

Sark News

No. 11
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HOW MUCH WILL YOU HAVE TO PAY?

Millions of Pounds of Potential Liability with Law Reform

The implementation of Sark's Reform Law means that the feudal rights of the tenants have been confiscated. Prior to the law reform, a tenement owner was automatically entitled to a seat in Chief Pleas, which added a premium value to a tenant's property and land. The fact that a person could contribute to the implementation of legislation in his or her own interest without being elected, receive the title of Sieur or Madame and hold a position of authority in the community gave the tenement itself a greater value. The high price paid for tenement land and property in recent years cannot be justified on normal property evaluation alone; the seat in Chief Pleas has been giving added value in the form of status, prestige and power.

For this very reason, when Dame Hathaway personally sold the island of Brecqhou to Angelo Clarke in 1929, she cleverly "transferred" to Brecqhou the seat of the tenement of La Moinerie de Haut, a tenement which had ceased to exist when it was incorporated into the Seigneur's demesne lands in 1835. Thus she was able to offer Angelo Clarke the added value of a seat in Chief Pleas and enabled herself to extract a higher price on the sale of the island.

Quantifying that added value to establish a precise amount will lead to long, exhaustive and costly litigation for claims perhaps worth millions of pounds. Leading counsel has confirmed that tenants are entitled to claim compensation for the loss of their feudal rights. It is not difficult for a tenement owner to argue that through the loss of a seat in Chief Pleas, the value of his or her tenement has been reduced in the order of £100,000, possibly £200,000 or even more. There are 40 tenements on Sark. That would make the possible total claim for loss of value payable to the tenement owners £4 million, possibly £8 million or more.

The scenario of a tenants' claim for compensation is not far fetched. A precedent

has already been established on the island for paying out compensation for the loss of feudal rights in that Chief Pleas has already committed the people of Sark, and its future generations in perpetuity, to pay Mr Beaumont an annual stipend of £28,000, index linked and free of tax and all expenses, in place of his feudal right to a treizième. An actuary would confirm that an annual sum of £28,000, as payable to Mr Beaumont for life and to his children in perpetuity, has a value in excess of £1 million. So, why should there not be compensation for the tenants too?

The value of a feudal right might be unquantifiable but the UK's Ministry of Justice has just spent many thousands of pounds and committed to many thousands more in legal fees to protect the feudal rights of just two people – Michael Beaumont and Reg. Guille. The Ministry of Justice should therefore be expected to foot the legal bill for the tenants' claim for compensation for the loss of their feudal rights, having already done so for the Seigneur and the Seneschal. This raises the question: who will pay for Sark's defence? Some might expect the UK Ministry of Justice to do so, but they won't. It would be down to the Sark taxpayer.

Sark does not have the financial resources to meet neither such a claim for compensation nor the legal fees entailed in major litigation. It does, however, have assets and it does have the means of raising taxes. Present and future residents will have to bear the burden. There is an alternative. The Chief Pleas should seek an undertaking from the Ministry of justice; compensation to cover all costs of litigation and the potential damages payable to the tenants for the loss of their feudal rights. Or, better still, think again! It is not too late.

SARKS INDEPENDENCE

It was announced in the Financial Times on Saturday 5th July that Jersey has signed a tax information exchange agreement with Germany. In its present drive to be included on the list of ‘clean’ financial centres, there can be no doubt that Guernsey will follow suit.

During this year alone, Chief Pleas has already passed 10 Guernsey laws. Some of these are amendments to existing laws and arguably of little impact or importance, but the fact remains that, with a few exceptions, Chief Pleas keeps signing what the Guernsey Law Officers put in front of them, thereby undermining Sark’s independence. Will it be tax information exchange agreements next?

As we have previously stated, the group on Sark that is making money from the Sark Lark, namely those mentioned in our Special Edition No. 10 along with many more not listed, pay no tax and have no positive impact on the island’s economy – only on their own. Unfortunately, this group is also controlling Chief Pleas. They ensure that Guernsey’s legislation relating to financial services is adopted so that their “offshore industry” can continue to operate unhindered and undisclosed. This is why, for Sark’s future’s sake, that an end must be put, once and for all, to the Sark Lark. If not, the

regulators of the EU, the IMF, the UK and Guernsey will keep knocking at the door.

