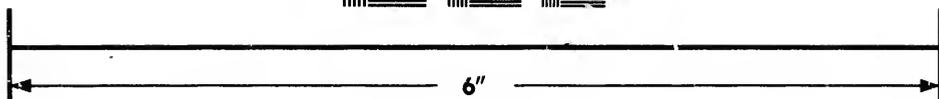
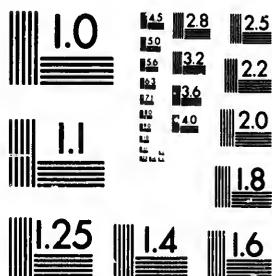


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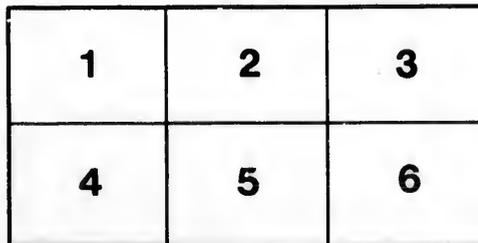
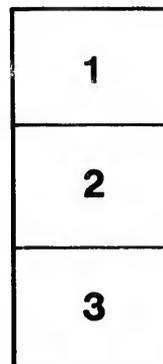
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# APPEAL

ADDRESSED

TO HIS MAJESTY'S MOST HONOURABLE  
BOARD OF COUNCIL

FOR THE AFFAIRS OF

GUERNSEY AND JERSEY,

WITH

CITED CASES OF ABUSE PRACTISED IN THE LATTER ISLAND;

AND ALSO AN

EPITOME OF ITS HISTORY, CONSTITUTION, LAWS,  
AND GOVERNMENT.

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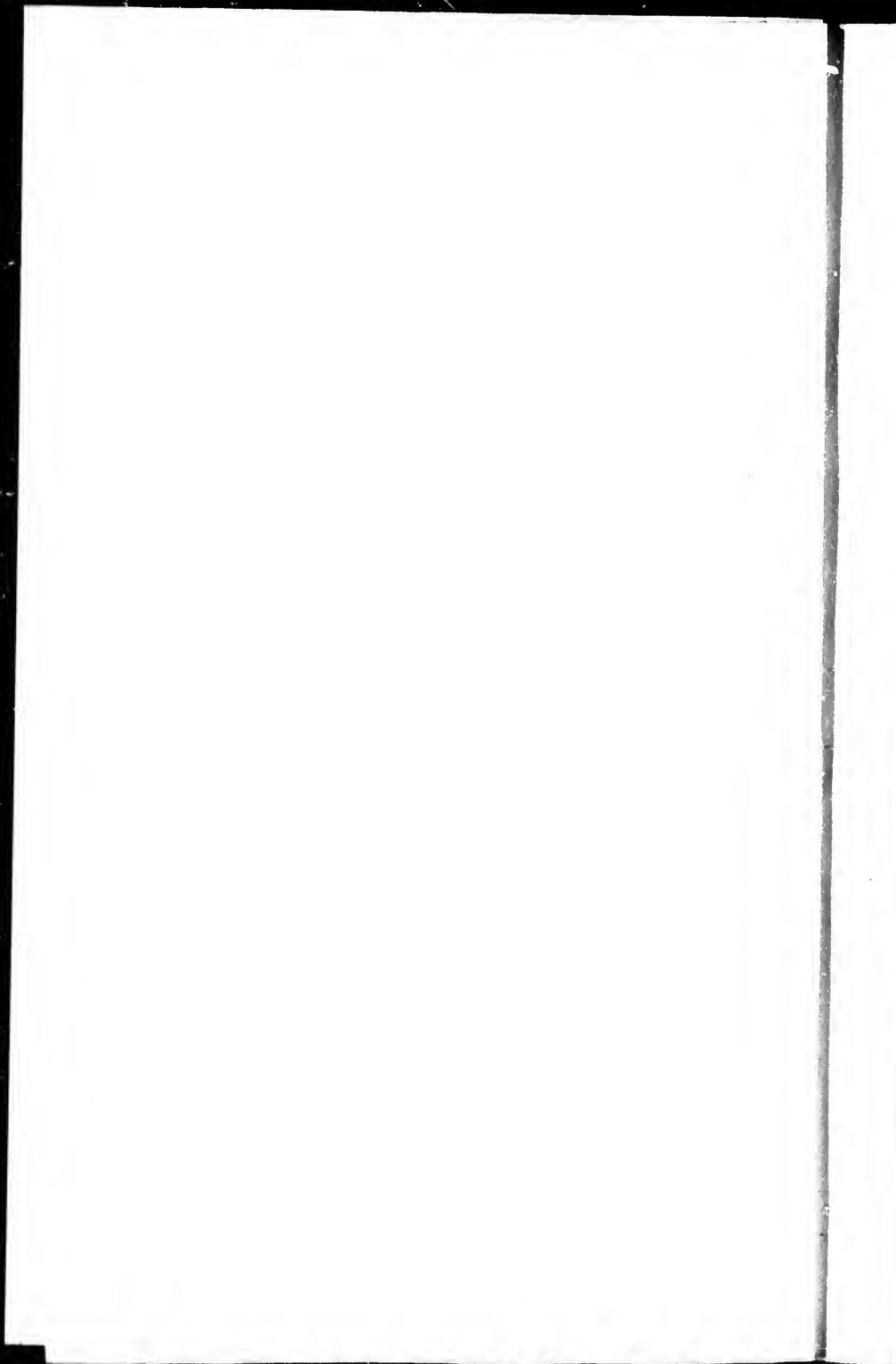
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1826.



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## A P P E A L.

To His Majesty's Most Honourable Board of Council for  
the Affairs of Guernsey and Jersey.

HONOURABLE SIRS,

THE existing abuses in the constitution of the island of Jersey render it necessary that a representation of them should at length be made to your Honourable Board, as the supreme legislators of these islands.

The right of petition, on the part of the British residents in Jersey, has been declared illegal; by which means they have been prevented from stating instances of the gross violation both of law and of justice.

It will be recollected, that in the year 1811, His Majesty's commission was issued and directed to three distinguished legal gentlemen,—William Osgood, Maurice Swabey, and Henry Hobhouse, Esqrs., Barristers at Law; confined solely to an inquiry into the then method of electing jurats, which for a long series of years had filled the island with contentions of the worst description, arising from the election of uneducated and illiterate men to that office.

In consequence of this inquiry, the charter of King John was founded, which, on the mode of electing jurats, runs, "*per Ministros Domini Regis et optimates Patriæ*," whom the above gentlemen reported as being the Bailly, His Majesty's Procureur, the Viscount, His Majesty's Advocate, and the States of the island; and that such positive law should have its full operation and effect.

This charter, had it been strictly attended to, would have produced the most salutary effects; but in contravention of it, every rated householder has been indiscriminately admitted to these distinctions.

On the re-establishment of this charter, a very suitable admonition was given to the inhabitants of Jersey: "*That the best security for their existing privileges would be found in the temperate and moderate use of them.*" Had this admonition been borne in mind, the subsequent pages would never have been published or called for; but when the island contains above 12,000 native British subjects,\* who dare not collectively petition against the existing abuses in the island, it behoves an individual to do so.

Before I enter on these abuses, I venture to transcribe the opinions of three eminent men, as given before the above Commissioners; viz., Sir John Dumaresq, (then Lieutenant Bailly,) Mr. Le Breton, (Procureur General,) and the Rev. John Mallett.

*Examination of Sir J. Dumaresq, Lieutenant Bailly.*

*Question.*—"What do you apprehend to be the evils which may result from the continuance of the present mode of electing jurats?"

*Answer.*—"The evils to be apprehended from the present mode of electing jurats are, the subversion of good order and the calamities consequent thereunto."—See *Commissioners' Report*, page 56.

—♦—

*Examination of Mr. Le Breton, then Procureur General, but now Lieutenant Bailly.*

*Question.*—"What do you apprehend to be the evils which may result from the continuance of the present mode of electing jurats?"

*Answer.*—"This question is substantially answered in the preceding paragraphs." (The witness had just stated that the law provided no restriction against the greatest possible abuse of the power of election.) "It may, however, be added, that men of any station in life may now be chosen to be jurats, without being in any degree qualified to execute the duties of that office; therefore persons of education and respectability do not choose to enter the list of unrestricted competition, and the country is thereby deprived of their useful services." And he continues, "We have a court composed of judges not conversant with the principles

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\* The whole population is now about 40,000, and upwards.

and practice of the law, who, granting that they are good and honest men, will pronounce judgment according to their own individual ideas of justice and equity. Such a practice will supersede all law, and substitute, in its stead, an endless variety of fanciful notions of equity; to the great encouragement of every kind of chicanery, and to the great alarm and danger of all those over whose properties and lives the Royal Court of this island has jurisdiction."—See *Report*, pages 58, 59.

