

Tynwald slowly developed. In 1958 the British government relinquished all control over the Island revenues, and this was followed by the establishment of a Finance Board, elected by Tynwald, to take charge of the Manx treasury. During the succeeding 20 years, in consequence of various Acts of Tynwald, most of the Governor's Executive powers were transferred to bodies appointed by Tynwald, and in particular to the Executive Council which was established in its present form in 1961. The proposed adoption of a ministerial form of executive government would complete the internal evolution of the Manx government.

Although the Isle of Man is not an independent State, and is unlikely in the foreseeable future to wish to become an independent State, its relationship with the United Kingdom, and within the Commonwealth, will, no doubt, continue to evolve in the direction of greater independence. Perhaps this could be a pattern of the constitutional development which might be relevant to other small Islands.

The Bailiwick of Guernsey in the Channel Islands

By Edmund Lenfestey of the Office of Her Majesty's Procureur.

The Bailiwick of Guernsey, which with the Bailiwick of Jersey, 20 miles away, comprise the Channel Islands, is made up of a group of small islands. The largest, Guernsey, with a population of 54,000, has an area of 24½ square miles. 20 miles to the north of Guernsey is the next largest island, Alderney, which is approximately 60 miles south of the nearest point on the mainland of England and only 10 miles from Cap de la Hague on the French coast. Alderney, 3½ miles by 1½ miles, has a population of 1,700, while Sark, 9 miles away from Guernsey, is merely 3 square miles and has a population of 600. Nearer to Guernsey are the much smaller islands of Herm, Jethou and Lihou, with only a very few inhabitants; they are administratively part of Guernsey.

There are no formal links between the two Bailiwicks, which were part of the Duchy of Normandy before the Norman Conquest of England. Although in close proximity to England, and within the British Islands, they do not form part of the United Kingdom. After the loss of continental Normandy by the King of England to the King of France in 1204, the two Bailiwicks remained in allegiance to the former and for centuries maintained a successful resistance against French claims to sovereignty. From 1204 onwards, the constitutions of each Bailiwick evolved separately, although to this day their chief posts and institutions of government have much in common. Each has a Lieutenant Governor, who is Her Majesty's personal representative and the official channel of communication between the Crown and the United Kingdom and the insular authorities; a Bailiff and Deputy Bailiff, who share the most important of the other offices held under the Crown, with the duties of presiding over the legislative assembly (The States) and the supreme Bailiwick Court (The Royal Court); and an Attorney General and Solicitor General (known locally as Procureur and Comptroller), who

are legal advisers to both the Crown and the States.

The constitutional position of the Channel Islands within the Commonwealth is unique. They are like miniature states with wide powers of self-government. The day-to-day business of government is carried out by committees of the States; a method of functioning not dissimilar to that of local authorities in the United Kingdom. The Crown, acting through the Privy Council, has the ultimate responsibility for the good government of the Islands. A Committee of the Privy Council, appointed at the beginning of each reign, entertains petitions from the Islands, very largely those seeking the ratification of legislative measures by Order in Council. The Home Secretary is the channel of communication between the Islands and the United Kingdom Government. Through the Home Office, the Islands have developed over many years a lasting and most cordial relationship with the United Kingdom Government.

Acts of the Parliament of the United Kingdom, in which the Islands have no representative, do not extend automatically to them, but only if they expressly apply to them or to all Her Majesty's dominions or apply by necessary implication. Where it is intended that an Act of Parliament should extend to them, it is usual to include an enabling provision for the extension of the Act by Order in Council so as to allow for the making of any necessary modifications. By convention, the Parliament of the United Kingdom does not legislate for the Islands in matters of taxation or other matters of purely domestic concern.

The United Kingdom Government is responsible for the Islands' international relations, but will in practice consult the insular authorities before an international agreement is reached which would apply to them. The United Kingdom Government is also responsible for the defence of the Islands.

