

# The *Visite Royale* And Other Humbler Visits

## Philip Bailhache

To the amazement, and sometimes the irritation, of visitors and locals alike, country lanes and main roads will be found during August impassable and congested with judges and officials as a road is painstakingly measured or an overhanging tree closely observed. Argument is heard, a decision made, and the limousines and lesser forms of conveyance proceed majestically on their way through the parish. The *Visite Royale* is in session. Is this a quaint but still useful tradition, or is it an anachronism which ought to be swept away?

As Le Gros states in his chapter on the *Visite Royale* [\[1\]](#) it is difficult to determine the origin of the annual ambulatory visit of the Royal Court to certain parishes. To maintain the roads and byways of the Island open and free from obstruction was clearly of importance from the earliest times. In Normandy, during the 13th century and long before, jurisdiction over the roads and pathways of the Duchy was vested, in part at least, in the Viscount. *L'Ancienne Coutume de Normandie* [\[2\]](#) provides:

*"L'office au Vicomte est qu'il tienne les plets; et qu'il face tenir en droit poinct les anciennes voyes, les sentes et les chemins, et qu'il fasse revenir les eaues en leur ancien cours qui sont remuées contre droit".*

The functions exercised by the Viscount in Jersey are of course but a pale shadow of those described in the *Ancienne Coutume*. Most have devolved upon the Royal Court itself [\[3\]](#). But the modern practice at a *Visite Royale* still evokes the past. Le Gros writes:

*"Le Rouillé, dans ses annotations, dit que le Vicomte, quand il visite "les chemins afin de les réparer, prend douze hommes ou plus de la paroisse où il chemine qui vont avec lui par la paroisse et se ils trouvent faute en aucun chemin le vicomte enquier par les hommes qui sont avec lui à qui sont les terres joignantes et prochaines du chemin en l'endroit où est la dite faute. Et par le repport ou déposition des douze hommes, dessusdits ou du greigneur nombre met en amende ceux que ils trouvent coupables, et sont contraints de faire la réparation dudit chemin. Toutefois ont les vicomtes accoutumé et aussi est de raison de faire crier premièrement avant qu'ils cheminent que chacun répare les chemins endroit soi. Et pour ce s'ils ne le font, et ils sont après trouvés coupables, ils seront mis en amende." [\[4\]](#)*

An ordinance of 1540 enjoined the Viscount and other responsible officials to visit bridges, roads and tracks twice a year in March and in September, and *"iceux faire entretenir en bonne et deuë reparation"* [\[5\]](#)

Le Geyt, writing at the end of the seventeenth century, describes the *Visite Royale* in Jersey in these terms:-

*"Cette Visite est une Cour ambulatoire. Le Bailly & trois Jurez pour le moins, outre les Officiers du Corps de la Justice, y vont à Cheval. Le Connestable & 12 hommes, Officiers ou autres, des plus capables de la Paroisse où l'on procede, sont à pied, & font d'abord Serment de conduire par où ils croient qu'il est le plus necessaire, & de declarer fidelement tous les empeschemens & defautes qu'ils trouveront. Le Vicomte est à leur teste, tenant debout sur le Pommeau de sa Selle son baston d'Office, dont il touche les branches d'arbres qu'il voit avancer sur les Chemins. Les Hommes nomment les proprietaires des empeschemens, & declarent hautement la Vintaine & la largeur du Chemin, & quand ils commencent & à chaque changement de Chemin ou de Vintaine."* [6]

Le Geyt states that the *Visite Royale* took place between the Feast of St. John and harvest time and that the custom was to announce the imminence of a *Visite* without specifying either the day or the parish "*afin que dans l'incertitude chacun fasse son devoir*" [7] Each parish was then visited every three years. In the eighteenth century the practice varied and occasionally visits took place more frequently. Le Gros records visits to St. Helier in 1796, 1798 and 1800 [8]. In 1803 the Court began the practice of visiting two parishes each year and that practice continues today. The dates of the visits are fixed early each year by the Bailiff's Secretary and the *Connétables* are notified. No longer does the Court strike with the random ferocity of lightning. Each parish thus receives a visit every six years, usually during the first or third week of August.