◆

*Examination of the Rev. John Mallett.*

*Question.*—"If any abuses exist on this subject," (the electing of jurors,) "what do you conceive to be the cause of them?"

*Answer.*—"I conceive the causes to be many; but I shall only briefly observe that our constitution, having deviated from its original simplicity, has been occasionally resorted to, by ambitious and designing persons, to realize their projects of interest and self-aggrandizement, and, in its progress, has alternately exhibited the appearance of tyranny, oligarchy, aristocracy, and lately that of democracy and anarchy; the classing of all which in due order, and illustrating them with precise facts and clear proofs, (*which might be adduced in abundance,*) would require time, talents, much writing, and, above all, great public spirit; and, without which complete elucidation in the above-stated manner, I am afraid no man, though the best intentioned and of the most extensive knowledge, will ever remove the radical defects of our civil institutions, or balance a well-equipoised political system, whose regular motion keeps in harmony the different orders of the community."

*Question.*—"Do you apprehend that any, and what evils are likely to arise from the continuance of the present mode of electing jurors?"

*Answer.*—"After the very improper choice already made, as stated in answer to question the first, I certainly apprehend that other persons still more unfit, if possible, will continue to be elected, especially as several of that description are mentioned beforehand, for that purpose; and, among the rest, one raised to celebrity for his nightly assault of a member of the States, who, though he swore most positively to him, and that other clear corroborating circumstances had brought the matter home to him, impressing conviction on the mind of the whole court, and

of all the unbiassed part of the audience, he was, by the unanimous verdict of the preparatory inquest or *enditement*, without hardly a minute's consultation, returned not guilty; was soon after elected constable of his parish, but in the States was censured by them for misbehaviour, and recently has been, through misconduct, entirely dismissed from his office, by sentence of the Royal Court.

"It would undoubtedly be a most fatal evil, and the worst that could befall any civilized country, if persons of that character were to sit as magistrates, and decide on the lives and fortunes of their fellow-citizens."—See *Report*, page 68.

That the present period in Jersey exhibits such a picture, is no more than true. Not only do the inhabitants complain of the present system of electing jurats, but of the abuses practised by the Royal Court, in matters where both the lives and properties of individuals are more immediately concerned. That the following cases will prove the truth of this assertion, I think, cannot be denied.

ROYAL COURT, Nov. 25, 1824.

*Before a St. John's Jury.*

John Coutanche was capitally indicted, for having fired a gun, loaded with ball, at his nephew, Edward Querèe, on the 3d of September, and having severely wounded him in the thigh.

The fact of this man being committed to prison for this offence, is well known, and also that he avowed (*as was distinctly proved*) "*That his intention was to shoot his brother, with whom he had quarrelled, and that he was waiting at the gate for that purpose.*"

It appeared by several witnesses, that the prisoner had fired a gun at his nephew, when within twelve yards of him; that the latter was approaching the house, while the prisoner stood at the door, and seeing him with the gun presented, and hearing him call out "*Who's there?*" replied, "*It is I, uncle, do not fire at me;*" that immediately the prisoner fired, and wounded him in the thigh.

It appeared further, that there had been a misunderstanding between the prisoner and his brother the same day, and that he

had declared to several persons *that he intended to kill his rascal of a brother Henry.*

On the return of the jury into court, the Lieutenant Bailly inquired if they were agreed; to which the foreman (the constable) replied that they were of opinion "*That the prisoner had fired the gun, which inflicted the wound on Edward Querèe, in a moment of passion!*"

The Lieutenant Bailly then inquired *with what intention*,—whether criminal or not? The foreman and jury retired, when they again returned with the following most extraordinary verdict: "*That it was not with a criminal intention.*"

The King's Procureur said it only remained for him to demand the discharge of the prisoner, *which the court ordered*, and he was immediately set at liberty.—See Press, Nov. 30, 1824.

On the return of the jury a second time to reconsider their verdict, an altercation ensued, in which the crown officers and the judges took part, as to the right of the Deputy Viscount remaining with the jury; and upon the question being submitted to the court, the majority decided that this officer *should not remain with them, but merely attend them to the apartment, to deliver them papers, and reintroduce them when they were agreed upon their verdict.* This the Deputy Viscount refused to do; and such a scene of confusion ensued, as was never before witnessed in a court of justice. At length the matter subsided, by some person suggesting the expediency of leaving the question (as to the duty of this officer) to the decision of the King in Council.

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#### ROYAL COURT, 8th Oct. 1824.

Charles Le Seur was brought to the bar, charged with having murdered Mr. Henry M'Cabe, a half-pay officer. The circumstances of the case are briefly these:—

Mr. M'Cabe, at the time of the murder, was an inmate of the house of the prisoner, who, it appears, made his visit into the apartments of the deceased, to account for his having sold to another person a bill which he had promised to sell him, and also for having sold some feathers out of a bed, the property of the prisoner. Whether either accusation was just, does not

appear ; but trifling as was the presumed cause of offence, it led to the most fatal results. Some altercation ensued, when the prisoner aimed a blow between the eyes of Mr. McCabe, who was a weak sickly man, which divided one of the principal arteries, and caused his death on the following Monday.

The prisoner, it appeared, was a large powerful man. A Coroner's Inquest sat on the body next day, and returned a verdict, "*That the deceased had met his death from loss of blood, occasioned by a blow received from Charles Le Seur.*"

The facts being fully proved, the chief magistrate desired the jury to retire and consider their verdict. In twenty minutes they returned, finding the prisoner guilty of *manslaughter* ; when the Court, at the instance of the King's Procureur, sentenced him to only four months' imprisonment. During two months of which he was treated as a criminal, and, in the remaining two, as a debtor. The following certificate will prove, that during the latter period, he enjoyed the fullest freedom with his friends.

"*Jersey, Nov. 4, 1825.*

"I, \* \* \*,† a prisoner, confined for debt in the prison of the above island, do hereby certify, and am ready to declare the same on oath, that, at the above period, I have repeatedly seen the above named Charles Le Seur in the debtor's prison, and to have slept therein, and that I have also seen constant parties going to dine with him there."

" \* \* \* "

The effect of this sentence of the Royal Court was such, as to fill the breast of every lover of justice with disgust, that more solid laws were not in force, to protect the lives and dwellings of unoffending individuals. A subscription for the family of the deceased was set on foot, to which Sir Collin Halkett, our Lieutenant-Governor, contributed with his accustomed generosity.

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† The name, in the original, is given at full length, but, for obvious reasons, is, for the present, withheld.

Mr. M'Cabe left two children and a widow to lament his untimely loss.

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ROYAL COURT, June 30, 1825.

Daniel Gallagher was brought up to take his trial, charged on the verdict of the Coroner's Inquest, "*with having killed his wife, by beating her in numerous parts of the body.*"

A majority of the Jury thought him guilty, but the prisoner appealed to the grand enquete.

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ROYAL COURT, July 14, 1825.

At this sitting, the last prisoner, Gallagher, was brought up for trial by the grande enquete. After reading the depositions, the Crown officers stated to the Jury, that they thought them amply sufficient to bring home the crime of murder, or "*why had not the prisoner procured a surgeon, to state that it might have been caused in some other way?*"

The Lieutenant Bailly gave the usual charge to the Jury, who found the prisoner "*guilty of manslaughter only.*" The sentence proposed by the King's Procureur was "*pillory and public whipping.*" The Court, however, thought otherwise, and ordered him to be whipt and imprisoned for three months, and to be banished the Island, with an application to the Government, (as the prisoner was a soldier,) to send him to some condemned regiment.

On this verdict I beg to remark, the difference with which a native-born subject of Jersey is treated, as compared with persons of any other country. The sentence, inadequate to the crime as it was, called forward universal censure and animadversion, as the body of the wretched woman presented a most miserable spectacle.

One circumstance, connected with this subject, cannot escape notice—that one of the Jury, who sat on the Coroner's Inquest, has since stated, *that distinct evidence was adduced, that the prisoner was heard to declare, "if he could not settle her in one way, he would in another;"* and that

evidence, to that effect, was transcribed by the proper officer, and is now to be found on the rolls, or records of the island.

Having fully proved to your Honourable Board the existence of abuses over the lives of subjects, I beg, in the next place, to shew that the same evil exists with regard to their properties. The feeling of disgust is now become so general, that the public papers do not hesitate, in plain terms, to assert, that justice is not to be found in Jersey.

The following extracts, from the public journals, are, I think, sufficient to prove it, and shew the respect entertained by the public, for the judges of the Royal Court :

“MR. EDITOR,—Pray, Sir, can you explain to me why it has so happened, that a native of the island, if found guilty of the *same crime*, is not punished in the *same way* as a British subject born out of the island ?”—See Press, Aug. 9, 1825.

“ Yours,

A STRANGER.”

