

THE JERSEY VOTING SYSTEM

David Marrani

This article aims to show the potential variations that may be brought in the democratic operation in Jersey. Assuming that any of those variations is in effect a result of both the political parties and voting systems in place, the changes in Jersey's voting system and the development of political parties should have significant outcomes for the Island. The quality of representative democracy depends mostly on electoral results but also on the level of political competition and public participation. In turn, party systems and electoral results are themselves affected by the voting system. The article seeks to analyse briefly the new constitutional design, and in particular the possibility offered by the new voting system and the new political competition in term of efficiency but also of disaffection of the people towards elections and democracy

1 The emergence in Jersey of a number of political parties and movements, formed or nearly formed to contest the elections in June 2022, gives rise to reflections upon the voting system and the nature of democracy in the Island.

2 One of the elements of the theoretical foundation of representative democracy has been the idea that competitive elections should bring to power a political elite selected by the people. But nowadays, political principles such as democracy, nation state, or elections, are no longer in harmony with the current episteme of our time. Political disengagement,¹ political disenchantment,² or simply a disdain for elections, are post-modern symptoms, as put by Professor Maffesoli, of the general lack of affection for the political.³ It has become quite

¹ E Uberoi and N Johnston, "Political Disengagement in the UK: Who is Engaged?", House of Commons Briefing Paper, CBP 7501, 25 February 2021. <https://researchbriefings.files.parliament.uk/documents/CBP-7501/CBP-7501.pdf>. Last accessed 22 March 2021.

² A Bilgrami, "Democracy and Disenchantment", (2009) 37(11/12) *Social Scientist* 4–21.

³ M Maffesoli, *Les Nouveaux Bien-Pensants* (Paris: Editions du moment, 2013), esp pp 78–79.

usual for democracies to bring changes to electoral or representative systems in order to counter those symptoms.

3 With the States of Jersey approving major reforms to political representation in the Island,⁴ elections are becoming quite topical. Indeed, with the abolition of senators, elected on an Island-wide basis, representation seems to be moving towards new shores.

4 The idea here is not to comment on or to criticise the change in the number of elected representatives but rather to take a closer look at the constant reference to the so-called “modernisation” of Jersey’s voting system. Although one should probably call it a contemporary move rather than a modernisation, one should not focus on the representatives or their number but rather speak or write about the voting system itself.

5 After several reports and debates relating to elections in Jersey, it may be useful to analyse briefly the question of voting systems, and then to look at the current and future situation in Jersey.

Voting systems

6 Elections have always been an issue in democracy that triggers both vivid and extensive debates. But they are peculiar and ambivalent tools.

7 On the one hand, they have not only been part of the democratic ritual but also have sometimes been a synonym of democracy itself. It is occasionally argued that elections can be equated with democracy, while at other times they may solely be considered as one of the variables needed to qualify a government as democratic. For instance, some scholars adhere to an electoral definition of democracy where, “Elections, open, free, and fair, are the essence of democracy, the inescapable *sine qua non*”.⁵ Meanwhile, Schumpeter refers to elections in his seminal work by stating that democracy is a system “for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote”.⁶ For Sartori, elections are central to democracy as they are a tool for legitimacy. In a democracy, that legitimacy emanates from the

⁴ Constitution of the States and Public Elections (Jersey) Law 2021.

⁵ S Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991), esp p 9.

⁶ J Schumpeter, *Capitalism, Socialism and Democracy* (New York: Harper and Row, 1947/1962), esp p 269.

basis that it is the emanation of popular will.⁷ Elections here are the guarantee of a democratic functioning society because they permit the public to select and sanction: a democracy can only survive in the long term if it succeeds as a system of government.⁸ It is in fact defined by Sartori as a polyarchy of elected elites, a system of selection based on the election of competing minorities.⁹ What we may simply explain here is that that “democracy is defined by the insurmountable boundary that prevents the political subject from becoming consubstantial with power”.¹⁰

8 On the other hand, elections have not been solely linked to democracy. The *pays d'élections* in medieval France, for example, were administrative units specifically designed to levy taxes. Originally, the agent in charge was elected, *l'élú*, later replaced by someone called *élu*, but appointed rather than elected.¹¹ More importantly, kings in the French monarchy have always been “appointed” following a specific ritual *electio, onctio, coronatio* (election, “blessing”, coronation).¹² The primary question we should therefore consider is why do we need to elect anyone?

