

## CHAPTER 17

### THE COUNCIL

The Anguilla Councils of the seventeenth and eighteenth centuries have left us only fragmentary records of their activities in our period 1650-1776. The surviving court records in the Anguilla Registry of Deeds mainly date from the period 1750-1780. They give us occasional glimpses of the lives of the people and of the island government at work in the period before 1776. There are several patents and deeds, extracts from some of which you have here, dating from the earliest period 1650-1750. These were preserved, as explained, when they were introduced into the trial record as evidence of title in subsequent land disputes being adjudicated by the Council. There are many more deeds and Wills surviving from the later period 1750-1780. After that, there is a gap until the year 1820. The first volume of deeds and Wills preserved in the Anguilla Registry of Deeds dates from that year. Several volumes of Council papers from 1792 are found in the St Kitts archives. They were deposited there after the union of 1825,<sup>1</sup> and we can hope that they will one day be returned to us in Anguilla.<sup>2</sup>

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<sup>1</sup> There is another reason for the gap in our records. Unscrupulous persons have removed whole sections from the Anguilla Archives for their own private use.

<sup>2</sup> Since this was first written, Martha Burrows and Heather Nielsen have located, photographed, and transcribed from the St Kitts Archives the volume titled "Anguilla Record of Deeds, 1792-1803" with the permission of the St Kitts Archivist.

We have already seen several examples of early deeds and Wills being produced as exhibits in later trials. That was certainly the case of Thomas Romney's 1673 patent,<sup>3</sup> John Lake's 1684 certificate,<sup>4</sup> Thomas Connor's 1695 certificate,<sup>5</sup> Jacob Howell's 1698 patent,<sup>6</sup> Edward Lake's 1704 patent, David Derrick's 1708 deed,<sup>7</sup> and Thomas Lake's 1711<sup>8</sup> and 1717<sup>9</sup> deeds. We have seen Robert Lockrum's 1717 conveyance being proved in 1738 before William Gumbs.<sup>10</sup> Joan Glading's 1720 marriage contract is preserved because it was produced in litigation in 1775.<sup>11</sup> We have looked at Ann Williams' conveyance of 1711.<sup>12</sup> We have seen it being proved in 1726 by Thomas Howell before Bezeliel Rogers. We shall shortly look at John Bryan's and Daniel Bryan's 1724 patent when we come to examine the short-lived sugar industry of Anguilla.<sup>13</sup> We have already seen Lieutenant Governor Francis Phips performing his functions in Anguilla in 1731 when Peter Rogers' Will of the same year was proved

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<sup>3</sup> Chapter 5: The Second Generation.

<sup>4</sup> Ibidem.

<sup>5</sup> Ibidem.

<sup>6</sup> Ibidem.

<sup>7</sup> Ibidem.

<sup>8</sup> Ibidem.

<sup>9</sup> Chapter 14: The Third and Fourth Generations.

<sup>10</sup> Ibidem.

<sup>11</sup> Chapter 15: The Settlement of St Croix.

<sup>12</sup> Chapter 14: The Third and Fourth Generations.

<sup>13</sup> Chapter 18: Sugar Arrives.

before him.<sup>14</sup> The note at its foot indicates it was produced in evidence in a trial in the year 1760.

With the dawning of the sugar era in the 1730s, government, albeit without law, arrived in Anguilla. With government came all the paraphernalia of courts of justice and bailiffs, on a much-reduced scale, because of the lack of a legislature, we can be sure. A review of the decisions made by the Council shows several different things. They list for us the names of the members of Council. The decisions themselves illustrate the way the Council performed its judicial functions. We learn something of the customs and practices of the time. We see the sorts of problems adjudicated by the Council. We see some of their prejudices at work. We can reconstruct a list of the eighteenth-century deputy governors and their councils (see table 1).

1.	<b>William Watts, appointed by Lord Willoughby in 1660</b>	
	William Watts, deputy governor	} Members of Council
	None	
2.	<b>Abraham Howell elected by the settlers in 1666</b>	
	Abraham Howell, deputy governor	} Members of Council
	John Mereweather, from 1672	
	Richard Richardson	} appointed by Sir
	William	} Stapleton
	Humphrey Seward	
	Thomas Bushell, Secretary from 1680	}
3.	<b>George Leonard appointed by Governor Codrington in</b>	
	George Leonard, deputy governor	} Members of Council
	None	
4.	<b>Francis Phips appointed Lieutenant Governor of Anguilla and the Virgin Islands by Governor Hart in 1724 together with Anguilla's first Council of six members</b>	

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<sup>14</sup> Chapter 14: The Third and Fourth Generations.