A person being recommended to seek redress in the Royal Court, made the following reply : “ Do you think I am such a d—d fool, as to go into that — Court, where no Englishman has a chance of \* \* \* ? ”—See Press, Dec. 28, 1824.

On Wednesday last, as Captain Feilburg, of the Norwegian ship *Ceres*, after discharging his cargo of timber, was passing the spot where it was landed, *he saw a man take one of the planks*, place it in the shrouds of the brig *Catherine*, and then draw it on board. Surprised at this, he entered the vessel, and there found other planks concealed. On demanding his property he was laughed at. Not satisfied to let such daring conduct go unpunished, he applied to the first police officer he met with, to seek into the business, who told him, it was a mistake, and, finally, refused to take any steps towards bringing the offender to justice. Nothing, in consequence, was done. The *Catherine* sailed next day, and now Captain Feilburg can say, wherever he goes, that in Jersey his property was stolen.

It is then demanded, " *Where are we, and with whom have we to do?*" We hope (it is added) that the police will be obliged to give some account of this business, in which the character of the country is concerned.—See Press, Sept. 21, 1824.

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ROYAL COURT, May 26, 1825.

The King's Advocate read a letter from Mr. Poigndestre, complaining that Edward Nicolle had more than once broken his windows, and threatened his life. That having informed the chief of the police of the circumstances, he had refused taking any measures, alleging that Nicolle was out of his mind. That, in consequence of this refusal, the complainant appealed to the Lieutenant Bailly, who sent an order to the constable to secure the person of Edward Nicolle; notwithstanding which, his windows had since been broken.

The constable being in Court, evidence was ordered to be heard.—See Press, Oct. 31, 1825.

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ROYAL COURT, Oct. 15.

*Poigndestre v. the Constable of St. Heliers.*

This was an action for neglect of duty. Counsel was heard on both sides, and although proof was adduced of *gross neglect*, the constable was simply admonished, at which, it is said, " *he smiled and took his departure.*"—See Press, Oct. 18, 1825.

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The laws of the island, strictly speaking, are an ancient code of Normandy; but so general is the practice of admitting suitors from all quarters of the globe, that to suit the purpose of contending parties, the code Napoleon, the more recent laws of France, the commentaries of Blackstone, Burn's Justice, &c. &c., are quoted for the direction of the Court, and the most pernicious and unjust decisions arise in consequence.

Oftentimes these codes are at variance with each other. A part of the body of jurats, on the bench, will take the code of France for their guide; some quote Blackstone,

and others the code Napoleon, and the majority of jurats determine the verdict.

Independently of these codes, they pretend to have one of their own, which is openly violated and abused, as the following cases will prove.

ROYAL COURT, Oct. 19, 1825.

*Cabot v. Peard.*

The defendant being in embarrassed circumstances, arising solely from the unsettled state of his Irish property, had occasion for the loan of 10*l.*, as a collateral security for which, he gave his double-cased watch. The bill falling due, he renewed it for another month, when the sum of 10*s.* was added as interest for that period.

This method of renewal continued for several months; at the expiration of each a fresh bill was prepared, with a similar addition of 10*s.* for interest. On the last of these bills amounting to 13*l.* 10*s.*, the defendant was arrested and imprisoned, and, on the above day, the cause was heard. The defendant pleaded that he had been unfairly imprisoned, as his watch had been sold, and that he had been most usuriously and harshly dealt with. The various notes were tendered as evidence, but refused by the court, (as also the proof of his watch being sold,) contrary to an article in their code of laws, p. 128.

“That, in conformity to an ordinance, by an act of the Court of Heritage, the 23d of September, 1714, *the interest of money shall not exceed five per cent.*, under pain of being reputed usurious.”—Jersey, Loyalist, Oct. 22, 1825.

The ordinary privilege of appealing to their Lordships, the council for the affairs of Jersey, (to whom appeals lie from the Royal Court,) was here too expensive a process, to allow Mr. Peard to avail himself of it; but independently of this, a British-born subject is required to give two securities, who are bound, in an enormous sum, to meet the expenses of the appeal. Thus, for want of this security, (which is seldom to be met with,) this privilege of appeal is worse than useless, (except to the opulent;) and the party

is obliged to content himself with Jersey decisions, and to suffer imprisonment.\*

ROYAL COURT, Sept. 18, 1824.

*Lean v. Robinson.*

The defendant, in this case, was a widow lady; and in the year 1818, in company with plaintiff, his wife, and several children, emigrated from Guernsey for the United States of America. Some accounts necessarily accrued between the parties. After a lapse of eight years, the plaintiff (who had returned to Jersey some years previous to the defendant) sued her for a balance of 18*l.* To this she pleaded, that she had years since (in America) discharged the plaintiff's accounts, which she offered to prove. This account of the defendant's, accompanied with regular dates, the court refused to admit; whilst the plaintiff was permitted, on his oath alone, to prove the legality of his claim. The court, therefore, gave the plaintiff a verdict with costs.

This decision was met with astonishment. The defendant was ready to swear to the correctness of her set-off, and further wished to have availed herself of the acknowledged law in Jersey, "That every claim shall be substantiated on the oaths of two disinterested witnesses." This was also refused her, when she was committed to prison, where her adversary may, according to law, detain her for an indefinite period.

ROYAL COURT, July 16, 1825.

*Moisin v. Quelin.*

This action was brought (by power of attorney from France) to recover a sum from the defendant. The first objection taken by the defendant's counsel was, as to the competency of the court,—on the ground, that the transaction having originated in France, where the defendant had become bankrupt, the courts

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\* According to Jersey law, a debtor, without real property, may be imprisoned fifty years, there being no law which admits him to surrender, as will be hereafter seen.

of another country could not take cognizance of a transaction antecedent to that event. The court, however, decided it was competent.

On this question the defendant's counsel quoted some French authorities in support of his argument, and produced *Mayor's Notaries, and other certificates worthy of faith and credit*, to shew that the bankrupt had regularly submitted to the laws of his country. The court paid no attention to these authenticated documents, but condemned the defendant with costs, from which he has appealed.—See Press, July 26, 1825.

Can anything more be wanting, to prove to your Honourable Board the total want of justice in the Royal Court of Jersey, and how fully the present Lieutenant Bailly's sentiments and predictions are verified ?

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The next case for consideration is a most singular one, as it shews how far the Royal Court regards the morals and habits of men.

ROYAL COURT, (Full Bench.) May 31, 1825.

*Lockwood v. Brown.*

The plaintiff, in this case, was a captain's widow, and had been married, in the year 1820, to the defendant, in the Isle of Man, (knowing him to have a legal wife living,) where he left her and came to Jersey; and where, in the year 1824, the defendant entered into a partnership business, and sent for Mrs. Lockwood. The request was complied with; but, to her surprise, on landing, she found the defendant cohabiting with his first and legal wife, which led to the present action for maintenance.

The defendant, not regardless of Mrs. Lockwood, made her an immediate offer of 25*l.* a year, which she was advised to refuse, insisting that she was entitled to half his yearly income. The court, at first, thought his proposal sufficient; but, afterwards, required the defendant, in addition, to give security for the payment of it during his life.

How far they were justified in this verdict, the following statement will shew:—It appeared that the defendant pos-

essed no real property, but simply the yearly sum of 100*l.* arising from a funded capital entailed on his children. The defendant further was ready to pay one year in advance, with costs, and also the 25*l.* as it became due. To this arrangement the Court refused its concurrence, until he could furnish the required security; for want of which he was sent to prison.

To shew the imprudence of this verdict of the Royal Court, the plaintiff has since left the island in extremely embarrassed circumstances, arising chiefly from the expenses of this ill-advised suit, which she was unable to discharge; so that the defendant will shortly be at liberty, and the ends both of justice and of Mrs. Lockwood be entirely defeated.

One other question in this affair may, with great fairness, be asked:—How could the two crown officers (His Majesty's Attorney and Solicitor General, who were both engaged in the above suit) be discharging their duty, on oath, to His Majesty and the public, in passing so notorious a case of bigamy unnoticed?

That these gentlemen must have known it, is beyond a doubt; for the two females in question were, at the time, publicly and familiarly talked of by all; *nay, if required, it can be proved* that the circumstance of Mrs. Lockwood not being the legal but the second wife of Mr. Brown, was well known to one of these gentlemen, by various letters put in his possession declarative of this part of the case.

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Having thus far pursued the decisions of the Royal Court, in matters of no little importance, I next beg to follow them into their assemblies, the States, and the Bench; where it will be found their dissensions lead to an open violation of His Majesty's commands and orders in council.