The Sark Reform Law comes into place in December this year. In the coming election, into whose hands would you entrust Sark’s future?

Would you trust Richard Dewe, whose track record proves him to be only too willing to accept any Guernsey legislation, who as President of the GP&A was responsible for implementing more Guernsey legislation on Sark than anyone in history but then gives up the Presidency for no discernibly good reason? Or how about Roger Olsen, who apparently wishes to give away, willingly, the rights to the islands’ territorial waters by signing up to an agreement, the consequences of which are unknown?

Would you appoint Sark-larker William Raymond to make important decisions on your behalf – the man responsible for the mismanagement of Sark Shipping, who nearly four years ago turned down a freight agreement with Brecqhou which would have produced an annual income of £120,000 for Sark Shipping; by now a total of some £480,000? Or, would you elect his fellow Sark-larker, Treasurer Wendy Kiernan?

Would you vote for Sandra Williams, responsible for recommending the constitutional changes, an ambitious politician whose only qualification appears to be the running of a pub from rent free premises owned by the public, and who is obviously bewildered by any Chief Pleas business under her responsibility. Or perhaps David Melling, who publicly threw his toys out of the pram at the last Chief Pleas meeting?

Would you vote for Trevor Kendall who, although a capable electrician, as a tax inspector is unlikely to be a popular candidate? Would you vote for Jan Guy, who definitely knows best, how to run the island – and your life- for you? And then there is trouble-maker and Sark-larker Bertha Cole or the high profile Jo Birch, whose track record for slanderous behaviour is well documented?



Mr Baker's new house

Would you put your trust in Edric Baker, President of the planning committee who has permitted himself to build a house in an agricultural field despite also being council member of a political party masquerading as a preservation society?

Would it be wise to vote for Jeremy LaTrobe Bateman, party to signing away one of Sark's assets, the lease of the island's Hall and community building, to a non rent paying pub?

The list goes on and on. These are not politicians but activists who seek power, not for the good of Sark but for their own vanity and their own agenda, which includes the Sark Lark.

It should be glaringly obvious that Sark has suffered many years of neglect, mismanagement and incompetence, having been run by people who have no qualifications and no previous practical experience, be it in commerce, law or local government. As a result, the island's economy is weak and Sark Shipping is a financial disaster. Until this year, the tourist industry was declining, lumbered with a neglected infrastructure and a lack of facilities for visitors such as hotels, restaurants and shops. Sark has been badly served and will continue to be so if the old guard is re-elected under a feudal Seigneur and Seneschal.

The island now needs people with vision and fresh ideas. We already have SEM and Kevin Delaney. Sark News would very much like to hear from anyone else

with new ideas and viable alternatives. Sark's future will depend on people with common sense, ability and commitment - regardless of their political outlook.

THE WISDOM OF THE BRITISH LAW LORDS

Lord Bingham, Senior Lord of Appeal in Ordinary of the House of Lords, made a statement in a recent case which applies to Guernsey's eagerness to legislate over Sark:

On 18th June this year the British Law Lords gave judgment in a murder case and unanimously quashed a conviction. The accused had not had a fair trial, they ruled, since the key witnesses had been allowed to testify anonymously and this contravened long established principles of common law. In his speech in the case, Lord Bingham said:

By a series of small steps, largely unobjectionable on their own facts, the courts have arrived at a position which is irreconcilable with long-standing principle.

Then quoting another great judge, Lord Bingham said that there is

"no greater danger of usurpation than that which proceeds little by little."

There can be few better examples of such 'gradual usurpation' than the steady, step by step way in which Guernsey legislation is passed to Chief Pleas for approval. In reality, few people believe Richard Dewe's assertion that the GP&A Committee will effectively keep an eye on the situation and curb the creeping control from Guernsey.

THE BIGGER PICTURE

The Threat of a Federal Europe

Jersey is now openly debating the possibility of severing its ties with the UK, as is Guernsey, thereby to put an end to what is considered undue interference in island government.

In view of the Lisbon Treaty, the future promises a federal Europe and, with it, dissolving powers to the regions – hence the Scottish Parliament and the Welsh Assembly. Jersey and Guernsey already have such constitutions in place. Under a federal Europe, however, the executive power will lie with the unelected European Commission and without the UK, little Jersey and Guernsey would be in a much weaker position to defend themselves against the eurocrats.