	George Leonard, deputy governor		
	Bezaliel Rogers	}	
	Thomas Howell	}	
	Unknown	}	Members of Council
	Unknown	}	
	Unknown	}	
	Unknown	}	
5.	<b>John Richardson's Council of 1735, appointed by Governor Mathew</b>		
	John Richardson, deputy governor		
	John Harragin	}	
	Abraham Chalwell	}	
	Richard Richardson	}	Members of Council
	Arthur Hodge	}	
	Bezaliel Rogers (died by 1737)	}	
	Thomas Howell (died by 1737)	}	
	William Gumbs (appointed by 1738)	}	
6.	<b>Arthur Hodge's Council of 1741, appointed by Governor Mathew</b>		
	Arthur Hodge, deputy governor		
	John Harrigan	}	
	William Gumbs	}	
	Thomas Gumbs	}	Members of Council
	Richard Richardson	}	
	John Welch	}	
	Abraham Howell, Clerk to the council	}	
	John Hughes	}	
	Benjamin Gumbs	}	
7.	<b>John Welch appointed by Governor Mathew in 1749</b>		
	John Welch, deputy governor		
	Unknown	}	
	Unknown	}	
	Unknown	}	Members of Council
	Unknown	}	
	Unknown	}	
8.	<b>Benjamin Gumbs' Council of 1750-1768, appointed probably by Governor Mathew</b>		
	Benjamin Gumbs, deputy governor		
	John Farington	}	
	John Hughes	}	
	William Gumbs	}	
	Benjamin Roberts, Clerk to the Council	}	
	Joseph Burnett, Clerk to the Council	}	
	Arthur Hodge	}	
	John Harrigan	}	
	Thomas Gumbs, Clerk to the Council	}	Members of Council
	Abraham Howell	}	
	Thomas Rogers	}	
	Edward Payne (appointed 1751), Clerk to the Council		
	Nicholas Dunbavin (appointed 1751), Clerk to the Council		
	James Maliom (appointed 1755)	}	
	Edward Rogers (appointed 1755)	}	
	John Smith (appointed 1761)	}	
	David Hunter (appointed 1764)	}	
	Edward Warner (appointed 1766)	}	
	John Payne (appointed 1766)	}	
	Morgan B Marchant (appointed 1767)	}	

9.	<b>Benjamin Roberts' Council of 1768-1771, appointed by Governor Woodley</b>
	Benjamin Roberts, deputy governor
	John Smith } John Hughes } Isaac Arrindell } John Romney } Peter Gumbs } Richard Richardson } David Hunter } James Nihil (appointed 1772) } John Payne, Clerk to the Council }
10.	<b>John Smith's Council of 1771-1776, appointed by Governor Payne</b>
	John Smith, deputy governor John Payne, President } Benjamin Gumbs III } James Nihil } Peter Gumbs } John Hughes } Edward Hughes } Paul Ruan (appointed subsequently ) } Rev John Shepherd, Clerk to the Council }
11.	<b>Benjamin Gumbs III's Council</b>
	Benjamin Gumbs III, deputy governor
	[There are no documents in the Anguilla Archives for the period 1779-1791. This may be either as a result of the destruction by the French forces in 1796, or, they may have been removed to St Kitts after 1825.] <sup>15</sup>
12.	<b>Thomas Hodge's Council of 1782, appointed by Thomas Shirley</b>
	Thomas Hodge, deputy governor Paul Ruan Sr } Jonathan Fleming } Esqs, Members of Council William Rogers Sr } William Richardson } Joseph Romney } Arthur Rogers (appointed 1797, resigned 1799) Thomas Hodge Jr (appointed 1797, resigned 1801) Benjamin Richardson (appointed 1797) John Payne, Clerk to the Council
13.	<b>William Richardson appointed by Lord Lavington in 1805</b>
	William Richardson, deputy governor, 1805-1825 Unknown } Unknown } Unknown } Esqs, Members of Council Unknown } Unknown } Unknown }

Table 1: Anguilla's Councils 1650-1825.