At a meeting of the States, 3d of February, 1824, the President communicated the receipt of a letter from His Majesty's Lords of the Council for Jersey and Guernsey, read by their officer as follows:—

" *Council Office, Whitehall, 23d Dec. 1823.*

" SIR,—The Right Honourable the Lords of the Committee of Council for the affairs of Jersey and Guernsey, having had under consideration a petition of Philip Bertram, Harbour-Master of the Port of Mont Orgueil, in the island of Jersey, complaining of his having been nominated Harbour-Master of the said Port from May, 1823, till the end of the year only, instead of three years *according to law*,\* and praying to be heard by Council, and that the States may be required to suspend their proceedings in this matter,—

" *I have it in command from their Lordships to transmit to you a copy of the said petition, to be laid before the States of the said island, for their answer in writing thereunto forthwith; and I am also to signify their Lordships' directions, that the said States do in the mean time, and until the further directions of the Lords of the Committee, suspend all proceedings in this matter.*

" I have the honour to be, Sir,

" The Lieut. Bailly,      " Your most obedient humble Servant,  
     " Jersey."              (Signed)              " C. GREVILLE."

This express order, it is scarcely to be believed, would have been met with either opposition or contempt. But we find the constable of St. Martin, in a meeting of the States, 3d of Feb. 1824, convened for taking the above letter into consideration, proposing Mr. George Baudains to fill the situation.

The question then was put to the voice, when, strange to relate, there appeared for Mr. George Baudains 16; against him, 11: majority, 4.

The President refused to sanction this proceeding, and annexed his entire dissent at the bottom of this Act, which was to be sent as an answer to their Lordships' letter, remarking to his learned coadjutors and allies, that, by the adoption of it, "*the States had, in the first place, not only acted in contradiction to a positive law, but aimed a blow at the royal prerogative, by the*

\* An established law and order in Council to this effect, dated 18th of September, 1816.

*nomination of Mr. George Bauldains, contrary to an order of the Lords of the Council.*—See Constitutionnel, 7th Feb. 1824.

It is worthy of remark, that upon a former debate on the election of Harbour-Master, one of these enlightened judges proposed “that Mr. P. Bertram be re-elected Master of the Port of Orgueil, for the period of three years from October, 1823.”

Another member of the States proposed, by way of amendment, “*That he be elected for the remainder of the year only.*”

This amendment was carried by a majority of three, *the above jurat having actually voted against his own motion.*

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ROYAL COURT, 19th Jan. 1824.

*The King's Advocate v. Michael Bevins.*

Michael Bevins was called on to answer the complaint of Mr. Godfray, Sheriff, for having grossly insulted this officer, whilst doing his duty. Amongst other expressions, he had called him “*an impudent fellow.*”

Counsel and evidence being heard, the Court was about to give judgment, when Mr. Godfray, interrupting him, commenced some observations.\* Judge Nicolle, upon this, called him “*un impudent*” or impudent fellow, for thus daring to interrupt the Court when it was giving its decision!!! Mr. Godfray then saluted Judge Nicolle, by saying, “*That after that, he could not of course condemn Bevins, when both he and his Judge were on the same footing.*”

So much for the respect a Sheriff in the Royal Court of Jersey pays to an individual sitting there in his official capacity as Judge.

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The next case is the imprisonment of the Chief of Police of St. Owen's, replete with that party-spirit which is calcu-

\* An every-day occurrence in the Court of Jersey, where, after both parties have been heard, Advocates and Sheriffs again interrupt the Court.

lated, sooner or later, to annihilate the remaining privileges of the island.

ROYAL COURT, July 5th, 1825.

*The King v. the Chief Officer of St. Owen.*

This was an action by the King's Procureur for the payment of about 45*l.*, being the assessment on the above parish for the proportion due for the maintenance of the poor at the Hospital.

The Court, after hearing the case, ordered the defendant to find bail or go to prison, which ended in the latter.

ROYAL COURT, Saturday, July 9th.

The imprisonment of Mr. Arthur, for refusing to pay the above sum, had created much interest, as the appeal to a full Court was refused him, although the following express Order in Council, pleaded on the occasion, grants this privilege to all suitors and in all cases :—

*At the Court of St. James's, 26th March, 1729.*

After the preamble, the Order runs thus :—

“ That the said Court of Jersey shall proceed in a legal manner to hear, determine, and give judgment accordingly, with liberty to either party who shall demand the same, *to appeal therefrom*; and that this should be a general standing order to be observed, not only in this case, *but in all causes for the future*; and the Bailiff and Jurats of His Majesty's said Royal Court of Jersey, and all others whom it may concern, are to pay a strict regard to His Majesty's pleasure, hereby specified, and not presume, in any case whatever, to deviate therefrom.

(Signed) “ EDWARD SOUTHWELL.”

The facts of the case are simply these, and arose out of a parish squabble :—One party insisted on making a rate, which the other party had, *by an Act of the Royal Court*, procured *to be suspended* as partial and unjust, and intended to produce an influence on an election, then soon to take place, for constable. Thus foiled, recourse was had to a loan, on the credit of the poor-rates; which loan was again opposed, but being sanctioned by the full Court, the other

party appealed against it before the King in Council, with whom it rests.

The above sum was due from this parish to the General Hospital, which Mr. Arthur, as above stated, was not enabled to pay; and the present action was instituted to bring the point to an issue; but the question appears to be, which party shall be able to hold out the longest.

The evil that here exists, as in all civil matters in the Royal Court, is, that judgment can be put off to almost any period; for *six years ago* this very suit was first instigated, and, at this moment, the matter is as far from a decision as ever.

Two gross absurdities in this case appear: first, That the Royal Court sanctioned the suspension of the rate; and, secondly, That having thus deprived Mr. Arthur of the means of levying, they not only, contrary to law, refuse him, an appeal from their decision, but permit him to be arrested and imprisoned.

We here see the dreadful effects of party-spirit in Jersey, which not only involves a whole community in dissension, but sets both law and justice at defiance.

#### HOSPITAL, 27th July, 1825.

The Committee of the Hospital sat this day, when Mr. Arthur, addressing himself to Judge Pipon, (the President,) demanded if there was any act of the Committee which authorized the Procureur du Roi to sue and arrest him for the amount due from his parish to the Hospital.

Judge Pipon observed, "*There was no act of the Committee by which the King's Procureur was charged to institute proceedings against him.*"

Judge D'Auvranche remarked, that "although there was no act, *yet he understood* the President was engaged to charge the King's Procureur to institute this suit."

However unauthorized the arrest of Mr. Arthur appears to have been by any proceedings of the above Committee, (who, of course, alone could warrant such a step,) yet such arrest, we see, did occur, and Mr. Arthur was actually imprisoned.

## ROYAL COURT, Saturday, 16th July.

On this day the parties again appeared in Court before a full Bench, when every one (particularly Judge Pipon and the King's Procureur) denied instituting the above suit against Mr. Arthur. At length the following curious verdict was adopted and delivered from the Bench :—

“ It having appeared that the said Chief of Police is deprived of the means of supplying the demands made upon him for the maintenance of the poor, the Court is of opinion, in order to put him in a situation to pay the said sum of 45*l.*, and to continue to supply the wants of the poor, *that the judgment of the inferior number\* of the 27th of June be reversed*, and that the said Chief of Police be directed immediately to levy the rate rectified at the parish-meeting of the 22d of December, and which was again suspended by an act of the inferior number of the 23th of Dec. 1824, upon the remonstrance of Mr. Philip Du Heaume, which remonstrance has not been prosecuted.”

Mr. Du Heaume, it is to be remarked, is the partisan of one party, and Mr. Arthur of the other ; and on the 23d of July following, this verdict was again opposed by another remonstrance of Mr. Du Heaume, with thirty-two others, presented by the King's Advocate *when the Court again ordered the suspension of the rate.*

The further we follow this most oppressive case, the more absurd are its proceedings. One party rescinds the acts of the other, while the poor themselves are in the mean time the sufferers.

The following is an extract from Mr. Du Heaume's petition in consequence of this last decision :—

“ Your petitioner humbly submits that no reason of expediency can be received as an excuse, on the part of a Court of Law, for *so glaring a departure from established forms, and from the most obvious principles of jurisprudence.*”

In another part of his petition he complains that some of the jurats, Charles Le Maistre, of St. Owen's, and Philip

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\* The full number of jurats is twelve ; the lowest number which can sit is three, and is called by this appellation.

d'Auvergne, Esqrs., were parties interested; from whom, on that account, an impartial judgment could not be expected. He further proceeds to shew, that three other jurats were related to the above gentlemen, who also joined in the former numerous decisions on this case.

One remark on the justice of this part of the complaint, and we have done with it. One fact is notorious, that most, if not all the jurats, are connected with each other, or with the leading men and merchants of the island. We are well assured of this, that an English Court of Justice would be most tenacious on this point; but, from the present system in Jersey, a removal of abuses can never be expected but from British interference; a prayer for which is there, as unanimous and frequent as it is reasonable and just.

To prove that a cause in Jersey may be protracted to an indefinite period, I need only quote the following case out of numerous others:—

FULL COURT, 3d June, 1824.