On the appointed day the Court departs traditionally from the Royal Square and proceeds by limousine at a stately pace to the parish hall. The members of the Court are accompanied by a number of officials including of course the Judicial Greffier and the Viscount. The Viscount appoints an *arpenteur* [9] to attend and the *Bâtonnier* appoints a junior advocate to accompany the Court. The advocate's task is to represent on an ad hoc basis any landowner whose land is drawn to the attention of the Court. The Court is greeted at the parish hall by the *connétable* and the *procureurs du bien public* and escorted to a robing room. From there the Court processes, robed, into the parish hall where the traditional prayers are said. The first item of business is to receive a report from one of the two jurats appointed to ensure that any orders of the Court issued at the last *Visite* have been carried out. Next the *connétable* is called to present his accounts. The Court examines the accounts in order generally to ensure that they are properly kept. More specifically the Court will:

1. ascertain that any fines imposed at the last *Visite* have been paid and credited to the Roads Account; [10]
2. ascertain that fees payable for shotgun [11] and other firearms [12] permits, driving licences [13], and dog licences [14] have been applied to the credit of the Roads Account as required by law.

The Court then calls for the books of account of the roads inspectors [15] to be brought forward [16] The books for each *vingtaine* are examined in turn and the inspectors or *connétable* may be questioned upon them.

Once the Court has satisfied itself that the financial affairs of the parish are in order the *Greffier* calls the names of the twelve *voyeurs* from the list supplied by the *connétable*. The *voyeurs* are chosen from the parochial officers or other most capable parishioners, as in the time of Le Geyt. They are asked whether there are amongst them a father or a mother and a son or a daughter; a husband and a wife; two brothers, two sisters or a brother and a sister. If so, one will withdraw and another parishioner is called forward. An oath is administered by the *Greffier* by which the *voyeurs* swear to conduct the Court along the roads where they believe "*qu'il y a le plus de fautes et d'empêchements*". It is their duty to draw the attention of the Court to any such transgressions and encroachments. Having taken the oath the *voyeurs* traditionally retire with the *connétable* in order to decide where they should take the Court. In practice such decisions will usually have been taken long before. The *voyeurs* elect a spokesman whose duty is to explain the suspected transgression or encroachment to the Court. The *voyeurs* must know the boundaries of the parish and of the *vingtaines*. They are duty bound not to lead the Court outside the parish nor to allow the Court to retrace its steps along a road or track already visited. If they do, it is open to the Court to bring the *Visite* to a peremptory close [17]. The origin of these duties lies presumably in a desire to compel the *voyeurs* not to waste the time of the Court. The inspectors and *vingteniers* as well as the *voyeurs* have a duty to answer the *connétable*'s requirement to appear at a *Visite Royale* and may be fined if they default. The more usual practice now is that the Court will direct the *connétable* to notify the defaulting officer to appear before the Inferior Number so that his explanation may be heard.

When the *voyeurs* have signified through the *connétable* that they are ready, the *Visite des Chemins* begins. The cavalcade moves in its serpentine way through the parish. At each place of difficulty the spokesman for the *voyeurs* explains the problem. If it is a question of encroachment from on high, the Viscount assembles his pole to establish whether the requisite clearance is present. There must be twelve imperial feet [18] clear above a road and eight imperial feet clear above a pavement [19]. If there may be an encroachment on to the road from adjacent land the *arpenteur* measures the width so that the Court may establish its proper position. At customary law pathways and roads are 4, 8, 12 or 16 Jersey feet wide, although in more recent times many major roads have been extended in width. The Attorney General, or in his absence the Solicitor General, is called upon to advise and to offer his conclusions. The junior advocate speaks for the owner of the adjoining land in question and the Court retires some distance away in order to consider the position. Judgment is then delivered *sur le champ*. If a tree or branch has been found to encroach it will be marked by the *vingtenier* of that *vingtaine* with an axe carried for the purpose. It is also the *vingtenier*'s duty to notify the Court, through the *Greffier*, of the name and address of any owner or occupier whose land is found to encroach or offend. At the end of the *Visite* the Bailiff asks the *voyeurs* whether there are any other transgressions or encroachments to which they should draw the Court's attention. If any order has been made during the course of the *Visite* the Court appoints two Jurats to ensure that it is carried out. With business concluded, the Court and parochial officials adjourn for luncheon, customarily provided at the expense of the Crown. [20]