Most of the records of the Anguilla Council that are preserved deal with the judicial decisions of the Council.

<sup>15</sup> The Anguilla Record of Deeds, 1792-1803, transcribed by Heather Nielsen.

The early patents and certificates to land that were produced as exhibits in litigation before the Council sitting as a Court of Common Pleas in the early period are the only ones we have. In later years, the Record of Deeds preserves deeds of manumission, powers of attorney, and home-made deeds to land.<sup>16</sup> There are no minutes of meetings of the Council as there are for the other Leeward Islands of the period.

The court cases range over a variety of causes of action. There are maintenance of children cases mixed in with land disputes and disputes over Wills. From the earliest times the Anguillian planters, like their contemporaries in the other richer islands, played fast and loose with their servant girls and neighbour's daughters. Unwilling fathers evaded their responsibilities towards their offspring then as now. Mothers brought proceedings before the Council for financial support for their children. In one case, Susannah Roberts sued William Bryan Sr on behalf of his young son William Bryan Jr for the cost and expenses of her daughter's confinement. William Bryan Jr was obviously not of age to be sued in his own name (see table 2).

Anguilla. January 4th, 1751/2. At a Meeting of His Majesty's Council being present: The Honourable Benjamin Gumbs Esq, Deputy Governor John Hughes ] Joseph Burnett ] Esq's and Members of
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<sup>16</sup> Located in the St Kitts Archives in Basseterre.

<p>Thomas Gumbs ]                      this Council</p> <p>Susanna Roberts sues William Bryan Sr as security for William Bryan Jr for the charges of ye lying in of her daughter.</p> <p>It is the opinion of this Council that ye said William Bryan Sr be obliged to pay to Susanna Roberts the sum of nine pounds, one shilling and one and a half pence on or before the fourth day of February next ensuing this date with costs of suit.</p> <p>Signed by Command Thomas Gumbs, Clerk to the Council</p>
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Table 2: Susanna Roberts v William Bryan.

The first interesting thing about this decision is the date. This is given as 1751/2, almost as if the clerk did not know which year it was. The explanation is that the Gregorian calendar was not introduced into Britain and the Colonies until the year 1751. It was ordained by Pope Gregory XIII as early as 24 February 1582 that, as the Julian Calendar previously in use made the year too long. Ten days in the calendar needed to be repressed for the year to begin on 1 January. On 4 October 1582, the calendar jumped 10 days. What should be 5 October became 15 October. This reform is referred to as the introduction of the Gregorian Calendar.

The new calendar was adopted in every country in Christendom, including Scotland, except in England and the countries of the Orthodox Church. The principal objection to the adoption of the Gregorian Calendar reform was religious.<sup>17</sup> Staunchly Catholic countries immediately complied with the Pope's Bull ordering the change. Protestant nations found difficulty in adopting a reform introduced by the papacy by way of a bull. It took

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<sup>17</sup> DE Duncan, The Calendar (1998).

many years for the reformed calendar to be adopted throughout Europe. Bavaria converted in 1583. Germany and Austria adopted most of the reforms in 1700. The Swedes adopted the new calendar in 1753. Most of the Eastern Orthodox countries converted to the new style only in 1923. Russia waited until 1918, after the Bolshevik Revolution, to drop 13 days to make up for the accumulation of days by which the Julian Calendar was then in error. The Japanese adopted the new calendar in 1873, while China resisted until the new calendar was proclaimed by Mao Zedong on 1 October 1949. To this day, Moslem countries begin their calendar in 622, the year of hegira when Mohammed fled from Mecca to Medina.

Throughout the seventeenth and the first half of the eighteenth centuries, therefore, there was an entire want of harmony between the calendar system prevailing in England and her colonies and that prevailing in the greater part of Europe. While Catholic countries began the New Year on 1 January, England and the colonies continued to begin it on 25 March. 1 February 1730 in French St Martin was 1 February 1729 in Anguilla. In Anguilla, the year would not change until 26 March under the old calendar. The custom grew among those in England and the colonies concerned with international trade and other affairs of dating documents made



between January and March with both the 'old style' and the 'new style' years. It is not unusual to see a document made between the months of January and March dated with both years.

