

## POSTSCRIPT

### Party politics

As party politics appears to be raising its head from the ashes of the 19th century, this account of the experiences of Henry Inglis may be of interest. Inglis had written accounts of various countries in Europe, and spent two years resident in the Channel Islands in about 1830. *The Channel Islands: Jersey, Guernsey, Alderney etc.* was the result, running to two editions. Inglis' account of the character and way of life of the Islanders and their historic institutions is full of perceptive observation. The following extract concerning the composition of the Royal Court and the States is taken from the second edition of this work published in 1835.

“It will have been gathered . . . that the inhabitants of Jersey regard their political constitution with no small affection; and indeed, so true is this that reform and change, are as unpopular words in Jersey, as they are popular elsewhere. So slow is the march of opinion in Jersey, that the political constitution which pleased the Islanders in the days of King John, pleases them still; and, as regards the mass of the people, there is yet no dawn of that crisis, which must ever arise, where Intellect advances and political institutions stand still. I shall briefly state what is the Constitution of Jersey; in the hope, that by making its evils and absurdities more generally known, one step may be made towards amendment. The legislative power in Jersey, resides in an assembly called the States; but in order to understand the constitution of this assembly, it is necessary that I should first speak of the judicial body. The Royal Court, as it is called, consists of a president, termed the bailly of Jersey, who is appointed by the king; and twelve judges who are elected for life by the people,—all heads of families paying parochial rates, being entitled to vote; so that, in fact, the judges are elected by almost universal suffrage. This privilege of electing their judges, the people esteem as their highest privilege but it is easy to perceive, that it is on the contrary, the source of incalculable evil. I have already mentioned the existence of party spirit in the island; and at no time does party run as high, as the election of a judge. Upon these occasions, the whole island is in a ferment: to vote, is to stamp a man of one party or another. I have known respectable tradesmen, who so feared the consequences of a vote, that they invented some pretext for leaving the island; and I have known others swallow medicine, to make themselves

incapable of attending to give their suffrage. Waving banners, and all the loudest and most unequivocal expressions of triumph, attend the results of an election; and in fact, the Judge is borne into the seat of Justice on the shoulders of a party. It is scarcely necessary I think, for me to enlarge upon the bad effects of this system. The bench, with one or two exceptions, is composed of the most furious partisans; the court of Justice is too often the arena for party feuds; and it is not impossible by glancing the eye along the bench and knowing who are the parties to a suit, to guess with tolerable accuracy what will be the issue. But this is not the only evil of the system. No qualification is necessary for being elected to the office of judge. A farmer, a shipowner, a merchant,—anybody may be seated on the bench by the electors. No previous acquaintance with the law or usage is required: no preparatory education,—no education of any kind requisite. The electors, generally utterly uneducated themselves,—and influenced by the most violent party spirit, cannot be expected to fix upon the best qualified Individuals; the bench is alike disqualified by party feeling; and by ignorance, from exercising that sound and unbiased judgement, which alone gives respectability to a court of Justice. It may perhaps be altogether doubted, whether in so small a community as Jersey, where relationship, or connection of one kind or other, is so universal, Jersey men be the most proper persons to fill the Judicial office; but it is at all events certain, that so long as the right of electing the judges is vested in the people, not only will the bench be defective in all that constitutes a perfect judicature; but party spirit will be encouraged,—which, at the same time that it poisons the fountains of justice,—crushes public spirit,—cripples legislation,—and offers an impossible obstacle to the progress of civilisation. I have no intention of enlarging on the jurisdiction of the Royal Court. It has the power of disposing of all causes civil and criminal, including the military code as regards the militia; and from the full-court, an appeal lies to the Privy Council. In criminal cases, juries decide; and the accused has many advantages. He is allowed counsel; and from the petty jury which first sits on his case, and which decides by a majority of votes, he has an appeal to a grand jury, consisting of 24; of which number, five voices only, are sufficient to acquit him of the charge. The jury in civil causes, has not yet made its way to Jersey; and for the same reason that I doubt the possibility of perfect impartiality among judges selected from a so limited a community where Intermarriages are so common, where no man is a stranger to another, and where the attachments to party are so strong, and so universal,—I also doubt, whether the introduction of the jury in civil causes, would be productive of much advantage. Should the administration of justice ever be vested in English judges, I have

no hesitation in saying, that the introduction of Jersey juries would be Impolitic. The same objections which apply to justice in civil cases, is not applicable in criminal cases. In these latter, men are less likely to be influenced by private motives; as if they be, the accused will probably be a gainer; and besides, it very rarely happens, that Jersey men are the subject of criminal prosecutions. Delinquencies are almost always committed by strangers. Attached to the Royal Court, are the two king's officers,—the Procureur du Roi, and the king's advocate, who are appointed by the King; several other officers, and six advocates, who are in the nomination of the bailly,—an absurd and unjust nomination, both as regards the public service, and in the manner of appointment. There ought to be no restriction upon the bar, excepting that which depends upon competency; and yet, in this important particular, there is at present no regulation. No course of education: no examination is required; all is left to the judgement of the bailly,—who, possessed of such powers, and presiding over a court composed of men without education ought to be a man possessed of many acquirements; and distinguished by a sound and discriminating judgement. It is but just to add, that there are some gentleman at the bar, distinguished for their acquirements and every way competent to the discharge of their duties.

I am now prepared to speak of the constitution of the States. The legislative body is composed of 36 members, besides the Governor and the Bailly, consisting of 1. the 12 judges who being Judges for life are legislators for life 2. the rectors of the twelve parishes, nominated (with the exception of the Dean) by the Governor, also legislators for life and 3. the twelve constables of the twelve parishes elected by the people triennially. The king's officers and the viscount have also seats in the States and may speak but cannot vote. It is scarcely possible to conceive a more faulty constitution of a legislative assembly than this. Here we have men framing laws and executing them,—judges today, legislators tomorrow. Here we have a legislative body, which is not a representative assembly not a responsible assembly; since one third of the numbers, the clergy, are nominated by the governor; and since two thirds—both the 12 judges and the 12 clergy, are legislators for life, and are therefore never called upon to account for their stewardship. only one third part of the legislative assembly is representative and responsible:—viz. the 12 constables, who are chosen triennially in each parish by the same electors who choose the jurats; and who are in fact the heads of the police of each parish and have under them, sundry inferior officers, and deputies. The States possess the powers (under certain limitations) which belong to any legislative body. They originate and pass laws; raise funds

for the public service; enact appropriations of the revenue; and preside generally, over the well-being of the island. This assembly, however, cannot be convened without the consent of the governor, —who has also a veto on Its deliberations, for the exercise of which powers, however, he is accountable to the king in council; and all acts passed by the States, if meant to continue in force more than three years, require the king's assent.”<sup>1</sup>

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<sup>1</sup> *The Channel Islands: Jersey, Guernsey, and Alderney etc*, 2nd edn (London, 1835, Whittaker and Co), at 91–95.