What then is the jurisdiction of the *Visite Royale*? It is submitted that the Court has jurisdiction to make any order designed to ensure the rights of the public lawfully to use the public roads and pathways of the Island without obstruction, hinderance or inconvenience. The examples cited by Le Gros [21] may now be restated as follows:

1. cut back or remove any trees, branches, hedges or vegetation which encroach;
2. remove or adapt any sign, stone, post or other obstruction found to be *nuisible*;
3. prevent any seepage of foul water on to the public roads;
4. remove any earth or stone which has slipped on to the public roads;
5. prevent rain-water or streams from causing damage to the roads or inconvenience to the public;
6. ensure the proper disposal of water through gutters and drains from buildings adjoining the public roads;
7. re-establish public roads and pathways which have been blocked or obstructed, and restore them to their lawful width;
8. repair culverts and establish drainage channels;
9. prevent doors and gates from opening on to the public roads;
10. prevent the collapse of walls or banks which threaten the public roads.

The above should not be regarded as a comprehensive classification but as examples of orders made in modern times to protect the public roads and pathways of the Island. Formerly the Court had power to order the extinguishment of roads which were no longer of use to the public. That power has not been exercised since the Extinguishment of Roads (Jersey) Law 1972 [22] laid down detailed procedures to that end. The jurisdiction of the *Visite Royale* was not expressly abolished but seems by implication to have been removed.

The jurisdiction of the *Visite Royale* remains therefore fairly extensive but the Court naturally retains a discretion as to its exercise. In some instances an order would be inappropriate without hearing detailed submissions [23]. The justice administered at a *Visite Royale* is necessarily summary, and orders are perhaps best regarded as provisional in the sense that it is open to any aggrieved party to make a representation to the Court seeking a reconsideration of the matter. Sometimes the Court will set a time-limit for such a representation. At the *Visite Royale* to St. Martin on 1st August, 1984 the Court ordered Airglow Limited to repair a granite wall overhanging a footpath within a reasonable delay, but suspended the execution of the order for three months to enable the company to make such representations as it might think fit. The repairs were undoubtedly destined to be very costly. In fact no application was made. But even if the Court does not suspend the execution of an order for a time, there is an inherent jurisdiction to rehear the matter *inter partes*. This is the only basis, notwithstanding the presence of the junior advocate, upon which the power of the Court to make orders at a *Visite Royale* can be reconciled with the rules of natural justice [24]. Many summary orders are made. At the *Visite Royale* to Trinity on 4th August 1993 the *voyeurs* drew attention to a familiar problem where a bank dividing a field from the public road had been removed in order to facilitate cultivation. The removal had caused rain-water and mud to flow on to the road. An order was made *sur le champ*. "*Il est ordonné qu'il soit signifié [au propriétaire] de faire reconstruire avant le 1er mars prochain le fossé sur sa propriété bordant la route qui arrête le progrès de l'eau pluviale qui tombe sur ladite route, sous telle peine qu'il appartiendra.*"

Landowners remain liable to a fine at the discretion of the Court for encroachments or transgressions which are found to exist. However the modern practice, as seen above, is that the Court will order the abatement of the nuisance with an indication that a penalty will result from non-compliance. The last occasion upon which a fine was summarily imposed was at the *Visite Royale* to St. Lawrence on 23rd August, 1978 when Vina Holdings Ltd.

was fined fifty pence for allowing vegetation to encroach upon the road. The company was ordered to carry out the necessary *branchage* within eight days.