By the eighteenth century there was a difference of eleven days between the Julian and the Gregorian Calendars. When Britain decided by the Calendar Act of 1751 to adopt the Gregorian Calendar, the year began on 1st January instead of 25 March, and eleven days from 3 September 1752 were suppressed. The day which was 3 September 1752 was made 14 September. So, the date '1751/2' in Susanna Roberts' case above is perfectly correct and indicates that the year was 1751 in the 'old style' calendar and 1752 in the 'new style' calendar.

In another case, Ruth Beal sued Edward Lake for the maintenance of the baby she bore for him (see table 3).

Anguilla. January 20th, 1751/2. At a Meeting of His Majesty's Council being present:  The Honourable Benjamin Gumbs Esq, Deputy Governor John Hughes     ] Joseph Burnett   ]       Esq's and Members of Thomas Gumbs     ]       this Council  Ruth Beal sues Edward Lake for the maintenance of her bastard child.  It is the opinion of this Court that Edward Lake be obliged to pay the sum of forty one pounds, six shillings and six pence with costs of suit.  Signed by Command Edward Payne, Clerk to the Council
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Table 3: Ruth Beal v Edward Lake.

Edward Lake is not done with paying child support. On the same court date, before the same members of the Council, Johanna Bryan sued him for the maintenance of the child that she also bore for him (see table 4).

<p>Johanna Bryan sues Edward Lake for the maintenance of her bastard child.</p> <p>It is the opinion of this Court that Edward Lake be obliged to pay to Johanna Bryan the sum of eleven pounds one shilling and five pence with costs of suit.</p> <p>Signed by Command Edward Payne, Clerk to the Council</p> <p>January 20th 1752</p>
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Table 4: Johanna Bryan v Edward Lake.

Edward Lake was not the only Anguillian since then to have children by two or more women in the same year. Hopefully, there will not be many who suffer the embarrassment of both mothers bringing him to court on the same day.

It was particularly difficult for a young woman to keep her virtue and reputation intact. If a young man of a prominent local family spoke loosely and slanderously of her, it was impossible for her to get any satisfaction from the island Council, made up as it was only of men.

In 1756, we see Catherine Keagan suing Dr Michael Vanspy Brooks for slander (see table 5). Brooks was a medical doctor, the first to practise in Anguilla. He was no gentleman. He did not stay long on the island after this case. He disappears from the record, and we hear

nothing further about him. His slander was a boast that the young Miss Keagan was his lover. Ms Keagan chose to take him to court. The incomplete court record reads:

At a meeting of His Majesty's Council this [ . . . ] day of [ . . . ] 1756 being present:	
The Honourable Benjamin Gumbs Esq, Deputy Governor	
Joseph Burnett	] Esq's and
Edward Rogers	] Members of this Council
Catherine Keagan	
versus	
Doctor Michael Vanspy Brooks	
for scandalizing her good name to the prejudice of her character.	
It is the opinion of this Court that as Catherine Keagan has sworn herself clear of Doctor Spy Brooks of having any carnal copulation with her, that there shall be a sufficient jury of twelve able women to prove whether she is a proper maiden or whether she ever has had any copulation with any man.	

Table 5: Catherine Keagan v Dr Michael Vanspy Brooks.

The decision is as unfair and unjust as can be imagined. The Council found that Ms Keagan proved that she was slandered. She did not necessarily win the case. They did not award her damages immediately. They ordered that there be appointed a jury of twelve 'able' women to prove whether she was still a virgin. She did not claim she was a virgin. She proved the false words were uttered. Now, she must submit herself to a physical and intimate examination by twelve of the island's wives. If she condescended to do that, and if she could show them that her maidenhead was intact, then, perhaps, she might hope to get damages against Dr Brooks. There is no indication in the record that she ever elected to go through with this ordeal. All she asked the court to believe was that she was never intimate with Dr Brooks.

That, the Council failed to do, one way or the other. You may well consider it was a cowardly decision by an all-male panel in a case brought by a woman against one of their associates.

Boundary and land disputes were frequent topics for lawsuits, then as now. In 1741, John Downing sued John Ruan for the possession of Richard Downing's land (see table 6). The court record of the decision reads:

Anguilla. At a Meeting of the Honourable the Governor and council of said Island at the house of Arthur Hodge, Esq, deputy governor, this 30th June 1741.

