

COMMUNES AND COMMON LAND IN JERSEY

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Commons or communes remain in the Jersey landscape as a vestige of our feudal past. But apart from the odd conveyancing transaction, little has been written about these areas of land and only a few select individuals know anything about those that are still operated. This article will examine the history of communes, their legal nature and the meaning and effect of their continued existence in the Island.

Introduction

1 Many will be aware that certain areas of land in the Island are identified as “commons”. Some may know that the historical name for such an area was a “*commune*”. In view of the dearth of publicly available information and the absence of any detailed written analysis about these areas, few people will know very much about them at all. Given their number and historical importance in what was mainly an agricultural economy for most of Jersey’s history, this is perhaps a surprise.

2 This article seeks to unlock some of the background to Jersey’s *communes* and to examine their history, their location, the nature of rights in them and their continued existence in our legal landscape.

3 It is helpful to start with some definitions. These all derive from secondary sources. Primary historical sources are beyond the ambit of this article. There appears to be no modern judicial consideration, let alone definition, of a *commune*. The word arises originally in a feudal context and it is there that we begin:²

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² J Kelleher, *The Triumph of the Country: The Rural Community in Nineteenth Century Jersey* (Jersey 2017), at 49–50. Allowing for differences between Jersey and Guernsey, see R Hocart, *The Country People of Guernsey, and their Agriculture, 1640–1840* (Guernsey 2016), at 22–34 for a good introduction to feudalism.

“The term ‘feudalism’ is used here to mean the political and economic system with land tenure as its core which prevailed in parts of Europe from about the 9th century and its perpetuated existence in Jersey. It was premised on the notion that all land was owned by the Crown and held by third parties from the Crown in a chain of feudal links. For our purposes, it comprised a hierarchical society based on the holding of land in *fief* (or in fee, to use the English term) and on the reciprocal relationship between *seigneur* (lord) and *tenant* (vassal). Although feudalism in Jersey has not received a significant degree of academic analysis, it is clear that it played an important part in the history of Jersey up to and including the 19th century, although by then it was much more in the nature of an exclusively commercial relationship.

The *fief*, the unit of land held by a *tenant* from his *seigneur*, provided one of the internal structural divisions of Jersey . . . The earliest documents available show Jersey as thoroughly feudalised, with the majority of the population being *tenants* holding land from *seigneurs*, including the Crown, in five whole parishes and the best part of the remaining seven.”

4 In simple terms, *fiefs* in the Island were divided into three types. First, the Ancient Demesne of the Dukes of Normandy (later called *Fief du Roi* or, in its feminine version, *Fief de la Reine*³) whereby *tenants* held their lands direct from the Duke and later the Crown of England. Secondly, *Bas Fiefs* which were *fiefs* which had returned to the Duke by virtue of their confiscation or loss by some form of default by the *tenant*. These *fiefs*, though technically held direct by the Duke, were not incorporated into the Ancient Demesne. Thirdly, there were private *fiefs* held by lay or ecclesiastical *seigneurs*.⁴

5 Against that larger context, then, a number of authors offer an insight into *communes* in the mediaeval period. CN Aubin’s helpful *Glossary for the Historian of Jersey* defines “*commune*” as—

³ There appears to be no hard and fast rule about which name to use and sometimes they are simply called the Crown or Royal *fiefs*. Contrast Guernsey, where the convention is to call it *Fief du Roi* whatever the gender of the prevailing monarch. The authors are grateful to Dr Darryl Ogier for this information.

⁴ We draw this paragraph from a combination of CN Aubin, *A Glossary for the Historian of Jersey* (Jersey 1997), at 4, 10, 36; P Bisson, “The Manorial System in Jersey”, *Annual Bulletin of La Société Jersiaise* (2017), at 76–84; and GFB De Gruchy, *Medieval Land Tenures in Jersey* (Jersey 1957), at 39.

“The Common of a fief. The *fonds*⁵ belonged to the *Seigneur* but was subject to certain rights of the *tenants* e.g. the cutting of fuel and grazing. Special regulations exist for their alienation. Many smaller Communes and parts of those of the Fief de Roi in St Lawrence and St Peter have been sold or divided among the *tenants*.”⁶

6 GFB de Gruchy’s *Medieval Land Tenures in Jersey* offers a more detailed analysis but essentially the same conclusion as Aubin. He describes the typical holding of a medieval *tenant* in Jersey as including an area of arable land and a share of (or rights in) waste, meadow and woodlands situated on the *fief*. These rights included such things as rights of pasturage and cutting fuel, or in some cases of making hay.⁷ He opined that a *commune* was normally the property of the *seigneur* (be it the Crown or other *seigneur*), subject to the *tenants*’ rights, but drew attention to Jean Poingdestre’s view in *Lois et Coutumes de L’Ile de Jersey* that certain of the *communes* had been surrendered to *tenants* absolutely.⁸ Jersey’s concept of feudalism originally came from Normandy and the historian Delisle was in no doubt that there the property of *commune* vested in the *seigneur*:⁹

“On n’eut jamais dû...perdre de vue les deux principes suivants, dont nous trouvons à chaque instant l’application dans la féodalité normande: assavoir, le seigneur est propriétaire tréfoncier des marais, des landes et de toutes les terres vaines et vagues, comprises dans les limites de son fief; ses hommes ont droit d’y exercer certain usages.”

[We should never have lost sight of the following two principles, which we find at every instance in the application of Norman feudalism: the seigneur is the owner of the marshes, the heathland and all the waste lands within the limits of his fief; his men are entitled to exercise certain uses on that land.]

7 What was true of the medieval period might not, of course, reflect the position today. It is undeniable that the centuries which followed the medieval period witnessed profound changes in property rights, the effect of which was substantially to reverse that earlier relationship

⁵ The ground or the soil.

⁶ *Op cit*, at 19.

⁷ De Gruchy, *op cit*, at 39, 48.

⁸ *Ibid*, at 145–146. See J Poingdestre, *Les Lois et Coutumes de Jersey* (Jersey 1928), at 126–131.

⁹ L Delisle, *La Condition de la Classe Agricole et l’Etat de l’Agriculture en Normandie au Moyen Age* (Paris 1903), at 281.

between *seigneur* and *tenant* in terms of the possession, enjoyment and property in land. This process was already far advanced when it was accelerated by a series of reforming laws in the 19th and 20th centuries which abolished those remaining *droits seigneuriaux* from which *seigneurs* had continued to derive financial advantage. Any proposition advanced today which questioned the *tenants'* right to possession of the *commune* might well be regarded as controversial. We do not however in this article set out to resolve the question which is beyond our remit.