The States of Guernsey, the senior legislature of the Bailiwick of Guernsey, legislate by way of *Projets de Loi* or Bills, which have to be ratified by Order in Council, and by way of *Ordinances of the States*, which are self-enacting. They cannot legislate in relation to matters which are the responsibility of the United Kingdom Government, such as nationality, citizenship and defence. The power to legislate by Ordinance stems either from the common law power formerly vested in the Royal Court of Guernsey before the Reform Law of 1948 or from the enabling provisions of a Law (Order in Council) expressly conferring such power on the States. The extent of the common law power is largely determined by tradition. It does not extend to taxation, which can only be imposed by a Law. The legislative powers of the separate legislatures of Alderney and Sark (The States of Alderney and the Chief Pleas of Sark) have a more limited extent than those of the States of Guernsey, and the States of Guernsey may legislate for Alderney in relation to such matters as education, health and social services, without the consent of the States of Alderney. This is also true as respects criminal law. The Ordinances of the Chief Pleas of Sark are subject to annulment by the Royal Court of Guernsey on the ground that they are unreasonable or *ultra vires*, but no such annulment has been decreed within living memory.

Meetings or Assemblies of the States of Guernsey are presided over

by the Bailiff or Deputy Bailiff, as President and Deputy President of the States respectively. They are appointed by the Crown and have a casting vote only in case of an equal division of votes. It is their responsibility to convene meetings of the States, which usually meet for one or two days every month, apart from August. Meetings are convened by means of a Billet d'Etat, a printed brochure prepared in the Bailiff's Office, which also contains the agenda and order of business for a meeting and reports by the administering committees of the States setting out proposals for administrative or legislative action.

The other members of the States of Guernsey (properly speaking the States of Deliberation to distinguish it from the electoral college known as the States of Election) are 12 Conseillers, who are elected for a term of six years by the States of Election, the Attorney General and Solicitor General, who have a voice but no vote, 33 People's Deputies, who are elected by universal adult suffrage for a term of three years to represent the ten parishes or electoral districts of Guernsey, 10 Douzaine Representatives, who are appointed for one year by their respective Douzaines (corresponding to parish councils), and two representatives of the States of Alderney appointed by the States of Alderney. The States of Alderney consist of twelve members, elected for a term of three years by universal adult suffrage, and are presided over by the President of the States of Alderney, who is similarly elected. The Chief Pleas of Sark consists of the hereditary Seigneur (the owner of the Fief or Manor of Sark), the Seneschal, who is appointed by the Seigneur with the approval of the Lieutenant Governor, the tenants (owners of the original 40 holdings into which Sark was divided by Queen Elizabeth I by Letters Patent in 1563) and 12 Deputies of the People, who are elected for a term of three years by universal adult suffrage.

The executive function of government in Guernsey is carried out by committees of the States, each of which has a mandate and constitution variously conferred by simple Resolution of the States or by a Law. Members of each committee are generally members of the States elected by the States. Each committee has its own President, who is always a member of the States. The Advisory and Finance Committee occupies a central position in the administrative structure of the States, being responsible for the management of the finances of Guernsey and for advising the States on the desirability of accepting or rejecting proposals made to the States by other committees. This method of government by standing committees of the States works admirably well and is made possible by the total absence of any organised political parties and official opposition within the States. This method of government is also used in Alderney and Sark. The issue of public money for the public service of each island is merely authorised by a Resolution of the insular legislature, usually passed at the meeting convened to approve the annual budget. There is no constitutional requirement for expenditure to be sanctioned by legislation.

The common law of Guernsey derives from the ancient customary law of Normandy. In many respects it has been superseded by legislation enacted with increasing frequency since the beginning of the 19th century. The judicial system also has its origins in Guernsey's Norman past. The Royal Court of Guernsey was divested of its legislative

functions as late as 1948, when they were transferred to the States. The Court consists of the Bailiff, as President of the Court, or the Deputy Bailiff, as Deputy President of the Court, and twelve Jurats, who are elected by the States of Election and usually remain in office until the age of 75 years. Until 1964, the Jurats were judges of law as well as of fact. Sitting as a Full Court, with the Bailiff or Deputy Bailiff and not less than 7 Jurats, the Royal Court has original jurisdiction throughout the Bailiwick in respect of all indictable offences. The Attorney General is responsible for the institution of all criminal prosecutions, having the powers and duties normally associated with the office of Director of Public Prosecutions, as well as acting as legal adviser to the Crown and to the States. The Full Court has appellate jurisdiction in criminal matters decided by the Magistrate's Court in Guernsey, the Court of Alderney or the Court of the Seneschal of Sark.