*Le Breton, jun. v. the Constable of St. Helier's.*

The Court had given a singular judgment, in this cause, in the year 1823. Mr. Le Breton had reclaimed the right of licensing innkeepers on the Manor or Fief of La Motte. This decision was opposed by the Constable of St. Heliers, and the affair sent back to a Full Court. On the 2d of October, 1823, this cause was pleaded. Mr. Anley demanded time to consider. On the 9th of October the Court decided, "*that those who had a knowledge of the manner in which licenses to innkeepers had been formerly disposed of, should be convened.*"

Mr. Le Breton demanded an appeal direct to His Majesty in Council ("*mais appel en fin de cause seulement*"); but an appeal at the end of the cause only was granted him. He then declared he would there appear as Doleant; but, some days after, he relinquished this, and declared his readiness to proceed. The cause was again sent before the inferior number, to collect evidence.

The 19th November Mr. Duhamel, the constable, was regularly summoned to appear, and hear evidence. The witnesses were entered in default in the presence of the parties, who made no objection to it.

May 24, 1824.—The depositions of the witnesses were taken and corrected in presence of the constable, and the affair again sent before the full Court.

May 28.—The cause was to have been judged, and was called for this purpose, when Mr. Duhamel presented a remonstrance, (a practice well known in Jersey when the Court is about to decide, which causes a delay of another two or three years,) in which he demanded the Court to annul all the acts and proceedings in this suit, seeing that it had adjudged the re-sending it before the inferior number to correct the depositions in his absence.

To this proposition Mr. Le Breton opposed the acts of the Court, which contradicted the assertions of the constable.

June 3.—Judge Nicolle now demanded time to consider, and the Court was divided thus:—

To reject the remonstrance and proceed to the merits of the cause	- - - - -	3
To admit the remonstrance	- - - - -	5
		Majority 2

“Thus it is admitted,” (said the King’s Advocate,) “*in principle, that one party can continue a proceeding up to the moment ('la cause sera mûre,') the cause shall be ripe or ready for trial, when it is demanded on the opposite side to begin the process, de novo, which now may be adjourned, ad infinitum.*”\*

This is not the only cause, if time would admit enumeration, in which the Royal Court have displayed their method of dealing justice. One instance of this sort we

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\* In licensing tavern-keepers also great abuses exist. This we know, that in one instance an Englishman, on paying the usual fee to the Greffier of 2*l.* 4*s.*, had also to pay a certain Lord of a Manor the enormous sum of 10*l.*—See Appendix, No. 1.

*know to have been protracted in this way for seventeen years and upwards.\**

Need I quote more from the records of this island, to prove that a revision of the present mode of legislation there, is required and loudly called for, not only on account of the inhabitants at large, but of strangers who visit this interesting mercantile spot.

One case, as concerns the contraband trade of the island, must not be passed over in total silence, and without (at present) naming others of a more important nature, shall be given as it occurred.

ROYAL COURT, June 27, 1825.

*M'Gennis v. Cabot.*

The plaintiff in this case had his portmanteau on board the defendant's vessel, which, on his arriving at her port of destination was missing. The industry of the plaintiff enabled him to trace the contents of it into the hands of defendant, who had offered them for sale in Jersey, and he brought his action to recover the value.

The witnesses having proved the facts, the King's Advocate, on behalf of the plaintiff, insisted that his case was completely made out, and that he was entitled to the amount proved to have been in the portmanteau, in silk goods and tobacco, (40*l.* and upwards,) and 20*l.* damages laid in the remonstrance, with costs.

The defendant's counsel thought the plaintiff must be nonsuited, *as the goods were contraband not only in England, "but by an Act of Parliament" registered in the island,* so that the shipping such goods rendered the vessel and the property liable to confiscation, and the action would not lie.

The King's Advocate was about to reply, but the Court thought it unnecessary, and gave the plaintiff a verdict of

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\* This case at last ended in a suit of equity, where the bill remained four years without any answer being put in.

40*l.* with costs, but not for the 20*l.* damages. From this verdict the parties appealed to the full Court, where the cause may rest "*ad infinitum*," which is the fate of nearly all appeals to the Royal Court.

Probably no where but in Jersey would be found a body of men who would dare openly to infringe an acknowledged law of a country which they profess to obey, and a crown officer advocating a cause of open smuggling. Was it not his duty to have caused a seizure of the property under the Act of the British Parliament above quoted?\*

In a criminal point of view, ought not Cabot, (on whom the property was found,) to have been prosecuted as a felon? Ought His Majesty's crown officers to have overlooked this part of the case? But we remembered that we are in Jersey, where His Britannic Majesty's flag flies, and where his commands are too frequently a dead letter.

ROYAL COURT, Nov. 15, 1824.

*The King v. Germain.*

The defendant was brought to Court charged with having French cows in her possession. But on her asserting that she had bought one at the market, and the other of the neighbour, she was acquitted.

The King's Procureur thought the proof as to one was admissible, but not so as to the other, and demanded that the defendant should be condemned to pay the usual fine.

The Court, however, acquitted her.—See Press, Nov. 23, 1824.

The number of cows exported last season from this island was above 1800. We naturally ask how is it possible the island could produce that quantity?

I cannot forbear following the Royal Court of Jersey into a case, in which they figure still more ridiculously.

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\* The facts of this case have been also reduced into a more positive form, and would vary the *Hue of a certain Sheriff*, were they more fully developed.—See Appendix, No. 2.

## FULL COURT, April 29, 1824.

*Bertram v. Mallett.*

Mr. Charles Bertram *actioned* Mr. John Mallett to withdraw a levy made on his property for the sum of 960 livres, (about 40*l.*) being the amount of the following bill.

*Jersey, May 26, 1821.*

"I, the undersigned Charles Bertram, promise to pay to Mr. John Mallett, the sum of 960 livres,\* (cours de France,) in case Mr. George Bertram should obtain forty legal votes, in the parish of Grouville, at the next election for a jurat.

(Signed)

"CHARLES BERTRAM."

"Witnesses, P. PERROT,  
P. PELLIER."

The bill following, which had been produced by Mr. Bertram, was also read.

*Jersey, May 26, 1821.*

"I, the undersigned John Mallett, promise to pay to Mr. Charles Bertram, the sum of 240 livres, (cours de France,) in case Mr. George Bertram should not obtain forty legal votes in his favour, in the parish of Grouville, at the next election for a jurat.

(Signed)

"JOHN MALLETT."

"Witnesses, P. PERROT,  
P. PELLIER."

Mr. Bertram's counsel had two points to submit to the Court in opposition to the payment of this sum.—First, that his client had not received any value in exchange for the bill, and on that account the amount of it could not be recovered. Second, that the tenor of the bill itself proved that nothing had been reimbursed.

To prove this, he read extracts from Burn's Justice, as also Ferriere, (an ancient work on the Laws of France,) and added, that the Roman Laws were not less contrary to it. After some further observations, he demanded that the levy made on his client's property should be abandoned.

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\* A livre is 10*s.*, and 960 amount to about 40*l.*

On the other hand it was contended, *there was no law in Jersey* to prevent the levy on the property being made in favour of Mr. Mallett. That Acts of Parliament of England preventing wagers, or otherwise, were of no force unless registered in the island.

Judge D'Avranche "did not wish to encourage such steps; but as *there was no law in Jersey* to render them unlawful, he should vote for the levy being made in favour of Mr. Mallett."

Judge De St. Croix was of the same opinion.

Judge Anly said, "having examined the question, and found *there is no existing law* to prevent this wager, I shall vote for the levy already made for Mr. Mallett."

Judges De St. Owen, De Casteret, Pipon, Benest, and D'Auvergne, were for overruling the levy, when there finally appeared in favour of Mr. Bertram a majority of two.

Mr. Mallett, on this decision, furnished two securities to bring the affair before the King in Council.

FULL BENCH, May 11, 1825.

*Bertram v. Mallett.*

"Judge Pipon here announced, that having reflected on the judgment he had given on this cause, the 29th April last, he demanded a suspension of the enrolment of the act of the Court, as he wished to retract his opinion then given in favour of Mr. Bertram, and to place it in favour of Mr. Mallett."

Judge Anly also, with the works of Blackstone in his hands, quoted the English Statutes on the illegality of wagers. "The law being positive on the subject, he should change his opinion also; and instead of voting for Mr. Mallett, which he had done on the 29th April, he should now vote for Mr. Bertram."

Judge De St. Croix made the same change, and voted also for Mr. Bertram.

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No more instances, I think, need be adduced to prove the truth of the assertion; that abuses, (and gross ones too,) exist throughout the whole constitution of the island of Jersey; the task of exposing them has been fearlessly under-

taken with a view of promoting the public good; every case introduced will be found to be supported by facts, which the most determined lover of the present system can neither shake nor overthrow.

At the time His Majesty's commissioners held their important commission in Jersey, it was confined solely to the manner of electing jurats, which, from time to time, had widely deviated from that laid down by the statute of King John; but had they inquired into other civil abuses, is it not to be believed that many would even then have been found?