The location of Jersey's *communes*

8 Where might one begin an investigation into Jersey *communes*? Unlike England, for example, there is no central register of common land. There, registration is required under the Commons Registration Act 1965 and involves the submission of maps and details of the right claimed. The Act followed the investigation into commons by the Royal Commission on Common Land 1955–1958. The lack of registration of *communes* in Jersey means that it is difficult to establish where they existed historically and where they continue to exist. If there are no recorded conveyancing transactions in relation to a particular *commune*, the Land Registry cannot assist. Those feudal records that still exist are typically in private hands and there is no central record of those who hold such documents. Furthermore, de Gruchy is of the view that many *communes* were lost to enclosure and/or encroachment.¹⁰

9 Fortunately, the modern historian may draw as a starting point on the monumental *Jersey Place Names*.¹¹ This, together with an appetite for long walks and/or cycles around the Island where one may seek to identify what may have long been the least exploitable land (albeit in an age of modern techniques of development and drainage some waste land is likely to be no longer visible), makes for a reasonable starting point in all the circumstances.

10 *Jersey Place Names* defines *commune* as “a common, common land”.¹²

“F. commune; OF. Comun; Lat. Communis (pertaining to all). In Jersey La Commune, land belonging to the commonalty, actually belonged to the Seigneurs, but tenants had rights of pasture and

¹⁰ *Op cit*, at 166.

¹¹ C Stevens, J Arthur, J Stevens, F Le Maistre, *Jersey Place Names: A Corpus of Jersey Toponymy*, vols 1 and 2 (Jersey 1986).

¹² *Ibid*, at 159.

cutting fuel upon it; the name was also used for rights of way and public footpaths. Some of the following entries, but not all, can be equated with fiefs, or parishes.”

11 The text goes on to list at least 36 locations in the Island as having been place names which included the word “*commune*”.¹³ These are set out in Table 1, along with seven other locations known to have been *communes*. The only parish where *commune* was not identified is St John.

Table 1: *Communes in Jersey*¹⁴

Parish	Name(s)	<i>Fief</i> , where not reflected in the name
St Helier	Commune de Mèlèches/Miellès de la Ville Commune de Mèlèches/Vallée des Vaux Common Lane Mont de la Ville	Buisson? La Fosse
St Saviour	Commune de St Sauveur La Commune/ La Petite Commune Commune de Gorge	
St Clement	La Commune de St Clement/Marais du Hocq La Commune/ Pontac Common	St Clement
Grouville	La Commune de Gorey La Commune / Marais à la Cocque	
St Martin	La Fief de la Reine La Commune de Rozel La Petite Commune/ La Commune des Pièces de Haut et de Bas La Commune de l’Abbesse de Caen	Rozel
Trinity	Commune du Fief de la Gruchetterie Commune de Fief de Diélament Commune de la Hougue Boête	

¹³ The caveat on numbers simply reflect the fact that the entry in *Jersey Place Names* was not purporting to identify *communes* as such and some of its entries could be clearer on the point.

¹⁴ Spellings vary from source to source. Some *communes* have several names and these are included in Table 1. Throughout this article, in the Tables, those *communes* on private *fiefs* are written in green; on *Le Fief du Roi*, in black; *Bas fiefs*, in purple. *Le Marais de St Pierre* does not fit into these categories and is in red.

Parish	Name(s)	<i>Fief</i> , where not reflected in the name
St Mary	La Commune	Diélament ?
	La Commune	L'Abbesse de Caen
St Ouen	Commune de la Bequüe	La Hougue Boête
	La Commune du Nord	
	La Commune Escraqueville	La Commune du Fief d'Orillande
	Commune de la Fief de L'Ausmone	
	Commune de Vinchelez de Bas	
	Commune de Vinchelez de Haut	
	La Commune/ Chemin de la Commune de Lecq	
	Commune de Portinfer	
	Commune de Fief de Morville et Robilliard	
	Commune du Fief Haubert	
St Peter	Marais de St Ouen	La Commune du Fief d'Orillande
	La Commune / Rue de la Commune	
	La Grande Commune	
	Le Jardin de la Commune / Petite Commune/ Grande Commune	
	La Commune de Nobretez	
	Commune du Fief Luce de Carteret	
St Lawrence St Brelade	Le Marais de St Pierre	Noirmont
	Le Marais de St Lauren	
	La Moye (Le Grande Marais)	
	La Commune de Bas	
	La Commune de Haut	Noirmont

12 Of the 38 *communes* upon which further information has been identified, eight were part of the *Fief de la Reine*, five were *Bas fiefs*, 24 were on private *fiefs* and one (*Le Marais de St Pierre*) fell outside the usual framework. There are seven Royal *fiefs* in Jersey and these lands extend to territory in eight out of the twelve parishes. Those parishes without such *fiefs* are St Clement, St Helier, St John and St Ouen. There are (or were) many more private *fiefs*, some very small in size. Between the 12th and 20th centuries, 245 *fiefs* are estimated to

have existed, although not all at the same time.¹⁵ By the time *Jersey Place Names* was published in 1986, the number of private *fiefs* estimated to have existed, again not all at the same time, had increased to 357. The location of about 150 are said to be known with a degree of certainty.¹⁶ A list of *fiefs* and their *seigneurs* as of 1970 can be found on the *Société Jersiaise* website which records 101 private *fiefs* and ten *Bas fiefs*.¹⁷

13 An examination of the sites of the identified *communes* reveals that they were found on the least exploitable land in three typical locations. First, *mielles* (sand dunes) and *marais* (marshes). These land uses were often combined within a single *commune*. Examples include the *communes* of *La Moye* and *Le Marais à la Cocque*, and what we now call Gorey Common. Jersey had sand dunes on its south coast (from Gorey to the eastern outskirts of St Helier, within St Aubin's Bay and on the west of the Island stretching a considerable way eastwards from St Ouen's Bay). The dunes blocked drainage to the sea resulting, behind the dunes, in the formation of marshland. Notwithstanding that these areas were not conducive to the growing of crops, they were nonetheless productive. Both *mielles* and *marais* were grazed. Marshland meadows were cut for hay. *Vraic* (seaweed) from the foreshore was dried on the sandings. Gorse was cut for fuel, in particular for bread ovens. Wheat straw was the most common source of thatch in Jersey. Marram grass from the *mielles* was also used and wheat thatch was tied on with rushes, presumably harvested from the *marais*.

14 Secondly, steep valley sides, of which there are many in the Island. These were exploited for the collection of wood and in one case, *La Commune de St Sauveur*, as a quarry where the *tenants* had quarrying rights.

15 Thirdly, *landes* (heathland) and cliff slopes. These were also grazed, in particular by sheep. Gorse was cut for fuel and bracken was harvested for mulch and human and animal bedding.

16 Of the 43 locations identified, sixteen were *mielles* or *marais*, thirteen were heathland and nine were valley sides. The remaining five were on typical Jersey farming land.

¹⁵ See the map of Jersey *fiefs* contained on the rear inside cover of J Stevens, *Old Jersey Houses*, vol II (Chichester 1977) and C Stevens, *Jersey Fiefs* (1977 Ms).

¹⁶ Bisson, *op cit*, at 79.

¹⁷ members.societe-jersiaise.org/lepivert/fiefs.htm.

