

# GOVERNMENT OF JERSEY

Michael Lemprière, Bailiff of Jersey (1643, 1651–1660)

to Sir William Lenthall (1591–1662), Speaker of the House of Commons (1640–1655, 1659–1660)

Jersey, 2 February 1652

I know that in duty I was bound to give the Parliament an account of the civil government in this island, but I presumed to defer it until this fittest opportunity by Colonel Stocall. I am confident it may dissipate those aspersions which some beyond the seas, not understanding our laws here, have already (as we are informed) endeavored to cast upon this government, intending thereby to obtain the setting up of their own conceits.

This little spot of ground (lately made happy by your islanders' submission unto the Parliament's forces, who have delivered them out of bondage) is divided in twelve parishes; and every one of those sub-divided in several divisions, called vintaines. In each parish a constable; a centurion, which is as the constable's deputy; as many vinteniers as there are vintaines, who are sub-ordinate officers to the constables, to execute those warrants which are sent them by him, who receives them first, either from the Governor or Bailiff. There are besides other officers, called sermentez, or jurors, to make up the number of twelve with the vinteniers in each parish. These twelve, with the constable, make up a petty jury to indict or free criminals when they first present them in court. The constable and these officers have power to search out and seize all malefactors whatsoever, everyone in his parish, and present them to the Bailiff and justices to receive condign punishment.

Besides, there is a provost in every parish. As the name signifies "warner," so their office is to summon or warn any parties who have suits in law together to appear before the Bailiff and justices, who decide those differences. Those summonses are in very short and pithy form, either written by the parties themselves, or anybody else, provided that he that writes them must subscribe them. And the provost warns the parties in many causes for nothing, in others for a penny. All these parochial officers are elected and chosen by the votes of all the parishioners, great and small, poor and rich; then presented to the Bailiff, who gives them oath to exercise their several functions.

The whole island is generally ruled by the great court (so called in relation of inferior courts, of which hereafter mention shall be made) held in a fair cohne, or court house, erected for that purpose. The assembly there consists of the Bailiff, twelve jurats or justices, the King's procurator or attorney (so called heretofore), the King's advocate or solicitor heretofore, the viscount or sheriff, the greffier or clerk of the court, the denunciator or under-sheriff, five or six advocates at the Bailiff's discretion, and a huissier or door-keeper. The Bailiff heretofore was nominated by the King, and had his patent under the Great Seal of England. He is the head and president of the court, collects the voices of the jurats, and pronounces the sentences, according to their plurality; but if equality, then he has the casting voice.

The twelve jurats or justices are chosen by the suffrages generally of all the islanders, without exception, and sworn in the court by the Bailiff. The procurator and advocate were named by the King. Their office was to plead for the King's rights, and to see all manner of crimes punished; they might also plead 'twixt party and party. The viscount was also nominated by the King. His office was to arrest and imprison debtors, after judgment of execution given, and never before; to seize goods, when he is so appointed to do by the court, and to sell them in the market-place at public days to those who gave most, to be applied for the payment of creditors, who may redeem them fourteen days after. He takes inventories of orphans' goods, and sometimes sells them at outcries for their use and behoof. He is clerk of the market, has the care of all sorts of measures for dry and liquid wares; he looks to the water-courses of rivulets or brooks, with some officer with him, that all might be in good order for the benefit of the inhabitants; he is also coroner and crier of the court. The denunciator has the like power in the viscount's absence, with many other cares conducing to the accommodation of the islanders.

The greffier, or clerk of the court, does enroll all the sentences pronounced by the Bailiff, and that, *sedente curia*, in very fair register books, of which he has the keeping, as of all the ancient records, archives, privileges, franchises, liberties, and immunities heretofore granted to the inhabitants by the late king and queens of England, under the Bailiff, who has the care from superior authority.

The advocates' offices are to plead for parties, which they do for very small fees, at easy rates—(viz.) six-pence—by reason that the people of all sorts and sexes, and upon all manner of pleas, may and do plead their own causes, and have as much audience as the advocates themselves.