Mr. Allen, the defender of their privileges on the above occasion, pleaded all that could be said on behalf of the native industrious race of men in Jersey. This I fairly grant him, that the labouring class are the most sober and industrious men in the world, but the spirit of party and of faction has crept in amongst them, and, like a pernicious plant, has scattered seeds of discord and discontent.

The same learned gentleman, in his address before the commissioners, asks, "*If there are any actual abuses in Jersey, why are they not prosecuted?*" The law is ever open to prosecutions." This I also admit. But is it justly administered? Do not the before cited cases prove the contrary? This I will venture to assert, that there is scarcely a Native-British subject, at this moment, in the island, who can say he ever found it to be so.

"The King of England (says Mr. Allen) ever appears to all his subjects the fountain of grace, of mercy, of bounty, and beneficence. The King can pardon, but will he condemn or take away?"

But, on this very occasion, what was His Majesty's answer, "*That the best security for their existing privileges, would be found in the moderate and temperate use of them.*"

I will now ask, has this advice been followed? That they have been most immoderate and intemperate, in the use of their privileges, I think is clearly proved. Have they not broken His Majesty's orders,—nay, his very Acts of Parlia-

ment; and aimed (as Sir Thomas Le Breton justly remarked) "*a blow at the Royal Prerogative?*"

The famous charter of King John, the much boasted charter of Jersey, declares, "*That suits arising out of the island, cannot be prosecuted in it.*" But when we find subjects of England, of France, and of the United States of America, enrolled on the list of suitors who weekly crowd the court-doors of this island, can it with propriety be said, that they make a right use of their privileges. Do not these facts prove the contrary? Do they not prove that they not only disobey the acts of his present Majesty, but those of his Royal Ancestors?

To increase their claims, as a free and *well-disposed* people, Mr. Allen adds, "That every inhabitant is liable to be called out to the water-side to repel the invading foe, to perform *drills and sham-fights*; all this we perform gratuitously, *from a sense of honour.*" In reply to this, let me ask, from what source does the furnishing of ammunition, clothing, &c., arise? Is it from Jersey? Again, is not every Englishman, as soon as he sets foot on its shores as a resident, *alike liable to perform these sham-fights*, or pay the sum of one pound? How many are there to be found doing this? Are there not some hundreds? We may fairly ask, how then is this money applied?

One other point connected with this subject is, that no Native-British subject (except he may have married a native of Jersey) is admitted to the honour of a commission. Nay, is it not a practice to harass and drive him to the ranks, if he cannot, through interest, be allowed to pay the above sum? Notwithstanding this, even Frenchmen are to be found in the military ranks.

Reverse then the picture, and see what becomes of natives of Jersey, when they set foot on the free shores of Britain. Are they not placed on a like footing with Englishmen? Do they not even enter into the army and navy, where they have an equal chance of promotion, in common with every British subject?

Having now stated the merits and claims of Jersey to British protection, and *the valuable use hitherto made of it*, I next proceed to give a brief outline of the island, its constitution, laws, and government.

This island (which for the most part is fertile, and surrounded with scenes the most picturesque and romantic) stands in forty-nine degrees ten minutes of north latitude, and two degrees twenty minutes west longitude from the meridian of London.

Its length is about twelve miles, and its breadth seven. On an immense rock which commands the whole bay and town, stands one of the finest and best fortified forts or garrisons that an island can possibly present, and is known by the name of "Fort Regent."\* In front of this, is Elizabeth Castle, about one mile from the town, (situated on an immense rock in the sea,) which adds to the fortification and security of the town and its inhabitants.

The trade or commerce of the island, with almost every foreign port, is beyond conception. The harbour is one of the finest a mercantile country can produce. To judge, in some way, of its immense commercial connexions, I need only state from the public returns, that in *one quarter*, 370 merchant ships, of all denominations, entered this beautiful port.

The number of parishes is eleven, besides St. Heliers the capital. (St. Heliers, since the year 1811, contains double the number of inhabitants, and by far that number of new built houses.) Each of these parishes elects an officer, (a constable,) who reports to the Court (as a body) its proceedings, and represents it in a meeting of their states, as a member for any county or borough in England would his constituents in a British Parliament.

Before the reign of King John, there are neither documents nor tradition to shew what was the constitution of Jersey, further than that it was part of the Duchy of Normandy, after the alienation of the rest of that duchy from

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\* This fort was an expense to Government of 100,000*l.* and upwards.

the crown of England. In that reign, certain constitutions and provisions were made by the king, for the islands of Jersey and Guernsey, whereby they were constituted "*duodecim coronatores jurati ad placita et jura ad coronam spectantia custodienda*;" and it was further provided they should be "*electi de indigenis insularum per ministros domini regis et optimates patrie*."

Thus twelve judges or jurats, equal in number to the constables, are elected for life; this is not, however, the case with the constables, whose office is triennial.

The states (composed not only of the jurats and constables, but of the Lieutenant-Governor, the bailiff, or his lieutenant, the dean and clergy, and the two crown officers) meet according to exigencies accruing in the island, and display the most jarring principles of party spirit. The clergy oftentimes asserting their supremacy over affairs not only of a spiritual, but of a temporal nature.\*

The Royal Court is of a twofold nature, being sometimes formed by the Lieutenant-Bailly and two jurats, who compose what is called the inferior number; and, at other times, by the Lieutenant-Bailly and all the jurats, who are called *Corps du Cour* (or full Bench.) From the inferior number, appeals lie to the full Bench; and from the full Bench, to His Majesty in Council.

This method of appeal from one court to another, though protected by the Order in Council, of the 26th of March, 1729, is oftentimes violated and withheld.† But, connected with this last appeal to His Majesty, is an evil which renders this privilege worse than useless, except to the opulent and rich, who are alone able to provide two securities to

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\* As a proof of this, I need only refer to a charity school, which, with its funds, has fallen into disuse these last twenty years. There is also another school with lands, both under an especial charter of Hen. VII.

† On one of these occasions, the individual wishing to appeal, was a subject of His Majesty; but it can be proved, that even His Majesty himself, or rather his customs of the island, have been distinctly refused this privilege.

meet the expenses attending it, which a Native-British subject, from various causes, can scarcely ever procure.

Two terms of law only are known in Jersey, and not four, as in England. The first opens on the first Saturday after the 11th of April, and closes on the 5th of July, and is called the Spring Term; the second opens on the first Saturday after the 11th of September, and closes on the 5th of December annually.

There are also four courts of law called, La Cour d' Heritage, La Cour de Catel, La Cour du Billet, and La Cour du Samedi.

La Cour d' Heritage is a court that admits of no causes, but of an hereditary nature, such as partitions of estates, of co-heirs, &c. The opening of this Court is accompanied with much formality. The Governor, the Bailly, and the Jurats, enter the Cohue (or Royal Court) with the royal mace carried before them, surrounded by a guard armed with pertusians. All gentlemen holding fiefs of the crown, by service, attend and answer to their names. The advocates, &c., renew their oaths. The prevots (a sort of petty constable) also attend, to give an account of all escheats, forfeitures, &c., to the crown.

La Cour de Catel decides disputes about chattels, moveables, and arrears of rents. But the great business of this Court is the adjudication of decrees.

La Cour du Billet is an extraordinary court, established when decrees grew so frequent, and took up so much time, as hardly to leave room for other business; whereon matters of less moment, as arrests, distrains, &c., were removed to this court.

La Cour du Samedi, or Saturday Court, is another extraordinary court, and, properly, a branch of La Cour du Billet. In term-time, it is appointed principally for the King's causes, (rents due to the King, which, by His Majesty, are allowed to the Governor, of whom the receiver farms them.) Out of term, this Court takes cognizance of causes relating to navigation and sea affairs, breaches of the peace, and other daily occurrences.

Their law and other officers are, the greffier or custos rotulorum. The viscount or sheriff, and his deputy, with two denunciateurs or deputy-under-sheriffs. Added to these are two centeniers in each parish, who act in the absence of the constable or chief of police. Seven advocates, (including the procureur and avocat du roi,) sixteen scriveners, and eleven notaries.

In criminal matters only, the prisoner is tried by a jury of twelve, called the petite enquete, from which an appeal lies to the grand enquete, consisting of twenty-four persons. The punishment, in cases of forgery or murder, is generally the pil'ory, and banishment from the island for four or five years. This latter method of punishing offenders, is now become very general. A criminal, on being apprehended, admits his guilt, and, at his own request, is banished to England, (a pretty compliment to the mother country.) So that, in fact, a depraved vagabond wishing to quit the island, commits a crime, appears before the Royal Court, pleads guilty, and is sent to England.