Why do we need elections in democracy?

9 We have seen that elections are considered either as the essence of democracy or as a crucial part of it. In a political system operating on the principle of a representative government, the primary function of the election is to enable citizens to choose their representatives and ultimately their leaders, who will oversee designing, voting and implementing the law on their behalf. Elections are therefore a delegation of sovereignty to representatives. We must consider in turn the terminology here: representation, delegation and sovereignty.

Representation

10 What is re-*presented*, what is presented again, “[W]e have delegated to hundreds of non-human lieutenants the task of disciplining, making, and moving other humans or other non-humans

⁷ G Sartori, *The Theory of Democracy Revisited* (Chatham NJ: Chatham House Publishers, 1987), esp p 34.

⁸ Sartori, *Theory of Democracy*, pp 84–91, esp p 91.

⁹ *Ibid*, p 108.

¹⁰ C Breger, “The Leader’s Two Bodies, Slavoj Zizek’s Postmodern Political Theology” (2001) 31(1) *Diacritics* 73–90, esp pp 78–79.

¹¹ J-J Sueur, *Histoire du Droit Public Français* (Paris; PUF, 2007), esp p 335.

¹² D Marrani, “The Importance of the Symbolic Role of the Head of State”, (2011) 13 *European Journal of Law Reform* 1, esp p 44.

. . .”, and therefore we have “instruments [that] bring far away places, objects and times to us which are thus represented—this is presented again—for our inspection.”¹³ Political institutions appear in front of us.¹⁴ Let us not forget that the dichotomy in law between a natural person and an artificial legal person has one crucial difference: in the case of a natural person we have a real human; in the case of a legal person we have a fiction that needs physical agents. In consequence, one “exists”, the other does not; one is “alive”, the other is not. Legal persons, including public persons like corporations or states, need something or someone to give us the feeling that they are what they are. There is no institution without representation. An institution creates the presence of a fiction (a legal person) that is otherwise absent. Representation is the presence of the absent. In that sense, it gives life to the institution: it institutionalises. We could remember here Derrida’s thoughts on representation in his comments on Rousseau. He tells us that the represented signified that “the sovereign people” are represented by “the assembly”, being therefore the representative signifier.¹⁵ The institution will rule for or on behalf of the sovereign; hence the idea of a delegation of sovereignty. The representation follows a primitive presence and occurs when the signified is absent. Derrida goes on demonstrating that the representative is not the represented (the signifier is not the signified), but is only the representative of the represented (only the signifier, in fact). As representative, it is not simply the other of the represented. The wrong/bad of the representative or of the supplement of the presence is neither the same nor the other. It comes at the moment of the *différence*, when the sovereign will is delegated and as a consequence when the Law is written.¹⁶

¹³ B Latour, “Visualisation and Social Reproduction: Opening One Eye while Closing the Other . . . a Note on Some Religious Paintings”, (1987) 35(S1) *Sociological Review*, Special Issue (eds G Fyfe and J Law) *Picturing Power: Visual Depiction and Social Relations* 15–38, esp p 15.

¹⁴ For Heidegger “to appear” is what is in front of us, what “appears”, as in ancient Greek, “instituted” always signified what was left in front of us, in other words, what appears. M Heidegger, *Qu’appelle-t- on Penser?* (Paris: PUF, 1959), esp p 189.

¹⁵ J Derrida, *De la Grammatologie* (Paris: Editions de Minuit, 1994), p 418.

¹⁶ *Ibid*, p 419.