17 However not all wasteland was *commune*. An example is the salt marsh at *Samarès* in St Clement which remained in the ownership and use of the *seigneur* of the *fief* of that name. Other areas in this category might include *Les Mielles du Sénéchal*, also in St Clement, and *Les Landes* in the Vingtaine de Douet, St Peter. De Gruchy, speaking specifically of the waste on the Ancient Demesne, presents a similar picture, noting for example the sandy waste of *Quennevais* at *Mont Cardon* and the *Landes de la Moye*, which he says were collectively called “*Moutonnées* or sheepwalks”, and were let to *tenants*.¹⁸

18 That wasteland, whether *commune* or not, was regarded as economically important can be gleaned from the Code of 1771 which purported to codify Jersey law. The text includes an undated provision, entitled “*Mielles*”, which states that:

“conformément à plusieurs anciens Réglemens il est défendu à toute personne quelconque, de s’ingérer de couper les Joncs qui croissent dans aucun des lieux de cette Isle, où le sable pourroit par là être emeu; ou de rompre les Mielles, à peine d’une amende, et de huit jours d’emprisonnement au pain et à l’eau, pour ceux qui n’auroient de quoi satisfaire à ladite amende.”

[Pursuant to several ancient regulations, it is forbidden for any person whatsoever to interfere in cutting the rushes which grow in any of the places of this Isle, where the sand could be disturbed; or to break the *Mielles*, on pain of a fine, and of eight days’ imprisonment on bread and water, for those who do not have enough to satisfy this fine.]

This suggests a deep appreciation of the wasteland, its fragility and its value to the community.

19 Unsurprisingly, in a small island with a fractured physical landscape, sloping from north to south, with east–west travel restricted by deep-cut valleys, and dispersed settlement pattern, *communes* were widely located. This, and the complexity of land ownership, means some would have been very small.

The names of Jersey’s *communes*

20 Names can, of course, being misleading and the use of the word “*commune*” to describe property and/or its entry in *Jersey Place Names* does not necessarily denote that it was a “*commune*”. A good example is the property known as *La Commune* in St Saviour. Oral evidence collected by the authors suggest that the Perchard family had

¹⁸ *Op cit*, at 48.

been associated with the *Commune de St Sauveur* for so long that their farm, situated to the west of Hougue Bie, came to be called *La Commune* and the adjoining property, *La Petite Commune*. McCormack lists both properties as pre-1787.¹⁹ Similarly, the *Commune de la Bequïe* in St Mary, located on prime farming land, does not immediately resemble what we think of as a typical arrangement for a *commune*. *Jersey Place Names* indicates that this *commune* was a field the income from which from 1690 was assigned to poor *tenants* of the *Fief du Roi*.²⁰ There is evidence that these long established arrangements were managed by the Constable of St Mary. In 1880 *tenants* of the *Fief* disputed income from *Commune de la Bequïe* being distributed at his discretion. Such an arrangement, of course, more closely resembles the well-known feature of the countryside known as *clos de pauvres*, fields the rental from which was dedicated to the upkeep of the locally born poor.

21 Cross referencing the entries in *Jersey Place Names* with contracts in the Public Registry Index and Document Enrolment (PRIDE) system, suggests that, in addition to *Commune de la Bequïe*, there are four *communes*, all situated on farmland on the loess-covered plateau, which were not subject to common use, namely: *La Commune* in St Saviour, *La Commune de Rozel* in St Martin, *La Commune* in Trinity, and *La Grande Commune* in St Peter.²¹

22 The seven Royal *fiefs* do not have distinguishing names and are known formally, as we have seen, as *Fief du Roi*. *Le Marais de St Lauren* was simply named after the parish of its situs. The *commune* at *La Moye* is referenced by the *vingtaine* within which it is located. The large *commune* in Grouville is known as Gorey Common. In the same *vingtaine* (significantly, called “*Le Marais*”), is a smaller separate *commune*, *Le Marais à la Cocque*. There are then locations variously and simply called *La Commune*, *Clos de Commune* etc. The same pattern applies to *Bas fiefs*: *communes* on the *Fief de l’Aumosne* and at *Le Hocq* were known by their *fief* name; *communes* at *Pontac* (also within the *Fief de St Clement*) and on the *Fief de l’Abesse de Caen*, Trinity, were known simply as *La Commune*.

23 *Communes* on lay *fiefs* do not display the same variation. Sixteen out of the 24 referred to above are known by the name of the *fief* on which they are sited: for example, *La Commune de Vinchelez de Haut*, *La Commune de Vinchelez de Bas* and *La Commune du Fief Haubert*.

¹⁹ J McCormack, *Channel Island Houses* (Rushden 2015), at 768.

²⁰ *Op cit*, at 82.

²¹ These five locations together with the 38 identified above giving the total of 43 listed in Table 1.

24 Use of names is not always consistent. Hereditary contracts concerning *communes* in St Peter, Gorey and for *Le Marais à la Cocque*, use the words “*commune*” and “*marais*” interchangeably. *La Commune de St Pierre* does not appear by that name in *Jersey Place Names*. Instead, it is referred to as “Goose Green Marsh” and “*Le Marais de St Pierre*”.²² Similarly, instead of the *La Commune de la Moye*, the text prefers “*Le Marais*” and “*Le Petit Marais de la Commune*”.²³

25 Only in one respect does *Jersey Place Names* record the use of the word “common” instead of “*commune*” and, unsurprisingly perhaps, given that the English language was always more present in the Town, it is Common Lane, St Helier. However, as we go about our everyday business, it is clear that the word “common” has gained something of a foothold in Jersey. For example, taking the Number One Bus from St Helier, there are stops (displayed electronically) successively at Pontac Common, Fauvic Common (aka *Le Marais à la Cocque*) and Gorey Common.

The administration of the *communes*

26 How exactly Jersey’s *communes* are held today, how they are administered and the nature of rights and obligations that arise in relation to them, are difficult to ascertain. There is no public record of *tenants* or those who have rights in a particular *commune*. Identifying those who own or hold *communes* is also difficult, particularly if there are no recorded transactions in relation to them. Furthermore, with changes in land use and the reduction in the numbers of active farms, communal rights may become redundant or forgotten. Those likely to understand how a *commune* operates are those who claim or enjoy rights over it, but such people are relatively few in number, and such written evidence or recollection they may have is not publicly available.

27 Originally, feudal *communes* would have been administered in accordance with the prevailing feudal regime. For the Ancient Demesne, this meant it was subject to the jurisdiction of the Royal Court.²⁴ The power of the Royal Court to legislate, a power which was abolished in 1771, clearly extended to the Ancient Demesne. An Act of the Royal Court dated 1584 (a copy of which is set out in the Code of 1771) concerned *La Commune de St Pière et St Laurens*, which were then both on a Royal *fief*. It prohibited, on pain of penalty, the

²² *Op cit*, at 340.

²³ *Op cit*, at 159.