The prison, where may be found innumerable inmates, stands in a healthy part of the town; but, from its admitting, under one and the same roof, both debtors and criminals, it presents scenes hardly credible. The apartments of the former are directly over those of the latter, and on that account admit easy access. The prisoner Le Sueur, committed for the murder of Mr. M'Cabe, is here a case in point.

But last of all, on this head, is it not surprising that a prison, so filled as it now is, has not the advantage of a chapel, in which to perform divine service? The English clergymen here have often noticed this most material want of prison discipline, and have voluntarily offered their services towards the attainment of so desirable an object. But no! so carelessly is the Sabbath in Jersey attended to, that there is still this want of divine worship. On this day, also, are held, all elections for jurats, constables, and centeniers, presenting scenes the most riotous and drunken.

The observance of this day, in other points of view, is as little attended to, as in the preceding instances. Boys, particularly on days of election, may be seen at pitch and toss ; others pursuing the pleasing amusements of the chase ; and, last of all, intoxicated voters closing the scene, at the nearest public houses.

I next come to remark on the practitioners of the Royal Court, and the amount of which it takes cognizance, whereon *bodily arrests* (the only process for persons not possessing real property) always follow. Here almost every officer, Sheriff, Scrivener, or Notary of the Court, is permitted to practise, all of whom are the known adherents of a party called *the Laurel*, or Court party. The other is called *the Rose*, or opposite party ; and persons suspected of belonging to it are liable to much annoyance. These insignia (the Laurel and the Rose) are the standards of Jersey, and are displayed on all occasions, whenever an election takes place ; at which time partisans from all parts of the island generally attend. But there is no law (observes the present Lieutenant-Bailly, page 2,) "*to prevent the greatest possible abuse of election.*"

The subject or cause of action extends from about *four shillings*, and upwards to *any amount* ; so that when a suit is carried to the Royal Court, the expenses are often more than ten times the original amount. Independently of this, we find an additional evil. On going to a hearing before the Court, you are compelled to pay an Advocate the sum of one pound, which fee (as admitted in a petition to the Lords of the Council by Mr. Anly, one of the jurats) can never be afterwards included in a bill of costs ; so that sums under one pound cannot, in point of law, be recovered from a defendant, inasmuch as the remedy is evidently worse than the disease.

Bodily arrests also arise on occasions the most frivolous and vexatious. Rent may be sued for *before it becomes due*, as well as bills or notes of hand, on which security may

be demanded as soon as they are given ; for want of which, imprisonment generally follows.\*

The greatest cruelty in the laws of Jersey, is that observed towards insolvents, who, *should they not possess real property*, may be immured in prison for life. They cannot (as in England) either renounce or resign their effects, but are compelled to await the pleasure of their creditors.

One remark on the method of *renouncing* must be here noticed. An insolvent, (with rents,) finding himself no longer able to meet his creditors, throws himself on the protection of the Court, and becomes secure for twelve months ; at the expiration of which he is compelled to surrender, when decretants are chosen, (chiefly Advocates or Sheriffs,) and a decree is declared. During these twelve months, many transfers of personal property take place. A decree implies that all parties interested are, by three proclamations, (and a fourth peremptory) cited to come in and insert in a list, their several demands, on pain of expulsion ; when they are called in order, that is to say, the last creditor first, and so on, retrograding. The last creditor is asked, whether he will substitute and put himself in the place of the cessionary, (or insolvent,) and take the estate, paying the debts that are older than his, or give up his demand. This being unreasonable, is of course refused ; till at last some one, sufficiently low upon the list, takes upon himself the remaining responsibility, and is declared tenant.

By this iniquitous practice, the creditors are debarred an equal share of the bankrupt's effects. A case in point exists now in the island ; as extensive a one as ever was known.

One other serious evil arises : that real property is subject to be reclaimed after an elapse of seven years, whatever improvements may have been made thereon. A case of this

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\* A well-known case exists, of a Chelsea Pensioner now in the prison of the island, of whom rent was demanded a quarter of a year before it was due. His crops were seized, himself imprisoned, and his pension-money arrested and detained.

kind occurred in March last, where a piece of ground was purchased and built on. The individual, rather than lose the whole building, destroyed it for the sake of the materials, and restored the ground in its primitive state. That similar instances are again likely to occur, cannot be doubted.

We next inquire into the nature of what they term, rents or quarters. The value of a quarter is, generally speaking, 16*l.*, though, latterly, it has been much enhanced. It is divided into cabots, or sixtoniers; so that six of these latter make one cabot, and eight cabots one quarter.

In a purchase, the value of a house, &c., is estimated at a certain number of quarters or rents; and, in most sales, a fourth of the purchase-money is only paid, and the rents remain on the premises, as being so many rents due to the original vender, which circumstance, often gives rise to much dispute. In many cases, these rents are paid off, except a Rent Fonciere, a fund originally constituted on property; so that, in whatever hands it falls, the possessor for ever stands liable for the payment of it.\*

A person, therefore, possessing rents, may renounce and proceed to this decree, but not without them. The transfer of property, also, is attended with no little inconvenience, and certain days in the term are appointed for it, when both parties appear before the Court, and declare their assent to the transaction contained in the contract. This document is registered, and an account kept of it in a book for that purpose, to which *public access* is allowed on paying a small sum; so that every curious inquirer may busy himself about the affairs of his neighbour. A separate page is kept against every owner of rents, and not a single transaction occurs without the knowledge of the Royal Court.

One other abuse also arises from this mode of search into a man's private affairs. If, during his occupation, one individual becomes bound in a bond for another, search is imme-

\* There is another species of rent called *Retrait Lignager*, a like incumbrance.

dially made into his transactions, when an *action* is sent him to confess the same in Court; and this claim is entered against his rents, which he cannot afterwards sell or dispose of. Oppositions or caveats may be entered as a barrier to his disposing of his property, if he is supposed to be in disadvantageous circumstance. In Jersey, property cannot be freely disposed of, nor can the owner raise money on it, as in England, where these facilities often replace an embarrassed person in a solvent situation.

By will, also, no man can disinherit his eldest son, who monopolizes the chief part of his property, (however undeserving,) to the great prejudice of junior branches of the family.

With respect to the ecclesiastical affairs of the island, one thing is much to be regretted, that separations between man and wife should be so readily permitted, and that all jurisdiction with respect to them should have been transferred from the Spiritual to the Royal Court. Many have been led to inquire the grounds of this alteration. One object has undoubtedly been to assist insolvents. Transfers of their personal property can now be easily effected; for in Jersey, whatever be the wife's at the time of marriage, can never afterwards be claimed by the husband's creditors.

I would now beg, in conclusion, to follow Mr. Allen, before the Royal Commissioners in 1811, in some of his leading remarks on the subject of electing jurats, according to the charter of King John, which had been and still is openly violated.

Mr. Allen commences thus:—

“Your Royal Commission, I find, is grounded upon a recital of a representation made to the Crown, that evils are likely to arise from the present mode of electing jurats. *All is surmise and apprehension; nothing like facts.*”

That I have stated nothing but facts in the preceding pages, I contend is beyond contradiction; such facts, indeed,

as the public journals of the island corroborate, and which documents Mr. Allen himself acknowledges, in his Report, to be "*the parliamentary reports of Jersey, and the best evidence and highest authority.*"

He further proceeds to state, that His Majesty's (Geo. III.) code of laws for the said island, bearing date 1771,\* reduced into a regular system all its former written laws; "By which distinct repeal," he observes, "all the undigested mass of ancient contradictory acts and orders has been swept away."

This I beg to deny; for these very ancient documents, and this contradictory mass of orders, are still retained and cherished as the very offspring and bulwark of Jersey judicature, and continue to be quoted by the Royal Court.

If the above-mentioned code of laws be sufficient for the present government of the island, how is it they are frequently at a loss for decisions, and quote Blackstone, Burn's Justice, Ferriere, and the Roman laws!!!

If this be not the case, how is it that we see Judges returning into Court a week after having given their decision, and with one of the above works in their hands, retracting their opinions, and pronouncing a judgment diametrically opposite to that which they had previously given?

If we need further proof of this, am I not fully and amply borne out by the declaration of one of these Judges, who stated, when sitting on the Bench, (see the case of *Bertram v. Mallett*,) "that although he did not wish to encourage such steps, *yet seeing there existed no law which rendered wagers illegal, he would levy the amount of the bet for Mr. Mallett.*"

The law of Norman Jersey, says Mr. Allen, as contained in the *Grand Coustumier*, prescribes, "*toute chose qui est proposée en cour sans temoires, est jugée pour vaine*; mean-

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\* At this period, (as at the present), numerous abuses existed, some of which the British Parliament inquired into and corrected.

ing, that every action proposed in Court without witnesses is judged as vain. "So that (continues Mr. Allen) no man can be deprived of a single shilling of his property without first a formal averment of the cause of action, and then a strict proof by *two witnesses*."

That even this law is violated, I think I have proved, in the case of *Lean v. Robinson*, (page 11,) which latter individual was convicted and imprisoned *on the oath of the party alone*.—Where, then, were the two witnesses?