Sometimes the Court concludes that there is no encroachment on to the public road but nevertheless recognises that an undesirable state of affairs exists which ought if possible to be rectified. At the *Visite Royale* to St. Mary on 19th August, 1987 a tree-stump was found not to constitute an encroachment on to the public road but the parish was nevertheless authorised to enter negotiations with the land-owner with a view to its removal.

Does the *Visite Royale* still serve a useful purpose? As Le Gros observed in 1943 a six-yearly visit to a parish necessarily means that many roads will not be traversed by the ambulatory court for 40 or 50 years or more. It may be noted however that the parochial authorities have a continuing duty through the biannual *visite du branchage* to ensure not only the maintenance and upkeep of the roads in the parish but also to prevent encroachments. The *visites du branchage* take place during the first fortnight of July and September. The *connétable*, *centeniers* and members of the Roads Committee visit the roads of the parish accompanied by the *vingteniers* in their respective *vingtaines* levying fines of up to fifty pounds for each contravention. Only one penalty may be imposed however for several contraventions of the same kind (e.g. untrimmed hedging plants) along one stretch of land [25]. It could be argued that that duty renders superfluous the traditional periodical visit of the Court.

It is submitted nonetheless, that there are occasions when the majesty and authority of the Royal Court can be deployed to public advantage. Particularly where there is a disputed title, or where a department of the States is involved, and problems loom disproportionately large, an order of the *Visite Royale* can have a cathartic effect. For years *Le Chemin des Mielles* across the sand-dunes at St. Ouen had been blocked by large mounds of earth dumped by unknown parties. No States' department would accept responsibility for their clearance and the line of the track had become obscure. On 2nd August, 1995 the problem was referred to the *Visite Royale* which issued the following order: "*Il est ordonné qu'il soit signifié au Comité des Etats dit "Planning and Environment Committee" de faire enlever les obstructions qui empêchent le passage par partie du Chemin des Mielles et rétablir ledit chemin dans un délai raisonnable. Mais la Justice a chargé le Connétable de ladite paroisse de préparer un plan qui démontre exactement la ligne dudit chemin et d'en faire rapport audit Comité et d'aucun propriétaire proche ledit chemin qui peut-être l'intéresse personnellement par le 30 novembre prochain afin qu'ils puissent faire par le 29 décembre prochain des représentations devant le Nombre Inférieur de la Cour, s'ils le juge à propos.*" [26] On 7th August, 1996 Jurats Potter and de Veulle reported that the *connétable* had duly prepared a plan which had been accepted by the Committee and that the necessary works to re-establish the track were in hand. [27]

It could also be argued that the minute examination of parochial accounts is no longer necessary. In former times an inspection by the Court no doubt served as a useful deterrent to the misappropriation of public monies. But in these times parochial accounts are invariably audited by professional accountants providing at least as adequate a safeguard. One aspect of parochial administration has however expanded and might merit periodic supervision by the Court. Various statutes [28] now empower *centeniers* to inflict summarily small fines at the parish hall for minor infractions in certain circumstances. Records of these decisions are kept. It is submitted that the *Visite Royale* might usefully examine these records so as to ensure that *centeniers* are exercising the powers appropriately and lawfully.



Customs which serve no practical purpose can eventually become empty vessels; better by far that they should adapt so as to provide both a link with the past and a useful service to the present. *Vive la tradition!*

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Footnotes - ([Top](#))

[1] - C.S. Le Gros, *Droite Coutumier de Jersey* 1943 page 333 et seq.

[2] - Part I Article 5: 1881 edition by W.L. de Gruchy page 16

[3] - See Poingdestre - *Les Commentaires sur l'ancienne Coutume de Normandie* published by Law Society of Jersey 1907, page 10.