²⁴ De Gruchy, *op cit*, at 28.

taking of *foin* (hay), *blête* (brushwood) or *gazon* (turf) from these *communes*. Private *fiefs* were subject to the jurisdiction of their own feudal courts. De Gruchy notes how the court of the *Fief de Noirmont* was historically (at least until the early 18th century) the “jealous guardian” of its two commons.²⁵

28 The *commune* known as *Le Marais de St Pierre* is a special case. In 1663 it formed part of a Royal grant of the *Perquages* and waste in the Island to Sir Edward de Carteret in recognition of his services and those of his father, Sir George de Carteret, to the Crown. The grant was subject to a number of local challenges, and in the 17th century Sir Edward’s heirs transferred their interest in the *Marais* to a number of *tenants* and thus it became a *commune*.²⁶ Effectively, the *tenants* jointly acquired rights equivalent to (but not the same as) those of a *seigneur*. This gave the *commune* its special quality, although its structure (and the legal regime applying to it) may be similar to those of feudal *communes*. Oral evidence suggests that this *commune* regulates itself according to an agreed set of rules, with regular meetings of the *tenants* and the preparation of annual accounts.

Alienation and partage

29 What exactly are the nature of the rights in and over a *commune*? We have noted the brief explanations given by Aubin, De Gruchy and the authors of *Jersey Place Names* and observed that there is no modern judicial pronouncement on these points. We can however see what the evidence suggests. Before so doing, we note what Jean Poingdestre had to say in his *Lois et Coutumes de L’Ile de Jersey*, bearing in mind that he was writing over 300 years ago.

30 In his chapter “*Des choses Communes a plusieurs*”, Poingdestre stated:²⁷

“*Des choses communes, les unes le sont et quant a la propriété et quant a l’usage, les autres quant a l’usage seulement. De la premiere sorte sont les terres que nous appellons Communes, et les heritages possédez par Induis entre Coheritiers ou autres Parchonniers. De la seconde sorte sont les terres que nous appellons Bannonieres, c’est a dire celles dont le fonds est a des particuliers, mais parce qu’elles ne sont point closes l’herbe en est commune apprez les fruits cueillis.*”

²⁵ *Ibid*, at 166.

²⁶ CN Aubin, “The Perquages of Jersey. The Sanctuary Paths of Legend”, *Annual Bulletin of La Société Jersiaise* (1997), at 103–160, 111, 131.

²⁷ *Op cit*, at 123.

[Some things are common either in respect of their ownership and their use or in respect of their use only. Of the first kind are plots of land that we call *Communes* and property owned indivisibly by co-heirs or other co-parceners. Of the second kind are plots of land that we call common grazing land that is to say those the soil of which belongs to individuals but because they are not enclosed, the grass on them is communal after harvest.]

31 He then devotes a short chapter to “*Des Communes*”. As to their ownership, he records:²⁸

“Ces Communes appartiennent a certaines Communautez, non seulement quant a l’usage et pasturage, mais aussy quant a la propriété: de sorte que lesdites Communautez ont droict non seullement a la superficie, mais au fonds mesme: excepté quelques unes, dont les Seigneurs n’ont donné autre chose que l’usage. La plupart desdites Communes ont autrefois esté données par les Seigneurs des fiefs a leurs Tenants ou autres ou gratuitement, en consideration de quelques servuces, qu’ils estoient obligez de leur render.”

[These communes belong to certain communities, not only in respect of use and grazing, but also in respect of ownership, in such a way that the said communities have a right not only to the area thereof, but also to the land itself, with a few exceptions where Seigneurs have only given the use. Most of the said commons were once given by the Seigneurs of the *fiefs* to their tenants or others either freely, or in consideration of some services which they were obliged to do.]

32 As to who could alienate the *communes* and how this might be achieved, Poingdestre called this “*La grande question touchant les Communes*”. He offered a number of rules, the most pertinent of which are:²⁹

“1. Que l’intention de ceux qui ont donné lesdites Communes doibt estre inuiolablement suiuite; et que d’aller a l’encontre seroit violer la condition soubs laquelle les Communautés en jouissent.

2. Que la ou les Communes ont esté données par les Ancestres de Sa Maiesté d’a present Roys d’Angleterre ou Ducs de Normandie et Seigneurs des Isles, Sadite Majesté a le mesme droict, pouuoir et autorité sur les dites Communes, comme auroient les

²⁸ *Op cit*, at 126.

²⁹ *Op cit*, at 129–130.

Donateurs, s'ils viuoient, Or, comme il est certain que toutes Donations sont conditionnelles (veu que par le droict commun, elles se perdent par l'Ingratitude des Donataires, et par en abuser contre l'intention du Donateur) aussy est il également certain, que si lesdits Donateurs viuoient et voyoient lesdites Communes abusées, et peruerties contre leur Droict usage, ils pourroient legitiment les reuoquer. Et puisqu'ainsy est, Sa Majesta en peut faire de mesme, et si feront les Successeurs, cas aduenant: Et cependant Sa Majesté et ses Successeurs de temps en temps pourront faire Enquestres pour scauoir si lesdites Communes sont employées, mesnagées et distribuées selon l'intention des Ancestres les Donateurs d'icelles.

3. Que Sa Majesté comme Seigneur Direct desdites Communes, lesquelles sont dependances de son Ancien Patrimoine, peut par le consentement de la plus grande et plus saine partie des Interressez ausdites Communes, sans autre cause, les Partager, aliener, ou en disposer par autre voye, pour subuenir aux necessitez de sadite Majesté ou de son peuple de la dite Isle etc. Pourueu toutesfois que lesdits Interressez ne soient lesez ou prejudiciez en leurs justes Droicts; c'est-a-dire, pourueu qu'ils ayent autant de proffit par ladite alienation, comme ils en ont de droict en communauté : Car c'est une Regle infallible que jamais Le Roy ne fait de tort . . .

4. Le mesme se doibt obseruer pour les autres Fiefs qui ne sont pas Patrimoniaux, a present en la main du Roy; s'il y a des Communes.

5. Quant est pour les Communes situées sur les Fiefs des particuliers, elles sont alienables par les Tenants desdits Fiefs qui y ont droict de propriété, avec le consentement des Seigneurs, et autorité de Justice; en y obseruant les precautions de l'Article troisieme."

[1. That the intention of those who have given the said *Communes* must be followed without fail; and to go against it would amount to violating the condition under which the Communities can enjoy them.

2. That where the *Communes* were given by His Present Majesty's ancestors, Kings of England or Dukes of Normandy and *Seigneurs* of the Islands, His said Majesty has the same right, power and authority on the said *Communes* as the donors would have had if they were alive. As it is certain that all donations are conditional (seeing that by the *droit commun*, they are lost by the ingratitude of the donees and where they are used against the intention of the donor) it is therefore also certain that if the said

donors lived and could see the said *Communes* being abused, and turned away from their rightful usage, they could legitimately revoke them. And this being the case, His Majesty can do likewise, and so would his successors, should the case arise: And in the meantime His Majesty and his successors will from time to time be able to make enquiries in order to find out whether the said *Communes* are employed, managed and distributed according to the intention of their ancestral donors.