There is also another officer of high concernment in the island, called l'enregistreur, or registrar who does register all and all manner of deeds which pass under the common seal of the isle; as partitions of lands between co-heirs, sales of lands or wheat rents, either in fee farm or for ready money, letters of attorney, mortgages, bonds, etc. for three pence each. All which are written in a compendious manner, without equivocations or law's quiddities; and pass all by oath, administered unto the parties by the Bailiff in the presence of one or more of the jurats, neither to do or cause to be done anything against their demises upon pain of perjury; all written in our natural tongue. Neither are those deeds authentic, unless the Bailiff and two jurats at least are signed in them, besides the seal. Of this seal, the Bailiff is keeper, but it is sealed in a bag by some of the justices, under their seals, and not opened but in their presences. The impress of it is three lions rampant, with an inscription bearing *Sigillum Insulæ de Jersey*.

Upon this discourse of the seal, I beseech Your Honour to permit me to digress something from my present narrative; which is that I am now in possession of the said seal, sent from Brittany by Captain Carteret, alias Sir George Carteret,<sup>1</sup> who was keeper thereof by usurpation before our coming hither. What were his pretensions to carry it beyond the seas, I leave to the Parliament to censure. He has likewise sent some of the court records; but I find more wanting, which he was to render, by the articles agreed on upon the surrender of Castle Elizabeth;<sup>2</sup> and therefore it is conceived he has forfeited the benefit which was granted unto him by them.

The nomination of the greffier, denunciator, registrar, inferior advocates, and huissier belongs to the Bailiff.

The great court is kept very solemn at their assizes, or opening of their courts in the beginning of their terms, the Governor being present to answer for those lordships that owe their comperance or appearing at the said assizes, whereof there is a good number. Likewise all the justices and officers of the court, with the provosts and other lords of manor, which hold *in capite*, and other frank-tenants, which are duly called according to their ranks, and fines set upon those which do not appear; and if they failed four times together, their lands were put in the King's possession. They keep three sorts of courts, though with the same judged—(viz.) the court of heritage, the court of cattel, and the court of remedies or the court extraordinary.

In the first court is treated of inheritance; as partitions of lands between co-heirs, and, *in fine*, of all differences which do arise for lands, or any rents that are forever. The benefit of retrieving of inheritance sold is granted to the first of the kindred that does claim it within a year. In the second, called the court of cattel, first, of all criminal causes, which are determined definitively without appeal (except those of high treason, the cognizance of which the King reserved to himself), but are judged with the greatest discretion and favor that can be imagined; for, first, a malefactor being brought before the judges by the constable and his sermentez, which make the petty jury (before mentioned), if they have found the malefactor seized of any goods or vehement suspicions (after examination of witnesses in their presence, they having the freedom to recuse any of them upon evidences of hatred or malice) either of theft, murder, or witchcraft, then their verdict is that they think in their consciences they are guilty of the fact (which is called indictment); whereupon the parties so indicted are demanded whether they will be tried by the bench or the country. By this bench is meant the Bailiff and twelve justices, whereof there must be seven of them, at least, of one opinion to condemn a man; by the

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<sup>1</sup> George, Baronet Carteret (c. 1610–1680), Royalist Bailiff of Jersey (1643–1651, 1660–1661)

<sup>2</sup> Elizabeth Castle in Saint Helier, the primary fortification on the isle of Jersey, was captured by Parliament's forces in 1651.

country is understood an assembly of twenty-four of the accused's own parish and neighboring parishes, of sufficient able men, full of integrity; of those there must be twenty of an unanimous voice to make the party guilty. And this is the great inquest. In the second place, in the same court called *cattel* is treated of duress for the most part, which is that in case a man be over-burdened with debts, and that his estate is not able to pay them, as soon as he is imprisoned for any of them, he is freed of all his creditors if he comes to court and affirms upon oath that he has not wherewithal to satisfy them, and leaves them what inheritance he has to struggle amongst them who shall enjoy it. Which is done very regularly; those which have purchased or lent their money the last are the losers; every man enjoys according to the priority of his purchase, etc. In the last court, called extraordinary, is treated of causes more trivial, which concern only moveables, etc.

Of the court of heritage, the last part of the court of *cattel* and extraordinary, appeals might be made to the King and council for moveables, not for under the value of £20 sterling; but for matter of inheritance there is no limitation. Appeals might be made immediately after sentence given, yet *sedente curia* and two sufficient sureties given within a sennight for the prosecution of them within the time limited. Which is, the said appeals must be entered in the book of council causes within three months and presented within one year; and in case the appellant do not reverse the sentence, and proves an order from the council of *mal jugé bien appellé*, then he forfeits twenty crowns to the Bailiff.