[4] - *Op.cit.* page 333

[5] - Terrien, *Commentaires du Droict Civil* 1654 edition page 123.

[6] - *Priveleges Loix & Coustumes de l'Isle de Jersey*, 1953 edition, page 105, titre XI, article 1

[7] - *Ibid* page 1-6, titre XI, article 3.

[8] - *Ibid* page 340

[9] - An *arpenteur* is a land surveyer competent to measure accurately in verges, perch and feet. An aspiring *arpenteur* is examined by his peers and, if found to have a satisfactory knowledge, sworn to offic by the Court.

[10] - The Law Reform (Miscellaneous Provisions) (Jersey) Law 1967 provides that statutory fines and penalties previously receivable by any parochial fund are henceforth to be paid to the general revenue of the parish. But *Viste Royale* penalties are not statutory, and continue to be due to the Roads Account.

[11] - Article 13 of the *Loi (1879) sur le Port d'Armes*

[12] - Article 17 of the Firearms (Jersey) Law 1956

[13] - Article 48 of the Road Traffic (Jersey) Law 1956

[14] - Article 4 of the Dogs (Jersey) Law 1961

[15] - There are two inspectors for each *vingtaine* in the parish (or for each *cuellette* in the case of St. Ouen). They are responsible, pursuant to Article 8 of the *Loi (1914) sur la voirie*, for supervising the repair of parish roads. They are themselves accountable to the Roads Committee (*Comité des Chemins*) of the parish. The Roads Committee comprises the *connétable*, rector and three ratepayers (five in St. Helier).

[16] - See Article 11 of the *Loi (1914) sur la voirie*.

[17] - The last such occasion was in St. Helier on 3rd August, 1994. The Court having been taken twice down the same road peremptorily terminated the *Visite*. It may be noted that the time was 12.50 p.m.

[18] - An Imperial foot is to be distinguished from a Jersey foot or a *pied-perche* which is equal to eleven Imperial inches. This distinction invariably causes difficulty in the measurement of roads and reliefs where traditionally Jersey measures are used. The following table may be helpful.

16 Jersey feet	=	14 feet 8 inches )
12 Jersey feet	=	11 feet )
8 Jersey feet	=	7 feet 4 inches ) Imperial
4 Jersey feet	=	3 feet 8 inches )
3 Jersey feet	=	2 feet 9 inches )
18 Jersey inches	=	16½ inches )

[19] - See Article 41 *Loi (1914) sur la voirie*

[20] - Le Gros records (op. cit. page 341) : "*La visite des chemins terminée, "repas" est dû à la Justice aux frais de la "recepte."* v. Code Le Greyt titre "Privilège." Art. 38. Quant au "repas" dû aux voyeurs on trouve dans les rôles de la Cour Royale l'acte suivant: Ex. 1701, Juillet 29. sur la plainte de Mr. Charles Hilgrove, Connétable de la paroisse de St. Hélier, qu'au retour de la dernière Visite des Chemins en ladite paroisse il n'y aurait eu de souper apresté pour luy et les hommes qui l'assistoient à ladite Visite. Il est ordonné qu'à l'avenir en pareils occasions les dépens seront fournis aux Connétables et hommes de Visite de cette Isle aux frais du roi selon l'usage ancien."

[21] - *Op. cit. page 334*

[22] - *Recueil des Lois 1970-72 page 295*

[23] - *At the Visite Royale to Grouville on 20th August, 1980 the Court's attention was drawn to drain pipes on two adjoining properties which spread rain-water over the public road. The Court ordered both owners to be convened at a later date.*

[24] - Cf. the power to rehear applications decided *ex parte*. See, for example, the observations of Collins JA in *re Blue Horizon Holidays Ltd., en d'ésastre, CA April 11th 1997, unreported at page 9.*

[25] - See Article 41 *et seq* of the *Loi (1914) sur la voirie*, as amended

[26] - 15 VR 81

[27] - 15 VR 86

[28] - E.G. Article 46 of the Road Traffic (Jersey) Law 1956