There would be very little that Jersey and Guernsey could do to avoid harmonisation of tax and regulations being imposed by statutory instruments. Their parliaments will merely act as a rubber stamp, as will the House of Commons.

Since the islands' economies are largely dependent on the financial services industry, Jersey and Guernsey will have to accept harmonisation with EU and US regulatory laws in order to stay in business.

These are very valid reasons why Sark, in the interest of some level of continued independence, should avoid involvement in the financial services sector just as much as it should avoid Guernsey's say-so when it comes to legislation!

DOES SARK REALLY NEED BUREAUCRACY?

Sark News notes with some concern that the GP&A is at present focusing on a Work Permits Ordinance, which will include the need for mandatory criminal records checks. Have the President of the GP&A, Roger Olsen, and Vice President Richard Dewe, really thought this one through?

Firstly, it is hard to believe that a system of work permits is really necessary on this small island.

Secondly, if it is primarily in order to ensure that criminal records are known, it appears that the vast majority of employers comply with the voluntary system already in place, so why introduce more complex bureaucracy?

Thirdly, and most importantly, what official body is foreseen to be the issuer of such work permits? This official body would have a frightening amount of power in a small community. It would make it all too easy, in time-honoured Sark fashion, to refuse or accept people for all the wrong reasons, reminiscent of the Seigneur's now thankfully abandoned right to issue congé. This is unacceptable. Those on the island who actually employ people are best able to judge and keep records of those they employ.

CHRONIC INDECISION?

To vote or not to vote....

Some members of Chief Pleas appear unable to make a decision when faced with important, named votes in the assembly. Are they afraid of repercussions if seen to take sides – of causing displeasure in certain quarters?

Tony Le Lievre, Stefan Gomoll, Edric Baker, Christopher Rang, and David Cocksedge, the five gentlemen who did not have the courage to vote on Item 10 at the last Chief Pleas meeting, should show that they do not suffer from chronic indecisiveness. Under the new Reform Law, Sark will need people who can make decisions in the best interest of the island. It is time to end sitting on the fence in fear of offending the establishment.



Kicking up some dust on the Millennium Field!

THE SEIGNEURIE

We note that the Seigneur is still playing with his cards close to his chest on this one! There is still no news with regard to the rumoured sale of the island's foremost tourist attraction and the mysterious donor who has made possible the Seigneurie garden trust. Obviously, we will be presented with a *fait accompli* at what the involved parties consider to be the right time to suit their own interests.

THE ISLAND SCHOOL AND COMMUNITY HALL

They would say that, wouldn't they!

The pub at the Island Hall has been re-branded. In a PR exercise aimed at altering people's perception and projecting an innocuous image during the imminent court case, it has been deemed expedient to call it a cafeteria!

All over Europe a cafeteria is a place where people go for a coffee, non-alcoholic drinks and a snack. If a cafeteria becomes licensed to sell alcohol, it becomes a bar or a pub. In the case of the island Hall, there is no question. It is a pub.

In his letter to Chief Pleas of 23rd June, Tony Ventress quite rightly points out that there are occasions on which it would be nice to be able to enjoy a refreshing pint or a glass of wine at the Island Hall, such as after a strenuous game of rugby or during the intermission when attending a concert.

The solution is obvious: in recognising that during some sports or social activities it would be appropriate, the Hall Management could provide alcoholic beverages by obtaining a temporary licence for such occasions - which would no doubt be on weekends and summer evenings outside school hours.

On no account should a fully licensed pub be operational from these premises – for that is what it is, a pub in a school building, nothing more and nothing less.

THE SARK LARK

True or false?

It is rumoured that a number of people are upset, if not irate, about the disclosures about the Sark Lark in our Special Edition earlier this month. Alex Magell, Don Willis, Bertha Cole and Wendy Kiernan are all protesting their innocence, purportedly saying we got our facts wrong.

However, Sark News stands by what was written. After all, if it was so untrue, we would have been inundated with threats of legal proceedings. Now, that would be opening Pandora's box – the wheels within wheels, the people behind these companies as well as their purpose – it would all have to be disclosed and the Sark Lark would come to an end. We see the collective silence as proof that we were right.

Is the GP&A really informed?