Delegation

11 Delegation was defined by Thatcher and Sweet Stone as “an authoritative decision, formalised as a matter of public law”; the decision:

“transfers policy making authority away from established, representative organs (those that are directly elected, or are managed directly by elected politicians), to a non-majoritarian institution, whether public or private.”¹⁷

12 According to Lupia and McCubbins, “citizens delegate to elected representatives . . . who delegate to others”.¹⁸ Therefore, a parliamentary system of government imposes a chain linking the “voters” to the ultimate policy-makers.¹⁹ This has been clarified by several authors who qualified it as a chain of delegation.²⁰ Strom, for instance, has identified “four discrete steps” in this chain of delegation:²¹

- (i) From voters to elected representatives,
- (ii) From legislators to executive branch, specifically to the head of government (the prime minister),
- (iii) From the head of government (prime minister) to the heads of different executive departments, and
- (iv) From the head of different executive departments to civil servants.

13 Delegation is crucial in modern and contemporary democracies. Indeed, “if delegation makes sense . . . all other things considered, then no constitutional principle of democracy can justify not

¹⁷ M Thatcher and A Stone Sweet, “Theory and Practice of Delegation to Non-majoritarian Institutions”, in M Thatcher and A Stone Sweet (eds), *The Politics of Delegation* (London: Cass, 2003), p 3.

¹⁸ A Lupia and M McCubbins, “Representation or Abdication? How Citizens use Institutions to help Delegation Succeed”, (2000) 37(3) *European Journal of Political Research* 291–307.

¹⁹ T Bergman, WC Muller and K Strom, “Introduction: Parliamentary Democracy and the Chain of Delegation”, (2000) 37(3) *European Journal of Political Research* 255–260.

²⁰ *Ibid*, p 257.

²¹ K Strom, “Delegation and Accountability in Parliamentary Democracies”, (2000) 37(3) *European Journal of Political Research* 261–289, esp p 267.

delegating.”²² It is also instrumental in the link between elections and democracy, as there is a need to delegate to elected representatives.

Sovereignty

14 The concept linked to the word “sovereignty” suggests the idea of supreme power, of ultimate authority.²³ It relates to power that cannot be shared. Sovereignty refers primarily to a monarch. It can also be attached to an institution (contained in the idea of the sovereignty of Parliament, for example), or to some fictional entity (like that of the sovereignty of the nation or the sovereignty of the people, *le public* for Rousseau)²⁴ in the course of the passage from monarchy to democracy.²⁵ In a society that we assume to be democratic, the role of sovereign moves from the head of state and becomes attached to an institution, such as parliament, or to a fictional entity, like “the people” or “the nation”. As stressed by Laclau and Mouffe,

“democracy inaugurates the experience of a society . . . in which the people will be proclaimed sovereign, but in which its identity will never be definitely given, but will remain latent.”²⁶

Perhaps, the sole issue here is that the signifier “sovereignty” represents different signified concepts: it has one *image acoustique* that may be used in different types of political regime. What becomes important, therefore, is the signifier word “sovereignty” over the signified concept. The core problem between sovereignty and election is the question of where the sovereignty vested or resided (for instance, in a democracy it could be the people) but also about who could exercise it: *i.e.* the people by referendum in a direct democracy

²² DM Kahan, “Democracy Schmemocrac”, (1988–1999) 20 *Cardozo L Rev* 795–806, esp p 806.

²³ See what Troper has to state about the four definitions of sovereignty in <http://www.droitconstitutionnel.net/Souverainete.htm>. Last accessed 22 March 2021.

²⁴ JJ Rousseau, *Du Contrat Social* (Paris: Larousse, 1973), p 30.

²⁵ In the association described by Rousseau, every individual associates to create a moral person. Rousseau identified that the republic (named city in the past), was called state (*Etat*) when “passive” and sovereign (*souverain*) when “active” (*ibid*, p 30). He developed this idea by explaining that “*le pacte social donne au corps politique un pouvoir absolu sur [tous ses membres], et c’est ce même pouvoir qui, dirige par la volonté générale, porte . . . le nom de souveraineté*” (*ibid*, p 40).

