

- CORRESPONDENCE RECEIVED -

SARK AND BREGHOU (Continued)

GORDON DAWES

Mourant Ozanes <gordon.dawes@mourantozannes.com>

I am very grateful to the editors of *Shima* for allowing me a right of reply to Henry Johnson's very lengthy reply/extension (Johnson, 2015) of his only slightly longer original article (Johnson, 2014) in response to my previous riposte (Dawes, 2015). I am still not sure I understand whatever his message is given the near impenetrability of his English and excessive use of crypto-terms of art. I am at risk of confusing my dyads with my binaries. My principal concern is again with Professor Johnson's factual accuracy, or rather inaccuracy, and lack of balance. Professor Johnson claims to adopt a neutral stance but his second article again reads as if it is a Sark establishment manifesto. He claims not to make judgments and yet much of both articles proceeds upon premises which he accepts but which are the subject of lively challenge. For example, his obsession and continued assertion that Breghou was historically a part of the Island of Sark when it so obviously was not. Breghou has a clear and separate and well-documented history separate and apart from Sark. It was undoubtedly in separate ownership prior to the grant of Sark in 1565 to the first Seigneur (and Sark has just 'celebrated' the 450th anniversary of that feudal event), being owned by the Le Marchant family and called L'Île des Marchands and marked as such on maps. The 1565 grant makes no reference to Breghou unless you include it (as Professor Johnson plainly does) amongst the nameless "islets and rocks" referred to in the Letters Patent, but Breghou was much too large and significant to be wrapped up in this way. It also overlooks the later litigation concerning Breghou's ownership.

The Professor does at least concede (as he must, but originally failed to) that Breghou was not one of the original tenements of Sark but fails to acknowledge the importance of the evidence of Dame Sybil Hathaway unambiguously treating Breghou as separate from the fief thus permitting her to sell Breghou without Crown permission. He instead constructs an argument that, because the Dame purported to sell a seat in Chief Pleas along with Breghou in 1929 this somehow made Breghou a Sark tenement. This is not right and cannot be right. The fief of Sark is a perpetual Crown Lease. It most certainly was not open to Dame Sibyl to increase the extent of the fief by purporting to sell seats in the Island's parliament. Breghou was not a tenement of Sark originally and never became one, this is the central point. It never became part of the feudal grant and the feudal institutions of Sark, of which Chief Pleas was one and the Court of the Seneschal another (i.e. the assembly and court of the Island of Sark).

Professor Johnson is then loathe to accept that Breghou was a freehold, in the sense in which that word is commonly understood, and free of the Sark fief. There are indeed freeholds on Sark that were carved out of the fief before that practice was put an end to in the early 17th Century, but Breghou is a true freehold because it was indeed outside of the fief and held freely off the Crown. Again the Professor keeps returning to the Dame's purported transfer of a Chief Pleas seat to Breghou without acknowledging the significance of the fact that she felt the need to take this step at all – i.e. that she

knew full well that Brecqhou was not a part of the fief and had never been represented in Chief Pleas. Nor can he let go of the idea that Brecqhou is somehow identified with a defunct tenement whose seat was allegedly transferred, saying that Brecqhou became synonymous with the Moinerie de Haut. With all due respect to the Professor and the register he relies upon, this is a nonsense with no legal basis. I am not aware of any other context where this identification is made.

The Professor has consistently failed to distinguish between what is historically and objectively and unambiguously true and what is partisan and propagandist. When he makes a statement such as: "The name "Sark" however, refers to both the island of Sark, and to the islands of Sark and Brecqhou" (2015: 93) he is making a judgment, and one that is fiercely contested. He is repeating the views of some, but certainly not the full range of opinion on this subject. He risks his dyad by postulating a monad.

The reality is that there are strongly contested positions on the status of Brecqhou and its relationship with Sark. Professor Johnson's articles are too heavily weighted in favour of one particular view and frequently recite as fact that which is in dispute. A neutral position would be one that accepted that there was dispute and ambiguity whilst cautiously reciting what is beyond dispute. For example, the current legislation setting out Sark's internal constitution is the Reform (Sark) Law 2008 and is itself deeply ambiguous. It is the statutory basis for the island's court, elections and assembly. This legislation does not name Brecqhou at any point, defining Sark as "the Island of Sark and includes its dependencies", without naming or defining such. Almost all Sark legislation refers only to "the Island of Sark". The Sark establishment will say that this necessarily includes Brecqhou, as with the Letters Patent and the other side vice versa in that Brecqhou is not a dependency of Sark.

Professor Johnson claims (p98) not to have offered any opinion on one side or other of the dispute (2015: 98) but his second article adds to his first in terms of making judgments on the very issues he claims to be offering no opinion upon. It is a puzzling statement. Ultimately and, as is the nature with intractable disputes, all one can do is state fairly positions and venture comment. Professor Johnson goes further, consciously or unconsciously, in making judgments and stating as fact what is in issue. He had no need to do so for his purposes. The existence of the dispute is sufficient to illustrate aspects of island and inter-island relationships without descending into the arena.

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Bibliography

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