3. That His Majesty, as direct *Seigneur* of the said *Communes*, which are dependencies of his ancient patrimony, can, by the consent of the greatest and sanest part of the parties interested in the said *Communes*, without any other cause, share them out, alienate, or dispose of them another way, to provide for the needs of His said Majesty of his people in the said Island *etc* provided however that the said interested parties are not wronged or prejudiced in their just rights, that is to say provided they benefit as much by the said alienation, as is their communal right, for it is an infallible rule that the King never causes harm. And I would therefore find it fair if a true estimate of the present annual revenue of the said *Communes*, and it was substituted for an equivalent *rente* to be distributed yearly in perpetuity to those who would be from time to time tenants of His Majesty and his successors to the said *fiefs*, and the Provost of the *fief* or any other person appointed for this purpose would gather and distribute it, not equally but *pro rata* the quantity of land that each will possess on the *fief*. And the surplus would be employed for some public cause, according to what His Majesty would find fitting.

4. The same must be observed for the other *fiefs* which are not patrimonial, presently in the hand of the King, if they include any *commune*.

5. As regards *communes* situated on private individuals' *fiefs*, they are alienable by the tenants of the said *fiefs* who have a property right thereto, with the *Seigneurs'* consent, and the authority of the Law and observing the precautions of Article 3.]

33 These passages suggest the Crown could alienate *commune* on *Fief du Roi* and *Bas fiefs*, but only with the consent of the *tenants*; whereas *commune* on a private *fief* could be alienated by the *tenants*, but only with the consent of the *seigneur*. This appears to be a distinction without a difference. Furthermore, he does not explain why, if the *tenants* owned the *fonds* of the *commune*, it was necessary for the *seigneur* to consent to its alienation.

34 The “big question” remained such into the 19th century. Witnesses before the Royal Commissioners appointed to inquire into the civil,

municipal and ecclesiastical laws of Jersey in 1861 could not agree on how the *communes* in Jersey (estimated by one witness as accounting for 3,000–4,000 *vergées* of land) were owned. Advocate Francois Godfray, owner of many *fiefs* at the time and renowned for his commercial approach to their exploitation, was adamant that the *communes* were owned by the *seigneur*. Helier Simon, *écrivain*, was adamant that they were owned by the *tenants*, but that the *seigneur* was entitled to 10% of the consideration payable on their alienation.³⁰ That said, the Commissioners took the view (on what actual basis is unclear) that “on some of the manors there are common lands, upon which the tenants of the manors have certain rights, the freehold being in the lord.”³¹ As to the nature and extent of tenants’ rights, according to Advocate RP Marett (by then Attorney General) that could vary from *fief* to *fief*.³² Reference was made to the unsuccessful efforts of the States in 1812 to persuade the Crown to allow for the enclosure of *communes* on its *fiefs*, met by a body of opposition from *tenants* who claimed rights over *communes* at Quennevais and a claim by Colonel Packe to the *fonds* of large parts of the *communes* in Jersey, and in 1829 to pass legislation which allowed for enclosure of all *communes*.³³ Several witnesses pointed out how difficult it was to discern which parties truly had rights over the *communes*, as opposed to mere usurpers.³⁴

35 Many *communes* have ceased to exist over time for a variety of reasons. De Gruchy suggests that the process of enclosure resulted in the loss of *communes*. According to Jean Poingdestre, until the 16th century, Jersey’s economy remained firmly based in the feudal open-field agricultural system with few enclosures.³⁵ By 1629, Heylin, a visitor to Jersey, reported the landscape as “very much of small Inclosures”.³⁶ As De Gruchy observes, enclosure brought as a result the loss of right to common pasture and, given that the process appears to have been substantially consensual, *tenants* obviously took the view that there was more to be gained from cultivating seasonal crops than

³⁰ *The Report of the Commissioners Appointed to Inquire into the State of the Civil, Municipal and Ecclesiastical Laws of Jersey* (London 1861), at 185–188, 283–284, 496.

³¹ *Ibid*, at x.

³² *Ibid*, at 284.

³³ *Ibid*, at 185, 496.

³⁴ *Ibid*, at 185–188, 283–284.

³⁵ J Poingdestre, *Caesarea or a Discourse of the Island of Jersey* (Ms 1682 published Jersey 1889), at 3.

³⁶ P Heylin, *Full Relations of Two Journeys to France and the Adjacent Islands, Book VI* (London 1656), at 301.

rough grazing. He notes, too, that the (undated) introduction of coal from England resulted in the decline of harvesting furze and heather as fuels.³⁷ Where common rights were no longer practised, the *commune* could all too easily over the years be lost to encroachment from neighbouring farms or, in more organised fashion, by their consensual division. By way of example, *Jersey Place Names* refers to a *partage* (division) of *La Commune de Haut et de Bas*, St Martin, in 1799 between Thomas le Hardy and Francoise Dumaesq. This may reflect the Jersey property law principle of “*nul n’est tenu de rester en indivis*”, whereby owners cannot be compelled to remain in joint ownership and can force a separation.

36 Evidence indicates that *communes* (in whole or in part) have been lost at 12 of the 38 *communes* whose locations have been identified. As we shall see, the loss of the *commune* at *Le Mont de la Ville* enabled the construction of Fort Regent. The spread of the Town removed the *commune* in the area around what is now Common Lane, St Helier. Housing development resulted in the loss of *La Commune de Gorge*, at Bagot, St Saviour. *La Commune* at St Peter is now within the airport perimeter. The marsh surrounding St Ouen’s Pond remains undrained and is recorded in *Jersey Place Names* as *La Commune du Fief d’Orillande*. It now forms part of a sizeable reserve owned by the National Trust for Jersey.

37 The alienation of *communes* appears to have been long practised, even though the mechanics are unclear, particularly as to who had the power to alienate. There is evidence of the alienation of *communes* on lay *fiefs*. An example is *L’Ancienne Commune de Morville*, a field recorded in 1322, which previously had been part of the *Commune de Morville*.³⁸ Another example, also in St Ouen, is *Prévôté*, a former field within the *Fief de Vinchelez de Bas* and one of several in the vicinity whose square form has been interpreted as indicative of its enclosure from the heath in the 16th or 17th century.³⁹ Yet another example is fields in Trinity, identifiable by their shape, which originally formed part of the *commune* of the *Fief de Diélament* until sold off by the *seigneur*, the Rev William Lemprière in the 1870s.⁴⁰

38 *Le Mont de la Ville* in St. Helier provides another interesting example. Poingdestre claimed that the inhabitants of *Vingtaine de Ville*, St Helier, had enjoyed the *Mont* as a sheepwalk for more than

³⁷ *Op cit*, at 166.

³⁸ *Ibid*, at 367.

³⁹ D Shute, “Excavation of a Prehistoric Menhir at le Prévôté, St Ouen, 1996”, *Annual Bulletin of La Société Jersiaise* (2013) 130–147, at 133.

⁴⁰ See for example, contracts dated 19 February and 15 July 1876.

500 years, the right originating in a grant by the *seigneur* of the *Fief de Samarès*, subject to his retained right of free warren. According to De Gruchy, an Order in Council of 22 December 1677 declared that the retained right had been lost by non-user.⁴¹ However it appears that the *seigneur* and the *Vingtaine de la Ville* compromised their separate rights in 1668. In 1804 it was sold in a convoluted process by the *Procureurs de la Vingtaine de la Ville* to the Crown enabling the construction of Fort Regent. The price of £11,280, established by 24 men from throughout the Island, who comprised a “*Grand Vue de Justice*”, was paid to the *Procureurs*, who used it for the benefit of the public within the *Vingtaine*, including paving the streets.⁴² So there was formality before alienation and the proceeds were used to benefit those with interests in the *commune*.