In the case of *Cabot v. Pearu*, is there not a decision in direct opposition to an article in the code of Jersey, and which entailed much misery on this latter person?

Having, therefore, argued "*from facts*," as Mr. Allen demanded, I contend that the period is arrived for a change in Jersey. "If (says this gentleman) we are to have a change, change us altogether; give us English laws, English judges, and English trial by jury;—Anglicise us completely."

To prove that this was once the case, I will quote one very remarkable piece of evidence, which Mr. Allen himself has adduced,—a fact that ought not to be overlooked, but cherished as a proof, that English liberty and laws existed once in Jersey.

"During the reign of Edward III., justly called the English Justinian, we have frequent instances of the *Justitiarum*, the Justices of Eyre, coming over to Jersey from Westminster Hall, '*ad assisas capiendas*,' which supports my assertion that the laws of England and Jersey were at that time substantially the same."—See Mr. Allen's Report, page 33.

If, then, this most incontrovertible proof can be adduced, why are not the laws in Jersey the same as in England? Why do they not improve in the former, as well as in the latter? Can any reason be given why British subjects in Jersey should not be protected and benefited by the laws of the mother country? The ecclesiastics of the island have long since acknowledged them; why, then, should not the laity?

In this king's reign these islands were for ever separated

from continental Normandy, by his cession of that country to Philip de Valois, King of France, in the famous treaty of Bretaigny.

It is clear that the kings of England ever held these islands by a higher title than that of Dukes of Normandy, as unless they had possessed them by a royal title, Henry V. could not have granted them to his brother John, Duke of Bedford, in full sovereignty; nor could Henry VI. have created Henry Beauchamp (Duke of Warwick) king of them.

Surely, then, such a separation from Normandy, and the title of His present Majesty, are sufficient to prove that he alone should enact and have his laws carried into full effect in these islands.

Before I finally close my remarks on the existing abuses in Jersey, I beg the indulgence of your Honourable Board whilst I translate the opinion of the patriotic Judge Anly on this momentous question, as given in his Petition to the Lords of the Council, dated 14th February, 1823:—

*“Although (says he) I am ready to concur in the correction of some abuses which are unfortunately introduced; nevertheless I am so strongly attached thereto, that I would not see touched the basis on which they repose.”—See Appendix, No. 3, as to the new market.*

Private opinions in Jersey are no longer concealed, but openly promulgated, as will be seen by the following extracts from the public papers:—

*British Press, 26th April, 1825.*

Some persons from London have reported that a new code of laws was preparing for Jersey. Such a change would be most desirable, with a view to extended foreign commerce and an increased population and improved state of society.

The Royal Court might have answered, in some degree, the purposes for which it was established, but, in the present state of the island, many new cases arise.

*In vain should we look to the Royal Court for Judges to whom decisions can now be referred, therefore, in common with the natives of Jersey, we should hail with satisfaction*

the laws of England, the presence of an English Judge, and an open bar.

Such a change would relieve the Lords of the Council from three-fourths of the appeal causes from these islands, which now occasion great annoyance to their Lordships, and harassing delay and injury to the suitors.

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*Gazette de Jersey, 14th May, 1825.*

Speaking of the great advantage which France has derived from her code of laws, the Editor of this Native Gazette adds:— That the possession of a written law, and “*l’établissement d’une jurie en matiere civile,*” are the best safe-guards of an enlightened people, “*jaloux de leur liberté;*” and further adds, “*nous avons des abus a corriger et des loix a changer*” (we have abuses to correct, and laws to want changing.)

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And where, says another Editor, “can be found fairer game than those Magistrates who have been so often described as *enlightened and immaculate*? Mr. Le Maitre, the premier of the learned Bench, began his career *as a cabin-boy*, and when he grew older, was admitted to the honourable office *of cook to a fishing establishment at Newfoundland*, and some say he occasionally displayed his abilities in preparing *cod fish* for the market.”

“These qualifications entitled him to a seat amongst the venerable distributors of justice. Mr. Nicolle began life as clerk to a vender of stockings; and Mr. Benest, (following the humble footsteps of Mr. Le Maitre,) *might have become an able-bodied seaman*, which no doubt qualified them for judges and statesmen.—Press, Oct. 25, 1825.

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I now close these remarks on the constitution, laws and government of the Island of Jersey, convinced that I have fully established the principle with which I started, that *there never was a period which more loudly called for the interference of your Honourable Board than the present.*

It has been proved that murders, forgeries, felonies, and

sabbath-breaking, too often escape the just punishment of the law; and no native British subject, I am persuaded, can be acquainted with the island twelve months and be ignorant of the truth of this assertion. In this beautiful and delightful spot, where nature has provided so admirably for its protection and defence, is *justice* to be withheld? Time alone will prove how far insults have been directed, injuries inflicted, and injustice practised, upon a numerous people, subjects of His Majesty.

That Jersey was once honoured with the presence of the Justices from Westminster Hall has been clearly proved, and also that England *has the exclusive right of giving it a government and laws*. That it again may witness that honour, is, I am persuaded, the anxious wish of every lover of truth and justice now residing in the island.

A RESIDENT.

## APPENDIX.

No. 1.

### ISLAND OF JERSEY.

“ Before one of the magistrates of the Royal Court of the said island, hereunder subscribed personally, appeared ———, who, freely and most solemnly, maketh oath and saith, that in the month of February last, he applied to ———, junior, Esquire, Lord of the Manor of ———, for a license to authorize him to keep a tavern in a dwelling-house occupied by this deponent, belonging to ———; that the said license bears date the eleventh day of February last, as appears by a copy thereof in the possession of the said ———, and worded as follows, (translation from the French.)

“ I, the undersigned ———, junior Lord of the Fief and Manor of ———, hereby certify having given leave and license to ———, in the parish of Saint Heliers, to keep a tavern, sell and retail all sorts of wine and spirituous liquors, cider and beer, from this day until the abandon of the winter sea-weeds of the next year, the said ——— regulating and governing himself according to the ordinances, and paying the duty of tavernage. Given at Saint Heliers, this 11th day of February, 1825.

(Signed)

“ ——— junior,  
“ Lord of ———.”

“ And this deponent further saith, that for the aforesaid license he was charged the exorbitant and unheard-of sum o’ ten pounds, which he paid to the said ———, junior; and notwithstanding the said document, he, this deponent, further saith, that an additional sum of two pounds four shillings was demanded of and paid by this deponent to ———, of the Royal Court of the said island, a copy of which license is worded as follows, (translation from the French.)

" This 12th day of February, 1825, received of Mr. ———, tavern-keeper, licensed by the Lord of ———, the usual fees for his license to sell wine, spirituous liquors, cider, and beer, until the abandon of the winter sea weeds of the next year.

(Signed) " ———."

" And this deponent lastly saith, that on inquiry, the same is an unusual claim, and a usurpation on the original and ancient rules and customs for granting licenses in the said island, and believes that no instance can be found where such an exorbitant and unheard-of claim has been made on a person being a native thereof.

(Signed) " ———."

" Sworn at St. Heliers, Jersey, this 4th day of June, 1825, before me,

" THOMAS PIPON,

Magistrate of the Royal Court of Jersey."

No. 2.

ISLAND OF JERSEY.

Before one of the magistrates of the Royal Court of the said island personally appeared ———, who, on his oath saith, that in the month of ———, he had lost silks and tobacco to some considerable amount, which he had traced into the hands of ———. That, on presenting a written representation of the whole transaction to ———, the ——— General, and to Mr. ———, junior, sheriff of the said island, the same was undertaken by them, to commence an action against the said ———, for the recovery thereof, for the price or sum of ten pounds; with this condition, that if they did not recover the property or value thereof, they would seek no recompense from this deponent, who further saith, that ———, one of the custom officers of the island, is a principal witness on behalf of the said ———, and that no person or persons aforesaid, knowing the same to have been shipped, (thereby becoming contraband,) attempted to seize or confiscate the same.

(Signed) " ———."

" Sworn at St. Heliers, Jersey, this 4th day of June, 1825, before me,

" THOMAS PIPON,

Magistrate of the Royal Court of Jersey."

## No. 3.

## MARKET REPORT.

- No. 1 answered to the question, that he was put in possession of his stall by the committee of markets.
- 6 answered, that he was put in possession, without paying anything, by the deputy viscount.
  - 14, that he had paid 960 livres to the deputy viscount.\*
  - 15, that he had paid the sum of 1680 livres.
  - 27 refused to answer.
  - 34 answered, he had paid nothing, but was given possession by the deputy viscount.
  - 23 refused to answer.
  - 22 answered, he had paid 1000 livres, and pays the annual sum of 120 more.
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\* The name of the deputy viscount is Mr. Philip Le Gallais.

possession

not paying

at.\*

possession

the annual

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