P.133, it was ratified then.

Deputy J.A.N. Le Fondré:

Can I just clarify ... sorry, Senator Ferguson wants to ask a question. You ask a question while ... I have got a clarification I would like to ask.

Senator S.C. Ferguson:

Yes, I was just interested in what sort of consultation you have undertaken. Obviously 2012/2013 is 4 or 5 years ago, best part of, and people's views change.

[11:30]

What consultation have you done?

Deputy A.D. Lewis:

I did not feel it was my place to. I am not resourced to do that. My consultation was knocking on what was about 4,000 doors during an election of which quite a large number of people said: "Well, we are not going to vote this year because you ignored us in the referendum." So that is fairly recent; it is 3 years ago. I do not think that a massive amount has changed since then in terms of people's view of how an Assembly should function. We have been having this debate now for nearly 20 years. So I do not think in 3 years things would have changed very much. So I made an obligation in my manifesto that if P.P.C. did not bring forward proposals that were accepted by the States then I would bring back the referendum which was rejected by the previous Assembly.

Deputy J.A.N. Le Fondré:

Okay, thank you. One question on detail on your addendum. You have got your addendum there so that is okay. So I am looking at page 2 and it is the column that says: "Number of representatives." So picking District 3, which is St. Clement, St. Martin and Grouville, it basically gives the population, the percentage of the total population is fine, and then number of representatives is stated at 8. Now, I presume that the people per representative is quite literally ... sorry, that is the bit I have not done ...

Deputy A.D. Lewis:

It is pretty much equal.

Deputy J.A.N. Le Fondré:

... is 18 386 divided by 8.

Deputy A.D. Lewis:

Yes, basically what you end up with is it is virtual compliance with ...

Deputy J.A.N. Le Fondré:

Right. Can I just clarify something? The reason I am asking that question is because that is made up of 5 Deputies and 3 Constables but in St. Clement, St. Martin and Grouville they will only each be voting for one Constable, they cannot vote for the other 2.

Deputy A.D. Lewis:

The other Constables; yes, that is right.

Deputy J.A.N. Le Fondré:

So, therefore, surely it is not 8 representatives, it will be 6 representatives technically in terms of who they can vote for.

Senator S.C. Ferguson:

Per head.

Deputy J.A.N. Le Fondré:

Per head.

Deputy A.D. Lewis:

Well, if you want to you can string them like that.

Deputy J.A.N. Le Fondré:

I am asking a question.

Deputy A.D. Lewis:

But the way that the commission and Professor McLean have done the analysis is the same way as this, so I am just going by that. I am not claiming to be an expert in electoral reform. There are others that have done that piece of work called the Electoral Commission and Professor McLean. All I have done is ...

Deputy J.A.N. Le Fondré:

I was just wondering what the rationale was because if it is about people ...

Deputy A.D. Lewis:

You would have to ask Professor McLean that.

Deputy J.A.N. Le Fondré:

Maybe we will ask the Electoral Commission. Okay. Kevin, any other questions at this stage?

Deputy K.C. Lewis:

I am okay for the moment, thanks.

Deputy J.A.N. Le Fondré:

I am just about done, I think. I do not think I have missed anything crucial. Sorry, Kevin has one.

Deputy K.C. Lewis:

Yes, I do have one. Was it Professor McLean, when he came over ... you do not have the date yet he came over to do that?

Deputy A.D. Lewis:

I believe it was on my correspondence with the Assistant Greffier.

Deputy K.C. Lewis:

Because most of the stats that are being used are at least 3 and a half years old.

Deputy A.D. Lewis:

No, he has been consulted on a number of occasions since then.

Deputy K.C. Lewis:

But recently, in the last few years, there has been tremendous building in the suburbs. Have you taken that into account?

Deputy A.D. Lewis:

Whatever the population census revealed ...

Deputy K.C. Lewis:

Well, we have not had a census; that is the problem. We are not going to get a census until 2020.

Deputy A.D. Lewis:

Well, that is what it is based on plus information from the Statistics Unit that they believe is reasonably accurate, where they number crunch, I believe, things like social security returns by parish, so they can make a pretty good analysis as to how many people are living in each parish.

Deputy J.A.N. Le Fondré:

So just to be clear then, the population that you are using, is this the best estimate of the up to date population or is it based on up to date figures.

Deputy A.D. Lewis:

Yes, it is best estimate based on census plus the Statistics Unit's view on population which is the figure we would have all been working to in the States which I know some people dispute and I think there is enough data out there, particularly with social security, because if you are not on their radar then it is difficult to survive because you are either working or you are on benefits.

Deputy K.C. Lewis:

Well, in the last 2 years in my own parish of St. Saviour we have had, obviously, the dairy sites come online which is quite a big site, and behind the parish hall we do not have a new estate, we have an entire village that has just been built.