39 In 1851 the *Loi Autorisant l’Alienation ou le Partage du Marais de St Laurens* was passed by the States of Jersey. It covered both the *marais* and associated *mielle* on the coastline of St Lawrence. It followed petitions to the States in favour of change, both from the landowners with interests in the *marais* and the inhabitants of the surrounding area, who considered the stagnant marsh a health hazard. Under the Law, part of the land was to be divided between three named owners of adjoining farms, which can be identified on the 1849 Godfray Map. The three farmers received land close to their farms. The rest of the *commune* was to be sold, with the proceeds to be paid amongst those interested in the *commune*, except those sharing in the *partage*, on terms that the acquirers were required to drain the marsh and maintain stream flow into St Aubin’s Bay. Why legislation was required is not entirely clear, but one presumes it was to force through the change in the face of opposition from some who had an interest in the *commune*. Otherwise, it could have been done consensually.

40 From the maps in volume 2 of *Jersey Place Names* one can see the *locus in quo* after the alienation and *partage*. The land in question lay to the east of the (straightened) stream dividing the *marais* between the parishes of St Peter and St Lawrence. In St Peter the marsh remained unenclosed. In St Lawrence, following the 1851 Law, it is shown divided up into fields with straighter field boundaries and without the field names shown for enclosures on older farmland further inland. Both areas of land were drained, the one within the *Fief de Roi* in St. Lawrence pursuant to a statute and the other, subject to its own peculiar regime, presumably by the *tenants*.

⁴¹ *Op cit*, at 161.

⁴² W Davies, *Fort Regent. A History* (Jersey 1971), at 85, 97–102.

41 In the context of private *fiefs* there is the example of the 1856 gift by Francois Godfray, as *seigneur* of the *Fief de Mèlèches*, of part of the *Commune de Mèlèches* to the Parish of St Helier. The gifted land became the Parade and the eastern strip of People's Park. The contract dated 19 July 1856 records that Godfray, as *seigneur*, was acting of his own free will and pursuant to an Act of the Court of the *Fief de Mèlèches*. No *tenants* were party to the contract.⁴³ In 1865, as *seigneur*, he sold to the parish further parts of the *commune* (albeit not expressly stated as such) and which now forms the remainder of People's Park, the bowling green above it and part of Westmount Gardens. In 1901 a further part of Westmount Hill was transferred to the Parish by the Crown the land previously being *commune* on the *Bas fief* of *l'Abbée de Bellozanne*. Following the 19th century expansion of St Helier, such *commune* was presumably no longer used for grazing, its adoption as public parks perhaps seen as benefitting those with interests in the *commune* and the larger Town population. No bespoke statute was apparently required to permit alienation in these cases.

42 A legislative sea-change came about with the *Loi (1900) touchant l'Aliénation des Communes des Fiefs* which set out circumstances where alienation was permitted generally under Jersey law. Its preamble recorded: "*il serait utile, dans certain cas, de faciliter la vente ou aliénation de Commune des Fiefs et autres Commune en cette Ile.*" The reference to "other Communes" is unexplained, but the Law has subsequently been interpreted in practice to cover *communes* on the *Fief du Roi*, the *Bas Fiefs* and the special case of *Le Marais de St Pierre*.

43 The 1900 Law prohibits the alienation of any part of a *commune* without the prior sanction of the Royal Court (art 1). Where such sanction is sought on behalf of "*six des intéressés*" in the *commune* or a majority of them, if they are less than 12, a Jurat is appointed to examine the proposal, call a meeting of the "*intéressés*" and report back to the court on the advantages of the proposal (art 2). If the proposal concerns a "*Commune de Fief*", then the *seigneur* of that *fief* must be party to the request for sanction (art 2). The court may or may not, on receipt of the report, grant permission, the only express guidance on the exercise of that power being that the court is required to refuse sanction if a majority of the "*intéressés*" has not approved the proposal. The word "*intéressés*" is not defined. A contract of

⁴³ One witness recorded in the 1861 Commissioners' Report claimed that unspecified legal problems had held up the parish taking possession of the *commune*. *Op cit*, at 185.

alienation of a *commune* follows the normal form of conveyance of *héritage* before the Royal Court and in the case of a *commune* on a *fief* it must be passed by the *seigneur* (a *prima facie* recognition that the property in the commune vests in the *seigneur*). The Law does not distinguish between *Fief de Roi*, *Bas fiefs* or private *fiefs* and on a straightforward interpretation might be taken to apply to them all, save perhaps if the term *seigneur* is not applicable to the Crown on *Fief de Roi*.

44 The next legislative intervention in the sphere of feudal rights was the larger in compass *Seigniorial Rights (Abolition) (Jersey) Law 1966*.⁴⁴ The preamble to the Law recorded its purpose as the abolition of those *seigneurial* rights “from which financial advantage accrues”. *Inter alia*, it abolished the *seigneur*’s right to the “*année de succession*” and right to the possession of property during a “*décret*” (and invited the Crown to agree to the same in relation to *fiefs* in its possession), and transferred the former *seigneurial* rights to property by “*déshérence*” (escheat), to “*choses gaives*” (waifs or strays) and to “*varech*” (wreck, flotsam, jetsam and lagan) to the Crown. It is silent on the *communes* and left unchanged the 1900 Law, which remains in force.

Alienations subsequent to the 1900 Law

45 At La Moye, transactions took place in 1904 and 1905, soon after enactment of the 1900 Law. It is possible that the Law was passed in anticipation of these transactions. A division of the *commune* between the *tenants* was proposed and was clearly controversial. At a meeting of the *tenants* held in 1905 at the newly built La Moye School, George Bisson protested at the proposal, fearing that his rights were not being protected. It was agreed that the *mielles* and certain land used for the drying of *vraic* should remain as *commune*. The question of who exactly had rights in and over the *commune* was also in issue. *Tenants*’ records showed that a meeting had been held in 1837, at which the list of *tenants* had been closed at 27. However, a further 12 properties had since been built in the vicinity. Their owners claimed that they, too, should be recognised as *tenants*, sharing in the proposed division of *commune*. The *procureurs* of the *commune* instructed Sidney Crill, *écrivain*, on the question. He in turn asked the Attorney General. Any response from the latter is not included with the surviving documents of the transaction. However the list of *tenants* was extended: a schedule of 39 lots was prepared, presumably representing the 27

⁴⁴ It is unclear why the statute chose the word “*seigniorial*” over “*seigneurial*”.

original and 12 new *tenants*. There was discussion about the how the shares should be apportioned. The Reverend John Balleine objected to John Edward Le Boutillier of *La Sergenté*, one of the *procureurs* and later Constable of St Brelade, being awarded six shares. Eventually, he seems to have been awarded four, and the other *procureur*, Albert Le Gallais of *La Moye Manor*, obtained three. Three other *tenants* received two shares, with the remainder getting one apiece. George Bisson was not awarded a share and, one assumes was not recognised as a *tenant* at all.