²⁶ E Laclau and Couffe, *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics* (London: Verso, 2001), p 187.

or parliament in a representative democracy . . . hence the question of elections.

15 But elections have changed in nature with the permanent dissatisfaction of the people, and distrust in political elites. Within an organised society they have become a “safety valve”. Indeed, the possibility for citizens to be able regularly to express their dissatisfaction or, conversely, to give a new mandate to the outgoing power, prevents major political disagreements finding another mode of expression (such as the street) and other modalities (such as violence). We tend to protest more but, despite our dissatisfaction, we continue to vote for mainstream parties, alternating between them.²⁷ The discussion does not take place inside the place for debates that is parliament (the place where we *parle*). Parliaments no longer have the absolute power in law making or even, of representation. Other representatives, as well as more favoured places of debate, have emerged: journalists, parties, unions, associations, religious movements, NGOs and, in more contemporary times, social networks, are all representatives and active transformers of citizens’ aspirations.²⁸ Parliaments no longer have a monopoly of representation and, according to Shwartzenberg, democracy becomes *supplétive* rather than representative.²⁹ The pressure on government seems to be from the “street” (see the French experience of 1968 and 2005), real or virtual, and not from the members of Parliament, leaving representation inefficient. Of course, elections may help to resolve a crisis. Either in an institutional crisis, like a non-synchronisation between executive and legislature, or in a deeper debate dividing citizens, an election can help to find a solution.³⁰ For example, in France during the events of May 1968, the dissolution of the National Assembly and the call for general elections was used to calm tensions on the street but also to reassure the traditional strata of the society. Elections may thus be used as a political strategy to retain (or regain) power.

²⁷ This is either cynical, see Žižek (S Žižek, *The Sublime Object of Ideology* (London, Verso, 2009), or a type of reactionary or obscure subjectivity, see Badiou (A Badiou, *Logics of Worlds*, trans. A Toscano (London: Bloomsbury Academic, 2013).

²⁸ L Sfez, *La symbolique politique* (Paris: Que sais je ? PUF, 1996), p 10.

²⁹ P Ardant, *Institutions politiques et Droit constitutionnel* (Paris: LGDJ, 2002), p 532.

³⁰ See D Marrani, *Dynamics in the French Constitution, Decoding French Republican Ideas* (London: Routledge, 2013), esp Chapter 1.

General principles

16 It is trivial to state that in an election what is important is the action of selecting someone. The meaning of the word “*eligere*” is simply about choosing someone. For Sartori, elections are an operation of selection, not of choice left to chance.³¹ The idea is that all ballots, voting procedures and calculation methods are devised in order to separate the candidates. The general principle of Europe’s electoral heritage, according to the Venice Commission, is that the vote is (quasi-) universal, with equal free suffrage, secret, direct and frequent.³² A vote is in fact only ever quasi-universal because not everyone who has the right to vote in a society has the right actually to cast a vote. That said, the citizens, as defined by the state in its constitution, for example, may all vote. It is universal for these citizens. It is therefore a complex matter to determine who the citizens are (according to criteria of age, nationality and residence, for example) but when this is done, the suffrage is universal.³³ The suffrage is equal: equal in rights, equal in voting powers, equal according to the limit of a constituency or in comparison between constituencies, equal between males and females. Free suffrage necessitates citizens being able to form their own opinions and impact on media coverage, for example, by obliging governments to enact legislation that will not favour one party (the ruling one for instance) but contribute to pluralism. This helps to prevent distorted results. But free suffrage is also concerned with how a voter can freely express his wish and how his ballot will be counted. Secrecy of suffrage is important to allow the vote to be as free as possible, and has to be direct, that is, that a citizen must be able to vote directly for a candidate, although sometimes there could be a little indirect mediation. The frequency of elections is also a principle. Frequent elections allow the people to be consulted often.

Different types of electoral systems

17 The ballot may be first past the post (voting for one candidate) or a list (voting for a list of candidates), a majority in one or two rounds, proportional or mixed (a mixture of majority and proportional elections). The choice of electoral systems is linked to local or

³¹ Sartori, *Theory of Democracy*, esp p 85.