Judging by the misleading answers given by the committee's President, Roger Olsen, to questions posed at the last Chief Pleas meeting, the GP&A either doesn't know, doesn't want to know or tries to hide what is – yes – still going on.

When asked whether Sark or Guernsey government bodies know who operates fiduciary businesses and whether there is a register available for public inspection, Mr Olsen answered that "*The information is public. The GFSC publishes the register at www.gfsc.gg.*" Mr Olsen ought to know that is incorrect. The GFSC register publishes the names of the businesses awarded fiduciary licences. It does not publish who the operators are and that information is not at all available to the public. Sark News knows this from

having tried, unsuccessfully, to glean such information from the GFSC. (In fact, we have since learned that the information is only available to those who hold such licences!)

Furthermore, Mr Olsen refers in his replies solely to the jurisdiction of Guernsey, despite it being obvious that the web of Sark's particular brand of "offshore industry" spreads much further afield than merely across the water to Guernsey. Was Mr Olsen trying to mislead the public or does he not know?

In the absence of a local register, the GP&A has no access to financial information on the operators of Sark's offshore activities. Does Mr Olsen know how many companies are operating the Sark Lark; whether it is hundreds or thousands? How can Mr Olsen then be sure that the local economy benefits from these activities? He can't – he just believes this to be the case. Perhaps the GP&A should start backing up their beliefs with hard facts. The people of Sark are entitled to know, Mr Olsen!

Does the GFSC really know?

It may not be Mr Neville of the GFSC's concern, but how are he and Sark's directors able to ensure compliance of the Sark Lark companies with international law and company law within the jurisdiction of the countries where they operate – let alone money laundering acts and tax regulations?

Is there a record of who the other directors are and who the shareholders are? Is there a shareholders' register? What are the functions of these companies – what industries are they in? It adds to the mystery of the purpose of the Sark Lark that so many of these companies are dissolved after a few months of operation.

Why is it that so many people, appearing out of nowhere to come and settle as residents on Sark, are involved in the Sark Lark?

Does the GFSC have the answers? The risks are there for all to see.

Unfair representation?

During the Chief Pleas debate of Proposition 10 at the meeting on 2nd July, on the issue of helicopter landings, there was only one attending Member with specialist knowledge on the subject. A fully qualified and highly experienced pilot, Mark Harrison has worked for 12 years in the Channel Islands but has many previous years of international experience from flying, amongst other places, in the Middle East and the Falklands. Mr Harrison gave a detailed factual account to the assembly outlining how the serious shortcomings of the Millennium Field as an emergency helicopter landing field can be a real danger to anyone involved in a rescue operation.

It is unfortunate that the Minutes, despite repeating *ad verbatim* other contributions to the debate, report such a shortened version of Mr Harrison's account as to detract from the importance of his arguments. One would have thought that the general public on Sark has a right to know the stark seriousness of this issue.

Furthermore, this highlights the importance of the responsibility of reporting the Chief Pleas proceedings accurately and precisely. Once again the people of Sark are being misinformed and misled.

JOHNNY-COME-LATELY

We note Dave Melling's mean-spirited web comment to Phil Falle's public-spirited article of 27th June, where the forthcoming charity events at the Lord Taverner's Weekend were listed:

"Sorry Phillip you got it wrong again! Lets make it quite clear that many childrens party's have been held and if new comers think they can beat what have I have been involved in the past, I say I but I really mean the whole of the islands residents who got

behind the events, then let us see a really true island childrens party once again such as those in the avenue, come on be fair this is not new and should not be promoted as such, dont give credit against a proven past.”

Mean’s the word, Mr Melling. From the tone of his comment, we would be very surprised if Mr Melling was not one of those who ungraciously boycotted the event, along with Michael Beaumont, Reg Guille and the Lt Governor, who should all have known better. The people of these islands expect leadership and this was one of those occasions when it was their duty to attend, regardless of their personal feelings and animosity towards the arrangers of the event.

Sark News also notes Mr Melling’s attitude to “new comers”. Anywhere else than on Sark, this comment would surely be branded discriminatory. What is Mr Melling’s definition for ‘new-comer’, we wonder? Do his 30 years or so on the island give him automatic pedigree as a ‘proper’ Sarkee? How many of those presently dominating the island’s assembly and committees are not fairly recent arrivals?