46 The *tenants* took it in turn to draw the lots. A condition for the transactions was that the land should be drained with the drainage paid for by the *tenants*. The area to be divided up was to be delimited by the *Arpenteurs Publique* and valued, 10% of the value on this Crown *fief* being paid to the Crown by the participating *tenants*.

47 The area thus partitioned at *La Moye* can be identified from the maps in volume Two of *Jersey Place Names* by the regularity of the field boundaries and lack of field names. Instead field boundaries run across the now drained area, formerly known as *Le Grand Marais*, running into *Petit Port*. In satisfaction of two of the lots he was awarded, Albert Le Gallais received land further east, known as the *Marais du Val*, adjoining *La Moye Manor*, draining into St Brelade's Bay.

48 A much later transaction took place in relation to a remaining rump of the *commune* at Le Hocq in 1969. A little back story will assist. The relevant map in volume 2 of *Jersey Place Names* shows two areas which would once have formed a continuous marsh, namely *Le Marais*, now Le Rocquier School's playing fields, and *La Commune de St Clement/Le Marais du Hocq*, closer to the coast. From the Richmond Map of 1787 it is clear that this adjoining area was marsh. An embankment for the Jersey Eastern Railway was built to the north of what are now the playing fields in or about 1873.⁴⁵ It then cut across the *commune*. Inspection of the area shows it was drained, but when is unclear. In 1887 the *tenants* of *Le Marais à la Cocque*, Grouville, drained the marsh there, which was considered a health hazard, soon after establishment of the Jersey Eastern Railway.⁴⁶ It may be that the *marais* at Le Hocq was drained at a similar time.

⁴⁵ NRP Bonsor, *The Jersey Eastern Railway and the German Occupation Lines* (Oxford 1986), at 94–97.

⁴⁶ J Gottrel, "Le Marais à la Cocque", in R Anthony (ed), *Grouville Jersey. The History of a Country Parish* (Jersey 2001), at 33.

49 In 1969 a small remaining area of *La Commune/Marais du Hocq* was gifted to the parish of St Clement, part of which became the site of the Parish Hall. The contract effecting the gift appears to be incorrect referring to “the *Marais* or *Commune du Hocq* on the *Fief du Samarès*” and the donor as Elizabeth Obbard, *Dame du Fief*. Le Hocq is actually within the *Fief du Prieur de St. Clément*, a *fief* taken back into Royal possession. The gift brought to an end the *commune* at Le Hocq.

Where *communes* have survived

50 Four main sources were employed to discover where *communes* have survived in the Island: records on PRIDE, rates assessments, notices in the landscape, and information from the States of Jersey Department of the Environment relating to the *communes* which it manages.

51 PRIDE records property transactions from approximately 1798 to date. Searching under the term “*commune*”, one can identify 108 relevant contracts, effected by 12 different *communes*. Bar one from the 19th century (concerning *rentes*), the contracts concern transactions in the 20th and 21st centuries. Table 2 sets out the contracts identified by the *commune* involved and the nature of the land involved in the transaction.

52 It must be recognised that searching under the term “*commune*”, does not give a full picture since some transactions concerning *communes* were passed by the *seigneur* of the relevant fief and various contracts in relation to the *Communes des Fiefs du Roi* were passed by the Crown.⁴⁷ However, in order to compile a complete record of these transactions one would need to undertake searches by reference to the names of the *seigneurs* and these are not straightforward to ascertain.

Table 2

Entries on PRIDE by Commune	Contracts	Location		
		Mielles/ Marais	Valley sides	Heath/cliff slopes
Le Marais de St Pierre	41	√		

⁴⁷ Indeed, according to the Law Officers’ Department, the majority of contracts relating to *communes* passed before the enactment of the *Loi (1900) touchant l’Aliénation des Communes de Fief* were passed in these ways, rather than by the *tenants*.

Grouville	30	√		
La Moye	14	√		
Abbesse de Caen St Martin	5		√	
Marais à la Cocque	4	√		
Marais du Hocq/ St Clement	3	√		
Abbesse de Caen Trinity	2			√
Diélement	2		√	
Gruchetterie	2			√
Melêches	2		√	
Commune de Bas, Noirmont	2	√		
Fief de la Reine St Martin	1		√	
	108			

53 With this caveat in mind, Table 2 nonetheless gives an interesting insight. What stands out from it is that 85 out of 108 Contracts were effected by just three *communes*, St Peter, Grouville and La Moye. This rather suggests their continuing organisation and continued economic importance. Two of the three include golf courses and all three adjoin suburban development and offer drainage rights over the land at a premium.

54 Of the 108 contracts on PRIDE, fifteen define boundaries, reflecting an ongoing uncertainty in this regard for *communes* presumed to have been waste for “*time immemorial*”. 31 of the contracts were effected under the 1900 Law. Many of the rest are sewerage notices and contracts relating to adjoining properties, confirming access and drainage rights etc.

55 In 1986 the States of Jersey acquired a part of “*La Commune de Bas du Fief et Seigneurie de Noirmont* (commonly known as ‘La Commune de Quaisné’ or ‘Quaisné Common’)” from the “*Tenants ou Intéressés*”. The *seigneur* of the *fief* of Noirmont and his wife were stated to be *chef tenants*. Why they are so described is unclear, but the documents evidencing the acquisition rather suggest that, beyond the *seigneur* and his wife, no-one was clear who else might have an interest in the land.

56 There is a clear difference between the approach taken in contracts for lay *fiefs* and the rest. Contracts relating to *communes* on the former were executed by or on behalf of the *seigneurs*, following the procedure required for alienations under the 1900 Law. Contracts on

communes on Royal *Fiefs* (namely, *Grouville*, *La Moye*, *Le Marais à la Cocque* and *Le Fief de la Reine*, St Martin) were passed by either the *tenants* or the Crown as *seigneur*.⁴⁸ Contracts for *Le Marais de St Pierre* and *L'Abbesse de Caen*, Trinity, the latter a *Bas fief*, were passed by the *tenants*. The contract of gift to the Parish of St Clement, referred to above, was executed by the *Dame de Samarès*. In 1977 Raoul Charles Lemprière-Robin, as *seigneur* of the *Le Fief de l'Abbesse de Caen*, St Martin, leased a pumping station to the public. The transaction apparently had been effected under the 1900 Law and approved by the *tenants*. However in 1981 it was felt necessary for the contract to be corrected as it had been passed only by the *seigneur* on behalf of the *commune* whereas it was stated it should also have been passed by two *tenants*. This correction was in the face of the express terms of the Law which provide that the passing of a contract by the *seigneur* alone suffices.

57 One interesting transaction is the gift of *communes* on three *fiefs* in the north of the Island, effected by the *seigneur* in 2010. The *fiefs* in question are *Portinfer*, *Lecq* and *Vinchelez de Bas*, all in St Ouen. The gifted land is not presently managed by the Environment Department, although it seems that the gift was made in the expectation it would be. It was effected outside the 1900 Law, perhaps because the identity of some or all of the *tenants* was unknown; the contract states that the gift is subject to “such rights, if any, surviving of the Tenants of the Fief” over the *communes* in question.