³² [https://www.venice.coe.int/webforms/documents/?pdf=CDL-STD\(2013\)050-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-STD(2013)050-e). Last accessed 22 March 2021.

³³ See D Marrani, *Dynamics of the French Constitution*, chapter on New Caledonia.

national political history, but needs pluralism, the opinion of the parties.

18 The term suffrage refers to the act of voting by which one declares one's policy choices, but it also expresses the right to vote.

19 Thus, the vote can be:

(i) restricted, if it is limited to a class of people based on their income (poll tax), or the level of their knowledge (capability suffrage);

(ii) universal, if all adult citizens vote;

(iii) live, if the voter votes for himself as a candidate;

(iv) indirect, if the candidate is elected by an electoral college appointed directly by the citizens.

20 Electoral systems denote a set of characteristics involving voting methods, allocation of seats in the assemblies, and the essential elements of a plan (number of parties, government stability or instability). The choice of an electoral system, particularly the voting system, reflects political goals. Thus, it is generally considered that the system of proportional representation allows a consistent representation of citizens to vote, but may pose a risk of governmental instability. A majority vote generally avoids such instability.

Different types of electoral systems and their effects

21 Casting a vote brings the wish of one individual member of society into the public sphere. At the same time, it contributes to the formation of a majority, even a governing majority. It will then be instrumental in the appointment of elected officials. The electoral system covers all the elements of the election and its consequences (effects on the organisation of parties, for example, *etc*).

22 One of the most important principles is universal suffrage. That principle is nowadays omnipresent in representative democracies. That is not the case, for electoral systems vary in accordance with considerations such as national or local political history, needs for representation, pluralism, and so on. Voting procedures may also vary. France has experienced significant changes since 1871, for instance, in how a vote may be cast in general elections, while the UK has had a similar system since the eighteenth century.

The classification of electoral systems

23 According to Pippa Norris, there are four main types of electoral systems: majoritarian, proportional, semi-proportional and mixed.³⁴

24 The oldest voting system is the majoritarian, which is used by 83 countries. It is based on the allocation of one (single-member constituencies) or more (multi-member ballot) seats to the person or persons obtaining the most votes on election day. It may be a plurality or first past the post system, or a second ballot majority of two rounds.

25 In plurality elections or first past the post, sometimes known as a plurality single-member district system, the candidate who gets the most votes wins the seat (*e.g.* UK general elections for the House of Commons). The winner is therefore the candidate with the most votes but not necessarily with an absolute majority of the votes. This has the advantage of simplicity. However, it often leads to over-representation of the leading party or parties and under-representation of the others. There is normally no need for an absolute majority. What counts is therefore the share of national representation rather than the share of voters. It could be the case that some parties get almost no elected candidates. Moreover, the geographical representation of parties greatly influences the final result to the extent that a small, well-established party can be overrepresented, but also a party with the most votes at the national level may be deprived of victory because its votes are spread too thinly.

26 When this system is used in multi-member districts, it becomes a block vote where voters have as many votes as there are seats to be filled. Here, the highest-polling candidates fill the positions regardless of the percentage of the votes they achieve. It has an impact on other aspects of the political life. Indeed, party lists should be presented instead of individual candidates (and we can end up in a party block vote).

27 In the first past two rounds (*eg* in France) or second ballot majority, success in the first round is determined by obtaining an absolute majority of votes, sometimes with the obligation of having a minimum number of registered voters. Having failed to reach this threshold, a second round is held. Access to the second round is regulated: the two leading candidates in the first round (French

³⁴ P Norris, "Choosing Electoral Systems: Proportional, Majoritarian and Mixed Systems", (1997) 18(3) *Contrasting Political Institutions* 297–312, Special Issue (eds J Laponce and B Saint-Jacques) esp p 299. Discussions on the electoral systems will mostly use this article.

presidential election); a minimum number of votes or percentage of registered electors (French legislative elections for the National Assembly). Compared to the single ballot system, the ability to form alliances for the second round smooths distortions: small parties can get along with larger ones to get their voices heard, in exchange for a deferral voice elsewhere. In contrast, those who do not subscribe to an alliance are often deprived of representation.