We assume that by new-comers Mr Melling also means outsiders. Is his scorn extended to include the ‘outsiders’ in his own camp like Mr Olsen, a Canadian by birth, and Irena Montana, his Finnish partner?

Peter Stisted, who moved to the island 12 years ago, is he an ‘outsider’ or an ‘insider’ in Mr Melling’s eyes? Is Jan Guy considered a new-comer, who took up a teaching position on Sark 15 years ago and has been on the island’s payroll ever since? Mr William Raymond, prominent politician, has only been a resident for some six or seven years. Surely he must be a “new comer”, as must Wendy Kiernan, Treasurer, Peter Cole, Chief Watertester, etc. etc.

As far as Sark News can see, there does not appear to be many pedigree Sarkees amongst the vociferous ruling “elite” in island politics – nor amongst those trying to belittle, besmirch and deride SEM’s successful charity event. Children’s

party, indeed – do grow up and join the real world Mr Melling!

A NEW POLITICAL STAR IN THE OFFING?

In view of his letter published in the Guernsey Press on 15th July, Mr Chris Thomas, who has just arrived from the UK in the last couple of weeks, seeks in time honoured tradition to ingratiate himself with the local establishment – which controls the Sark Lark. Being an accountant, Mr Thomas will know all about off-shore and on-shore tax havens. Whether he knows about or is connected with the Sark Lark as well, only time can tell. It seems, however, he *doth protest too much*.

LA SOCIETE SERCQUAISE

Where were you?

Since issue no. 9, Sark News has been in correspondence with Dr Axton, Honorary Director of Sark Museum. He supplied us with a list of the society’s good works for publication but this was, for various reasons, later withdrawn. We repeat our earlier statement that Sark News has nothing but respect for what La Société Sercquaise has achieved and keeps achieving in the fields of archaeology, botany, meteorology, genealogy etc. However, we also repeat our serious concerns about the political involvement of this group and the apparent inconsistency in the attitude displayed by some of its prominent members.

If concerned primarily with the preservation of Sark:

Where were they when planning permission was given to build the new main house at La Rondellerie – a 7,000 sq ft, glass fronted building on the cliff face? Why was not this refused under section 4(a) of the Development Control (Sark) Ordinance, 1992, “*The effect of the development or other work on the natural beauty of the area*”? Why was it not, in the case of this building, important to consider “*the desirability of keeping land adjacent to the foreshores and cliffs of the*

Island in its natural state”, Section 4(b)? Is this building not “*incongruous with its surroundings because of its siting, design or exterior appearance or because of the materials to be used*”, Sections 4(c & d)? Does it not “*detract from the character or the amenity of the locality concerned*”? Why did not La Société Sercquaise protest?

Where were they when their own Council member, President of the Planning Committee and owner of two tenements, Mr Edric Baker, decided to build himself yet another house, this time in the middle of an agricultural field - and, not to forget, a nice swimming pool which, although in his garden, still is *adjacent to the cliffs* he purports to want to protect? Do these projects comply with Sections 4(a), 4(b), 4(c), 4(d), 4(f) and 4(g) of Sark’s planning law?



Where was La Société Sercquaise when the new communications mast was put up? It is not only an eye sore, obviously put up in the wrong place, it is also a potential health hazard, the full extent of which is still to be discovered.

Why do they not complain about the



unsightly heaps of rubbish and belching black smoke that meets visitors and residents when they come off the boat in Sark’s harbour?

Where were they when the two new wooden houses were built on the scenic route by the Seigneurie?



Where were they when planning permission was given to Mr Spence’s new house (photo above) was given; an over-sized building out of proportion for its location on the island which is surely also in breach of Sections 4(c) and 4(d)?

To have any credibility as defenders of Sark’s architectural heritage, traditions and natural environment, La Société Sercquaise should have practised what they preach and raised their voices in protest at the above developments obtaining planning permission. The hypocrisy of this organisation discredits its members.

BOOM ISLAND

In our issue no. 9, we incorrectly stated that Mr Chris Sharp is chairman of Sark’s Hospitality and Tourism Group. It is, of course, Guernsey’s Hospitality and Tourism Group.

Sark News is more than happy to print any response to articles in Sark News. We cannot guarantee to publish all responses and reserve the right to edit pieces both for length and content.

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