Deputy A.D. Lewis:

I mean you would have to ask the Statistics Unit to verify that but my understanding from the Greffe is that the latest data in terms of advice from the Statistics Unit was used together with the previous census, as Senator Ferguson has quite rightly said, was some time ago.

Deputy J.A.N. Le Fondré:

Yes, that adds up to 100,799 from my ... and I thought we were at 105,000 but anyway. Okay. We will check what date; that would be helpful.

Deputy A.D. Lewis:

Yes. I mean we are talking a differences here of a couple of thousand people anyway ...

Deputy J.A.N. Le Fondré:

Yes, spread across.

Deputy A.D. Lewis:

... so statistically it will not make a huge amount of difference.

Senator S.C. Ferguson:

Yes, unfortunately if we keep getting immigrants in at the rate of 1,500 a year though it makes a nonsense of the figures that we are getting from the Stats Unit but that is another story.

Deputy J.A.N. Le Fondré:

Let us keep it to what we have. Okay, anybody else got any questions? That is it.

Deputy A.D. Lewis:

Okay. Well, thank you for giving me the opportunity to state my case.

Deputy J.A.N. Le Fondré:

No. That is okay. We have had you and Senator Farnham, which we thought was appropriate.

Deputy A.D. Lewis:

But if I could just finally add, what I am slightly concerned about here is that you are quite rightly doing what your panel does, consulting further, but to take a snapshot in time now over a 4-week period there is a very limited amount of work that you can do in terms of consultation with the public whereas the commission's review lasted a great deal longer, over a year. So that is a lot more useful even though, as Senator Ferguson quite rightly said, it was some time ago Jersey has not changed significantly since then. So unless there is some new information you are going to discover that the population has suddenly changed their mind completely about electoral reform I would suspect that the feeling is still the same. They would like to see less people in the Assembly. They would like to see a better quality of candidates and they would like see less bureaucracy which would happen by having a more efficient, smaller machinery of government. I doubt very much that that view has changed. What my proposition originally, unamended, did was try to correct some of that and even now it is slightly diluted by Senator Farnham's amendment, it would still achieve some of the same. The muddied waters occur when you have 3 types of Members not ...

Deputy J.A.N. Le Fondré:

I think just to pick up on that do you see, assuming the senatorial side does not take place, in other words your first amendment is what is voted through, which is basically the same in terms of numbers, as Senator Farnham's, how do you see the drop from 49 to 48 as achieving the efficiency you seek?

Deputy A.D. Lewis:

It is not going to go anywhere near where I would like us to go in terms of ... there will not be as much impetus to reform the machinery of government if you have still got that number of Members in your Assembly. Whereas, if you do reduce to 42 you would absolutely have to make changes, rather 44, and that you have to changes to ...

Deputy J.A.N. Le Fondré:

Is that because of the sheer volume of work Members will not be able to cope with what they do at the moment?

Deputy A.D. Lewis:

Yes. So if you are faced with that you have to make changes. Whereas if you just change it by one, you know what, you can probably still muddle through as you are at the moment. I do not think that is particularly efficient. That is not fair on any of you, or me for that matter, that there is changes that we can make, we should be making them. If you have to work with less people then you have to be more efficient, you have to think more carefully about what you are doing as an Assembly and concentrate on what we should be concentrating on which is constituency work, dealing with the public and passing legislation. We are legislature. So those should be our 2 main functions, working with your constituents, engaging with the public and passing legislation. There are lots of other things that we end up doing which perhaps we should not.

Deputy J.A.N. Le Fondré:

Sorry, I was going to close but I will just follow that. In the accountancy world there is such an expression as an "expectation gap" which is, in other words, what the public expect you to be doing versus what the accountancy profession, auditing profession consider they should be doing. Did you consider that people do only expect us to be dealing with legislation or do they expect us to be dealing with the other matters that they do bring to us?

Deputy A.D. Lewis:

Well, constituents will ask you to deal with all manner of things.

Deputy J.A.N. Le Fondré:

Putting aside constituency matters. So in other words, what matters do we deal with at the moment that you do not think we should be dealing with, pick one?

Deputy A.D. Lewis:

Well, planning for example. I do not think we should have political influence over planning. I think we should be ultimate sanction when, as a constituent, you are really not happy with what is going on you can go to your politician and say so. You cannot do that, particularly in St. Helier, when 3 of them are conflicted because they represent St. Helier. So I think that is just one example and I am sure, given time, I could think of plenty others and I am sure you could as well.

Deputy J.A.N. Le Fondré:

Okay. Thank you very much, you have got a plane to catch.

Deputy A.D. Lewis:

Thank you. Yes, I do indeed.

[11:39]