Sitting as an Ordinary Court, consisting of the Bailiff or Deputy Bailiff and at least two Jurats, the Royal Court has original jurisdiction in all civil matters arising in Guernsey, and appellate jurisdiction in respect of all civil matters decided by the Magistrate's Court in Guernsey, the Court of Alderney or the Court of the Seneschal of Sark. The Court of Alderney, which consists of a Chairman and at least three Jurats, all appointed by the Home Secretary, has limited jurisdiction in criminal matters with power to impose a fine not exceeding £100 or imprisonment for a period not exceeding two months or both such fine and imprisonment, but unlimited jurisdiction in civil matters. The Court of the Seneschal of Sark has jurisdiction in criminal matters with power to impose a fine not exceeding £50 or imprisonment for a period not exceeding one month; it also has unlimited jurisdiction in civil matters.

Appeals lie in criminal matters from the Royal Court sitting as a Full Court to the Court of Appeal (Criminal Division) and from the Royal Court sitting as an Ordinary Court to the Court of Appeal (Civil Division). The Court of Appeal was instituted in 1964 and consists of the Bailiff of Guernsey *ex officio*, who usually acts as President of the Court, and not less than two judges appointed by Her Majesty. Appeals lie from the Court of Appeal to the Privy Council in both criminal and civil matters, but in civil matters only with the special leave of the Council or the leave of the Court of Appeal unless the value of the matter in dispute is £500 or more.

Guernsey, Alderney and Sark are entirely self-financing. Guernsey and Alderney are subject to the same income tax legislation, under which income tax is levied at the rate of 20p in the pound sterling (20%). There is no surtax or capital gains tax, and no estate duty. Sark has no income tax. The revenues of each island were, until the years immediately following the 1939–1945 War, for the last four years of which they were under German occupation, largely derived from agriculture (dairy farming), horticulture (principally, the growing of tomatoes under glass) and tourism. Since then the islands have developed an off-shore finance industry. United Kingdom and other residents have moved there with their assets. Financial institutions from the United Kingdom, the United States and elsewhere have established subsidiaries in Guernsey to take advantage of its political stability and lower taxation for transacting off-shore investment and banking business. Sixty per

cent, or thereabouts, of the revenue of Guernsey now emanates from this new source of income, while the financial contribution from horticulture (once the main source of revenue) has rapidly decreased and that from tourism has more or less remained at the same level. In an attempt to broaden the base of the economy of Guernsey and to assist in lessening the mounting (although still moderate) amount of unemployment, resulting principally from the decline of the horticultural industry, the States are encouraging light industry to establish itself in Guernsey. Already, there is steady production of electronic equipment, motor components, knitwear and pottery.

The post-war economic developments, the general increase in population and consequential extensive residential development, have all brought about a considerable change in the appearance and character of the island. This is true to a lesser degree with regard to Alderney and Sark, where the increase in population has not been so great, although the number of native inhabitants has diminished appreciably. One of the principal, and perhaps most regrettable, effects of these changes has been the rapid disappearance to the verge of extinction of the ancient and distinctive languages of the islands; the patois of Guernsey, Alderney and Sark, derived from Norman-French.

There is still much left, however, to please the eye. The chief attractions of Guernsey are its only town of Saint Peter Port (population 17,000), considered to be one of the finest of the small Regency towns of the British Islands; the stretches of unspoilt cliffs along the south and south-east coasts; and the superb beaches on all sides. Inland, the landscape is dominated by the many roads used by over 30,000 motor vehicles, the sprawl of bungalows, mostly built in the post-war period, and the huge area of glasshouses used for the growing of tomatoes and flowers. In spite of this, there are still areas which have retained the pastoral beauty which was formerly to be found everywhere, except in parts of the north of the island where considerable quarrying took place for the once prosperous trade in the export of granite. There are still many small fields left, enclosed by hedgebanks and providing rich pasture for the remaining herds of the island's celebrated breed of cattle, the golden Guernsey. Alderney and Sark, with their magnificent coastal scenery, and the former with its diminutive and charming town (St. Anne's), still provide the visitor with peaceful retreats largely unspoilt by modern development. Sark, a miniature State retaining strong links with its feudal past, has the added advantage of prohibiting all motor vehicles, except tractors, from using its pleasant country lanes.

“The ideal law reformer”

An address by the Chief Justice of Hong Kong, Sir Denys Roberts, to a luncheon for Law Reform Commissioners attending a Forum on Law Reform during the Seventh Commonwealth Law Conference in Hong Kong. The address is reprinted here in response to numerous requests.