

**Assise d’Héritage**  
**Bailiff’s Speech**  
**Friday 20<sup>th</sup> September 2024**

1. Your Excellency, members of the Court, ladies and gentlemen.
2. I begin by welcoming most warmly His Excellency the Lieutenant-Governor and Dr Kyd to the Court today. Your Excellency, this is your second Assise d’Héritage and the personal representative of His Majesty The King is always a most welcome presence in this Court. You are not entirely a guest of course because you have had a speaking role, passing brief as it has been, to acknowledge certain fiefs for His Majesty. But as a guest and as a participant, you are most welcome.
3. I am delighted that we are joined today by the Chief Minister. We are very pleased that he has been able to take time out of his busy schedule to be here today to be with us for the most important annual ceremonial event in the Court.
4. I am particularly pleased and honoured to welcome the Lady Chief Justice of England and Wales, Baroness Carr of Walton-on-the-Hill. Baroness Carr arrived in Jersey yesterday afternoon and I hope that she and her Deputy Private Secretary Mr Richard Hunt, welcome to you too, have had the opportunity to form a favourable impression thus far. Baroness Carr is the first Lady Chief Justice

and for those of us who are going to the Law Society Dinner this evening, we will have the pleasure of hearing her speak and possibly even of receiving some of her reflections over dinner on her experiences in the island. In any event, you are warmly welcome to this Court and we look forward very much to hearing from you this evening.

5. May I also welcome Mr Jonathan Crowe, a senior and much respected Judge of Appeal who represents the Court of appeal here today. This may, I think, be his first Assise d'Héritage and I will be interested to hear his observations about the day as well.
6. I am also pleased to welcome Her Honour Judge Patricia Lees who joins us as a guest having just delivered valuable training to the bar.
7. Of course, we have other distinguished guests who are sitting in the Attorney General's box as his guests and who he will formally introduce and welcome. Perhaps though, as I will not be speaking again, I could add the warmest of welcomes of the Court to them in advance.
8. As far as I am aware, the Assise d'Héritage is the oldest land court in Europe and as we have all just seen, it is a deeply traditional and symbolic court in which the Seigneurs attend to answer for their fiefs and acknowledge their fealty to His Majesty The King and when members of the Bar renew their oaths of office. It is the start

of our legal year – although (having worked through August during the absence on leave of the Deputy Bailiff) I cannot say that I have noticed any particular end to the last legal year.

9. Today as we sit here in our relatively comfortable court it would be remiss of me not to speak of the extraordinary sitting of the Royal Court held outside in the Royal Square in July on the occasion of the visit of Their Majesties. This saw 200 members of the legal profession and certain Seigneurs join us to celebrate the customary ceremony of homage on the occasion of the island's first visit of a Sovereign in 19 years, a visit which was memorable for so many reasons. We are at least dry as we sit here today.
10. We should not underestimate the importance of the traditions that this sitting of the Court represents. Provided they are not so outmoded as to become counter-productive, they tell us in part who we are and from whence as a Court and a profession we come. Tradition, as it contrasts with modernity, also points to a journey and perhaps reminds us, whilst on that journey, to hold to the strengths and fundamental values that the tradition represents whilst searching for new and better ways to serve the ends of justice.
11. The advocates have just renewed their oaths of office. From where does that custom derive? Lieutenant Bailiff Poingdestre, writing in the 17<sup>th</sup> century, when there were but six Advocates and they

were required to renew their oaths not annually as now, but three times a year at the start of each legal term, had interesting and perhaps strange observations about the need of Advocates to renew their oaths. His view was that it was not essential but that he could not deny that it was based on sound reasoning and of benefit to the public. He says of the Advocates of his day (in translation):

*[“.....quand ce qui y sont obligez sont ou ignorants ou d’integrite douteuse, comme sont les petits Advocats qui n’ont gueres souvent autre cognoissance que la chicane du Barreau, ausquels il est expedient de souvent rememorer le devoir par une belle repetition du serment.....”]*

12. Don’t worry, I will now attempt a loose translation of this elderly and badly pronounced French which is:

*“I don’t deny that that re-swearing the advocates’ oath is done for good reason, and that it can be for the public good, when those who have to do it are either ignorant, or of questionable integrity, such as junior advocates whose knowledge often doesn’t extend beyond the chicanery of the Bar; it is expedient in their case regularly to call to mind their duties by a ceremonial repetition of their oath”*

13. It goes without saying that neither I nor any member of the Court, could possibly recognise in the Bar today those to whom Poingdestre made reference and, of course, Advocates nowadays

only renew their oaths once a year so things must certainly have improved!

14. It is customary on these occasions for the Bailiff to say something about the changes in the Court over the year. There have been comparatively few. None in the members of the judiciary although I continue to be grateful for the for the efforts and support of all Commissioners and judges of the Courts and I am particularly pleased to see that the role of family registrars has been re-characterised as Family Judges of the Royal Court and we are joined on the bench for the first time by Judge McFadzean and Judge Daultrey. I also, of course welcome The Viscount, Advocate Mark Harris who is new by Assise d'Héritage standards having been sworn in shortly after last year's Assise and, of course, the new Deputy Viscount Advocate Matthew Berry who took his oath very recently to a court almost as full as this and who is, I know, a valued addition to the Viscount's Department.
15. Although there have been no changes to the college of jurats over the last year there will be changes next year as we face retirements in the first half of 2025. We continue to be well and dutifully served by our jurats who carry out what can be an arduous and challenging role each with great professionalism and a desire to do what is right. They are there in part to represent the opinion of right-thinking members of society.

16. In recent times the courts have been criticised in the area of sentencing for sexual offences and domestic abuse. I do not suggest for one moment that the courts should be above scrutiny and public comment, far from it, it is an important part of a free and democratic society, but if that comment or criticism is to be valid it should be well-informed and based on why the court made the decision it did. It is important, therefore, that the court's reasons should be as fully reported as its decision otherwise the public may be left only knowing how the Crown characterises a matter and not the view that the court took and why. I accept that this may present real challenges in reporting. If the Court can articulate its reasons in *ex tempore* remarks then they can be reported fully and contemporaneously. Often, however, particularly on very serious matters or when dealing with a new law, the Court hands down sentences with reasons reserved. It is only from those reserved reasons that the court's approach and understanding can be gleaned and which provide the understanding of why the court did what it did. What cannot happen, however, is for the court to enter into a public debate on any particular sentencing decision.
17. The Court is as busy as it has ever been. We certainly have a large number of criminal trials coming up –more than we have seen in recent years. The Court is very grateful indeed for the support that it gets from counsel and from the legal profession more generally

– we always appreciate the assistance that we are given, even though it may not always look like we do. The relationship between the Court and the profession is an important one. I note that there are changes in the profession coming as well – this is, I understand, the Batônnier, Advocate Michael Preston’s first Assise d’Héritage in that office and we look forward to hearing his thoughts in a moment. I would just like to take the opportunity of wishing him well in office. Of course, if his first speech as Bâtonnier is a sustained attack on the office of Bailiff or the judiciary then I take it back!

18. Anyway, I do not doubt that in the months to come there will be challenges and changes ahead. The world changes and our small part of it changes as well. With this opening of the legal year, let’s face those changes with optimism and with resolve.

19. Monsieur Le Procureur, la parole est á vous.