28 In alternative vote systems, candidates are ranked by the electors (1, 2, 3 *etc*) and win if they obtain an absolute majority; otherwise the last candidate is eliminated and his or her votes redistributed until an absolute majority is reached (Ireland, presidential elections, and Australia, House of Representative elections).

Proportional electoral system

29 The proportional system is used in 57 countries. It is simple in principle—seats are allocated according to the number of votes—but complicated in its implementation. It grew with the role of political parties “in between” the people and the political elites: it is less a vote for an individual than for a party or programme.

30 Several methods exist to split votes. The number of votes needed to win a seat is decided through a specific formula. The number of seats allocated to each list is then defined by dividing the total number of votes obtained by each list by an electoral quotient deriving from the formula used. After the first allocation is completed, the remaining seats are distributed either according to the largest remainder formula that favours small parties or the highest average formula that favours large ones. In the first method, a minimum quota is used which can be calculated in several ways: with the Hare quota, the total number of valid votes in each constituency is divided by the total number of seats to be allocated (Denmark and Costa Rica); the Droop quota raises the divisor by the number of seats plus one (South Africa and Greece). In the alternative method, seats are then allocated to parties that secure the highest resulting quotient, up to the total number of seats available according to the d’Hondt formula, using divisors (such as 1, 2, 3 *etc*), the “pure” Saint-Laguë method divides the votes with odd numbers (1, 3, 5, 7 *etc*) and the “modified” Saint-Laguë replaces the first divisor by 1.4 but is otherwise identical to the pure version.

31 There are other methods of distribution, such as the clearing systems used in Germany. The seats are divided from the list by order of most frequent, but sometimes depending on the indication of preferences given by the voters.

32 In proportional systems, the threshold for the right to the distribution of seats and the size of the constituency are key variables. The higher the threshold, the greater the number of major constituencies and the more difficulty small parties have gaining seats. Some countries (*eg*, Israel) choose to have only one constituency in the country. The threshold level depends on the characteristics of each country. Set at 5% in Germany or France, it does not affect major national parties but in young democracies, with a large number of parties, it could deprive a large segment of the population of representation.

The semi-proportional system

33 There are a few semi-proportional systems, such as the cumulative vote, the limited vote, or the single transferable vote. In the cumulative vote, electors are given as many votes as representatives, and votes can be accumulated on a single candidate. In the limited vote, electors are given fewer votes than the number of representatives. The single transferable vote, currently employed in legislative elections in Ireland, is explained by Norris—

“a country is divided into multi-member constituencies which each have about four or five representatives. Parties put forward as many candidates as they think could win in each constituency. Voters rank their preferences among candidates (1, 2, 3, 4 . . .). The total number of votes is counted, and then the number of seats divides this total in the constituency to produce a quota. To be elected, candidates must reach the minimum quota. When the first preferences are counted, if no candidates reach the quota, then the person with the least votes is eliminated, and their votes redistributed according to second preferences. This process continues until all seats are filled.”³⁵

Mixed systems

34 Finally, the mixed systems borrow elements from the majoritarian and proportional systems. They combine, but with great diversity, both mechanisms, aiming to combine the advantages and to minimize the disadvantages of both methods.

35 For example, the voting system used in France for municipal elections in towns of more than 1,000 inhabitants aims to ensure a majority for the winner, allowing alliances between rounds and giving representation to the minority. Thus, after the second round, the

³⁵ Norris, p 301.

winner gets half of the seats, and the other half is distributed proportionally among those parties with at least 5% of the vote.

36 After considering elections through the abstract lens of voting systems, it is time to examine what the situation in Jersey.