There are likewise many inferior courts held in the island by seneschals or stewards, called basse courts; which is to say, low courts, in respect of the great and superior courts. Many of these lordships do now belong to the Commonwealth of England, others to some gentlemen of the island. Of these stewards' courts, appeals may be made to the Bailiff's court.

Upon some extraordinary and important occasions which might conduce for the good of the inhabitants, an assembly of the states was called by the Governor or Bailiff. This assembly consisted of the said Governor or his lieutenant, the Bailiff or his lieutenant, the twelve jurats, the twelve constables (who represented the commons of the country), and sometimes the twelve ministers who, by their turbulency and brouilleries, have made themselves unworthy of that assembly; and therefore may be very fitly desired they might be left out with the bishops, I intending never to call them at that assembly unless I am commanded.

Amongst the many good and wholesome local customs, municipal laws, and others, whereof many are agreeing with the Mosaical, one is very remarkable (in the behalf of the oppressed), viz., *Le Clam de Haro*. Which is that if any man, of what degree or quality soever, pretends to be injured or oppressed, either by the greatest or lowest of this isle, at the acclamation three times of *Haro* with a loud voice (be it right or wrong), the other party must surcease, though he were upon never such urgent occasions, whether he were at cart or plough, felling or lopping trees, in a word, upon any occasion; and he that is in fault of the accuser or accused is fined in ten livres tournois; and if the accuser persists notwithstanding in his work or violence, he is also fined in the like sum for his persisting. And likewise, if any man is within the hearing of this call and does not come to the assistance of the oppressed, he is put to an arbitrary fine; and this is tried at the court of *cattel* (before mentioned) amongst crimes.

This being but a short epitome of our civil government, I refer the enlarging of this summary to this gentleman, Colonel Stocall, who voluntarily ventured himself with the first at the landing in this isle, and has been very serviceable in assisting with us to the Parliament's forces. I cannot also but recommend to your honor his abilities and good endowments; and most particularly for the twelve learned speeches he made to the twelve parishes, when the inhabitants of them took and subscribed the engagement, where he showed most ingeniously the great difference of the late and present government, to the great applause of the islanders, with acclamations of joy and alacrity; and therefore do most humbly beseech your honor that he may have some good encouragements for his return in this place. He is also able, with Dr. Lemprière (who has been very painful, and is still as careful for the good of this poor island, and is perfectly well acquainted with the government of the country and integrity of the people), to describe and recommend unto the Parliament some

able persons, who are fit in this island to serve really and truly the Commonwealth. The number of them is not great, but it is very requisite to have such.

They may likewise inform Your Honour how I have caused to be elected in each parish a constable, centurion, vinteniens, and sermentez (before described) who, for the most part, have suffered for the Commonwealth, either by exile, fines, imprisonment, or otherwise, and sworn them in their offices. I would have proceeded to the election of jurats in the places of those who have, by their foul and enormous offences of extortions, pillages, and adherances to Captain Carteret, alias Sir George Carteret, in all his tyrannies and plunders upon the poor inhabitants of this isle, disabled themselves ever to bear any office in this place, had not the honorable Colonel Heane showed me a letter from the Council of State desiring a *supersedeas* till further order.

The said Colonel Heane, at our first coming in the isle, did put the militia thereof at the disposing of Colonel Stocall, Captain Norman, and myself; where we labored to place able captains and other officers, not malignants, and who have suffered for the state.

Thus much I presume to particularize unto Your Honour, most humbly begging that you will be graciously pleased to favor this poor plot of earth so far, that they may re-enjoy their ancient liberties and privileges in their jurisdictions, and all tyranny and oppression taken away (all which my small endeavors I nevertheless refer wholly to the Parliament's great wisdom and censure), and they shall ever pray for the augmentation and exaltation of the Commonwealth of England. It shall be most particularly the prayer of Your Honour's most humble, most faithful, and most obliged servant.

Henry Cary, *Memorials of the Great Civil War in England* (London: Henry Colburn, 1842), II:403–414.