58 In terms of rates assessments, only *Grouville*’s Rate Books record *commune*, with *Grouville Commune* and *Le Marais à la Cocque* both assessed at nil. The two *communes* are shown in the Rate Book as “care of the Parish Hall”, indicative of a close relationship in *Grouville* between parish and *commune*.

59 Notices in the landscape indicating *communes* are relatively rare. Notices at seven locations were identified and photographs of six of them are printed below. The first is affixed to a wooden bench beside a footpath on *Le Marais de St Pierre*:

⁴⁸ According to the Law Officers’ Department the majority have been passed by the Crown as *seigneur*.



60 The second may be found on Grouville Common and set out the rules for use and access by the public. At the bottom of the signs, barely readable, are the words “By Order of the Chef Tenants du Fief de la Reine.”

61 In addition, the *Chef Tenants* have put up two signs forbidding access to Grouville Marsh and, together with the Co-operative Eco Fund, erected two information boards about the Marsh as a site of special interest. They are also one of six signatories putting their names to a notice not to disturb ecologically important heath on the edge of the Royal Jersey Golf Course.



62 On the edge of *Le Marais à la Cocque*, alongside a *lavoir* (an old communal washing place) there is a granite platform upon which is erected a municipal pump. A notice on the masonry reads: “1930 *Erigé*

par les Tenants du Marais à la Cocque, Ph Frs Labey President, Connétable.” The word “*President*” can only apply to the *commune* and is a term traditionally used in Jersey for the person who chairs a committee. That these two offices were held by one individual again suggests the close relationship between parish and *commune* in Grouville. The “*Anciens Lavoirs et Fontaines avec les Pompes*” was gifted in 1999 under the 1900 Law to the Parish of Grouville, which continues to maintain them, decked with flowers for much of the year.



In the entrance to St Cement’s Parish Hall, there is a notice which reads:



63 The notice reflects the transaction referred to above and suggests, perhaps, that *La Dame de Samarès* (noting the missing accent in the notice) was acting as a *tenant* rather than a *seigneur*.

64 St Clement is the only parish the accounts of which detail its property assets. Separately recorded is the land referred to as the “*Marais ou Commune du Hocq*” and “Common Land on the seaside of the Coast Road, the triangular grassed area opposite Le Hocq Inn and the rectangular area opposite the Parish Hall including the 2000 Wayside Cross.” The wall around the latter includes a stone inscribed, “1990 the Restoration of this Common was made from the Miss C M Journeaux Bequest”. Such land was not included in the 1969 Deed of Gift. It may be this land was gifted to the parish before the 1900 Law.

65 There is also a plaque on the steps leading up to *Mont de la Ville*. It records the purchase of the *commune* from the *Vingtaine de la Ville* by the British Government as the site for the construction of Fort Regent.



66 Finally at *Le Jardin d'Olivet*, in the north of the parish of Trinity there is a sign, now partly obscured by foliage and ivy, in both French and English, prohibiting the dumping of rubbish on the *Commune* on penalty of prosecution. It is undated and the notice is stated to be given by Raoul Charles Robin, *Seigneur du Fief de la Gruchetterie* rather than by the *tenants*.



67 There are five sites of *communes* managed by the Department of Environment: *La Commune de Bas Noirmont* (Ouaisné, St Brelade); *La Commune de Haut Noirmont* (Portelet, St Brelade); *Les Blanches Banques*, managed for *La Commune of La Moye* (St. Brelade); St Catherine's Wood, managed for *La Commune de la Fief de la Reine* and *La Commune de L'Abesse de Caen* (both in St Martin), and: *St Saviour's Commune*, at the top of Grand Vaux (St. Saviour).

68 Table 3 below lists the 18 surviving *communes* identified in this study.

69 The 18 *communes* should not all be seen as having the same quality of survival. The three active *communes*, St Peter, Grouville and La Moye, presumably continue to have regular meetings of *tenants* and their economic importance, even if now little, is directly related to agriculture.

70 Other *communes* have survived (to some degree, at least), by falling under the administration of the parish. This includes *communes* gifted from the *Fief de Melèches* to the Parish of St Helier and from *Le Marais du Hocq* to the Parish of St Clement. For the *Commune de L'Abesse de Caen*, Trinity, the Constable, acting in that capacity, was one of the two tenants executing a lease in 1975 to the Jersey Motor Cycle and Light Car Club, his authority deriving from his presidency of the *tenants* and from a decision of the *tenants* tasking him to pass the contract.⁴⁹ At *Le Marais à la Cocque*, the *commune* may continue in some way, but maintenance of the "*Anciens Lavoires et Fontaines avec les Pompes*" now falls to the parish of Grouville.

⁴⁹ Contract dated 13 June 1975. The connection with the incumbent of the office of Constable is clear from a later contract dated 30 May 1997.

Table 3: *Surviving communes*

Identified by	Contracts search of PRIDE	Notice visually in the landscape	Managed by the Environment Department	Follow-up enquiry
St Peter	√	√		
Gorey	√	√		
La Moye	√		√	
Identified by	Contracts search of PRIDE	Notice visually in the landscape	Managed by the Environment Department	Follow-up enquiry
Abbesse de Caen, St Martin	√		√	
Marais à la Cocque	√	√		
Abbesse de Caen Trinity	√			
Diélement	√			
Gruchetterie	√	√		
Melêches	√			
Commune du Bas, Noirmont	√		√	
Fief de la Reine St Martin	√		√	
Commune de Haut, Noirmont			√	
La Commune, St Saviour			√	√
Portinfer				√
Lecq				√
Vinchelez de Bas				√
St Jean Hogue				√
Boête				√
Fief de l'Aumosne				√

71 On other surviving *communes*, identifying the *tenants* from public records is near impossible. This causes an obvious difficulty under the

1900 Law which depends on the *tenants'* involvement for any transactions to occur. What we can say for certain is that there are other *communes* the continued existence of which we have not been able to identify, and no doubt *communes* that we do not know exist. Table 4 sets out the former.

72 Registration of *communes* in Jersey would assist in clarifying the position and could even revitalise them, encourage management of ecologically valuable land, and contribute to a greater awareness of their historical role in our unique landscape.

Table 4: *Communes whose survival is uncertain*

Parish	Commune location
St Clement	La Commune/ Pontac Common
Trinity	Commune de la Hougue Boête
St Mary	La Commune Escraqueville
St Ouen	Commune de Vinchelez de Haut Commune de Fief de Morville et Robilliard Commune du Fief Haubert
St Peter	La Commune de Nobretez Commune du Fief Luce de Carteret

73 This paper, it is hoped, gives another glimpse of a feudal past rich in detail and offering a potentially significant harvest for the medieval historian. It also illustrates the fact that, notwithstanding various statutory interventions in the 20th century designed to bring feudalism in Jersey to an end, there are still important remnants to this day.

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