Current and future situation in Jersey

37 According to the States of Jersey Law 2005, art. 2, the legislature comprised (before the recent amendments) the following members:

“2 Constitution of the States

(1) The States of Jersey are constituted as follows—

the Bailiff;

the Lieutenant-Governor;

8 Senators, elected as provided by this Law;

the Connétables of the 12 Parishes of Jersey, who are members of the States by virtue of their office;

29 Deputies, elected as provided by this Law;

the Dean of Jersey;

the Attorney General;

the Solicitor General.”

38 Most of its members were therefore elected, either directly (eight Senators and 29 Deputies) or indirectly (12 *Connétables*). This changed following the adoption by the States Assembly of what is now the Constitution of the States and Public Elections (Jersey) Law 2021. The position is now that the States is an assembly of 49 members, without senators.³⁶ Nothing much has been said about the voting system.

³⁶ As explained in the report lodged with the draft Constitution of the States and Public Elections (Jersey) Law 202-,

“In December 2020, the Assembly adopted P.139/2020 ‘Composition and Election of the States: proposed changes’ and . . . agreed proposals which will allow progress to finally be made in the delivery of a fairer, better, simpler, more inviting elections for candidate and voter alike. These legislative changes implement paragraph (a) of P.139/2020, namely to establish an Assembly of 49 Members, 37 elected from 9 new districts of comparable population size, plus the 12 Parish Connétables.”

39 According to Dr Renwick—

“Jersey currently uses plurality voting in all three parts of the electoral system. *Connétables* are elected using single-member plurality (commonly, though misleadingly, known as ‘first past the post’), as are the Deputies in the parishes and districts that elect one Deputy. Multimember plurality (commonly, but again misleadingly, known as the ‘block vote’ system) is used to elect the Deputies in multi-member parishes and districts as well as the ten Senators.”³⁷

40 The introduction of the new super constituencies, nine districts with three to five deputies, will influence the voting system in Jersey. It would see an exacerbation of the block votes system, a sort of offshoot of the first past the post for multi-member districts. The use of plurality voting in the new nine multi-member districts will mean that voters will have as many votes as there are seats to be filled in the district. Although it is not clarified, it is often the case that voters are left free to vote for candidates regardless of any party affiliation.

41 We may foresee quite a lot of issues here. The first issue will be that voters will vote for individual candidates within their reasonably sized geographical districts. The second, though related to the first, is that it might have the effect of increasing the need for and the role of political parties if we compare this system with first past the post. In addition, as a third issue, we may see unpredictable and sometimes undesirable impacts on election results. For instance, voters may cast all their votes for the candidates of a single party, pushing the most disastrous disadvantage of the first past the post system of disproportionality. This might effect a serious distortion of a parliamentary system such as that of Jersey.³⁸ The fourth issue is that voters may be able to vote for more than one party in the same district, triggering an actual competition within the members of the

<https://statesassembly.gov.je/assemblypropositions/2021/p.17-2021.pdf>. Last accessed 22 March 2021.

³⁷ A Renwick, ‘The Jersey States Assembly in Comparative Perspective’, *A Report for the States of Jersey Electoral Commission* (2012), esp p 15. <https://statesassembly.gov.je/sitecollectiondocuments/states%20assembly/the%20jersey%20states%20assembly%20in%20comparative%20perspective,%20dr.%20alan%20renwick,%20university%20of%20reading.pdf>. Last accessed 22 March 2021.

³⁸ It might be said that that fear was realised in the recent elections in Sark—having the number of votes match the number of candidates to be elected means that the “list” with minority support is wiped out.

same party who would then be in competition with each other. That may contribute to factions and eventually to corruption.³⁹ One may want to look at the Guernsey 2020 election results which seem to demonstrate that candidates forming themselves into parties does not guarantee that voters will practise party politics.⁴⁰

42 We should distinguish the block vote and the party block vote. The difference between the two is that in a party block vote, voters choose between party lists of candidates rather than individuals. A block vote is therefore more common in countries with weak or non-existent political parties. In a party block vote, seats in a district are given to the party with a plurality of the total vote. The main advantage is to allow for the representation of balanced minorities, often ethnic, by giving parties the opportunity to have diversity in the lists of candidates.⁴¹ As we know from Renwick—

³⁹ As explained by Norris, most voting systems have advantages and disadvantages. Debates about voting systems are often due to the difficulty of reconciling several goals and political objectives. For people advocating the proportional system, an electoral system must give a true and fair view of the political situation and the electorate; for people advocating the majoritarian system, the aim is to achieve a majority of elected officials who can govern. There are mechanisms involved in another battle, that is, between two visions of democracy, one based on the representation of the people and the other on the efficiency of government. Beyond the simple allocation of seats, the choice of voting system is the reflection of a conception of political life. Proportional systems often lead to dysfunction of the political system; they favour a multiparty system and give an important role to small parties, which often become indispensable partners for majorities to exist (as in the Fourth Republic in France or in Italy). Majority voting in elections favour alternating, but only between two parties (the United Kingdom, for example). The majority vote in two rounds; that of the Fifth Republic has the flexibility of alternating and encourages more parties to form alliances for the second round. Proportional systems complicate the emergence of a stable and coherent majority, giving precedence to a logic of cooperation of the parties (parties share power as seats). Conversely, majority voting most often leads to the appearance of stable majorities based on a confrontation with the opposition (the coalition that wins governs) but at the cost of injustice in representation.

⁴⁰ The Results of the 2020 General Election—Election 2020 Guernsey. <https://election2020.gg/>. [Last accessed 3 September 2021.]

⁴¹ K Lundell, *Contextual Determinants of Electoral System Choice, A Macro Comparative Study 1945–2003* (Åbo, Finland: Åbo Akademi University Press, 2005), esp p 33.

“Politics in Jersey being non-partisan, list-based systems—closed-, flexible-, or open-list proportional systems, mixed-parallel or mixed-compensatory systems, or bonus-adjusted systems—would be incongruous. Though some in Jersey may advocate the development of a party system, it would be quite inappropriate to seek to force that precipitately through the design of the electoral system.”⁴²

43 As of today, Jersey’s political party numbers are increasing. Reform Jersey, a party that holds five seats at the States, is now joined by the Progress Party, created at the beginning of 2021, with two seats. More recently, the Alliance Party, with at least five seats, has been registered. It may be the case that even though the new voting system does not look like a party block vote, it has already triggered a shift towards a political pluralism, a characteristic of party block vote.

Conclusion

44 An analogy between Jersey and Monaco may be drawn. As mentioned by Professor Joël-Benoît d’Onorio, the political system of Monaco is a system “*associant une monarchie active à une démocratie effective*”.⁴³ If Monaco is perhaps a “more active” monarchy than Jersey, the democratic aspects of both the principality and the crown dependency could be compared to illustrate this short article.

45 Even though, we witness everywhere “the tremendous lack of interest for . . . elections amongst ordinary people”, voting systems are often an important simple set of tools that encourage a competitive recruitment or selection of political elites.⁴⁴ They should be taken seriously, as an essential component of the constitutional engineering of a society. The reform introduced to the *Conseil National*, Monaco’s parliament in the 2000s, brought a new voting system and

⁴² Renwick, *The Jersey States Assembly in Comparative Perspective*, esp p 17.

⁴³ J-B d’Onorio, *Monaco, Monarchie et Démocratie* (Aix-Marseille: PU d’Aix-Marseille, 2014).

⁴⁴ “Michel Maffesoli’s Views on the Recent French Municipal Elections,” https://fede.education/michel-maffesoli-directeur-de-lecole-perigueux-business-school/?utm_source=rss&utm_medium=rss&utm_campaign=michel-maffesoli-directeur-de-lecole-perigueux-business-school&lang=en. Last accessed 22 March 2021.

the development of a *corpus* of competing political parties. What may be expected in 2022 in Jersey is very similar.

Professor David Marrani, Ph.D, is the former Dean at the Institute of Law in Jersey and former Senior Lecturer at the University of Essex, UK. He is currently the Director of the International Centre of Law and Business and the Avant Garde Interdisciplinary Research Group. The author would like to thank Giulia-Clara Marrani for her help.