Being present :

Arthur Hodge Esq, Deputy Governor  
John Harrigan ]  
William Gumbs ]  
Thomas Gumbs ] Esq's and Members of Council  
Richard Richardson ]  
John Welch ]  
Abraham Howell ]  
John Hughes ]  
Benjamin Gumbs ]

John Downing of Tortola sues for land in possession of John Ruan of Anguilla, said John Downing being attorney to the children of Richard Downing deceased.

Ordered that John Ruan still hold the land in his possession that said John Downing sues for as attorney to the said children of Richard Downing deceased. Ordered that, after the just debts of Benjamin Downing deceased be duly satisfied and paid, the residue of his movable Estate be equally divided between the brothers and sisters of said Benjamin Downing now living and the children of those his brothers and sisters deceased.

(sd) Abraham Howell  
Clerk to ye Council

Table 6: John Downing v John Ruan.

From this record, it appears that John Ruan took possession of Richard Downing's plantation, perhaps under a mortgage of some kind. Richard Downing was John's brother, and Richard was dead. John was trying to recover the estate for Richard's children. The decision

of the Council is cryptically worded, and one must read between the lines to follow what their decision meant. They ordered that the property be sold and the debts of Benjamin Downing paid. After the debts were paid, the residue was to be divided among Benjamin's brothers and sisters, or their children if they were dead. Benjamin was not a party to the suit, and one is mystified as to how he enters the picture. It is possible that the Council found that the land did not belong to Richard as the family claimed, but to his deceased brother Benjamin. Both Benjamin and Richard were dead. Benjamin left no heirs of his own besides his brothers and sisters. Benjamin owed John Ruan a sum of money. There were other debts. Perhaps, the Council was not allowing John Downing and the Tortola family of Benjamin Downing to defraud the Anguilla creditors. The estate was to be sold, and after Ruan and the other creditors were paid, the balance, if any, was to be divided among Benjamin's brothers and sisters.

Another case was brought by John Ruan. In 1750, he sued Richard Richardson over an encroachment or trespass on his Valentine Blake Plantation (see table 7).

At a meeting of His Majesty's Council, being present Honourable Benjamin Gumbs Esq, Deputy Governor John Hughes ] Benjamin Roberts] Esq's and Members of ye Council Joseph Burnett ] Thomas Gumbs ]
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John Ruan sues Richard Richardson for encroachment or trespass on a parcel of land known by the name of Valentine

Blake's.  
 It is the opinion of this Council that Richardson shall run Southerly to a Step Rock in the old path as appears by strong proof.  
 Signed by Command  
 Benjamin Roberts,  
 Clerk to Council

Table 7: John Ruan v Richard Richardson

It is a pity that we no longer know where this ‘stepping rock’ is. Wallblake Plantation was one of the most important in the Valley Division, so its boundaries were well-known. It stretched from the Statia Valley and George Hill Estates of Governor Gumbs in the west to the North Valley plantation in the east. John Ruan himself was one of the island elite. Deputy governor John Richardson described him in his Will as his "*well beloved couzen*".

Richard Richardson was not the sort of planter one crossed lightly. One 1752 judgment reveals the following facts (see table 8):

Anguilla.	]	
May the 5th 1752 ]		At a meeting of his Majesty's Council, being present
The Honourable Benjamin Gumbs, Esq		
John Hughes	]	
Benjamin Roberts	]	Esq's Members of this Council.
Joseph Burnett	]	
Thomas Gumbs	]	
Edward Payne	]	

John Harrigan sues Richard Richardson for his Negro Scipio shooting the said Harrigan's mare.

It is the opinion of the majority of the Council that Richard Richardson must pay the said Harrigan's value of the mare

Signed by command,  
 Edward Payne

Table 8: John Harrigan v Richard Richardson

From this, it appears that Richardson's man, Scipio, shot and killed Harrigan's mare. The mare made the fatal mistake of trespassing on Richardson's land. No slave would loosely commit the capital offence of shooting a planter's horse. He was acting with Richardson's authority. Scipio was not prosecuted, because he was only carrying out Richardson's instructions. So, he suffered no penalty. Richardson was ordered to pay the cost of the horse.

We saw that in 1764 deputy governor Gumbs was falsely accused of selling forged customs declarations to ships carrying produce from other islands.<sup>18</sup> Such a customs clearance fraudulently declared that the cargo was exported from Anguilla. If the cargo was really, say, from St Barts or Statia, it could not, according to the Navigation Acts, legally be carried from one colony to another or to the UK, except in a British or colonial ship. To get around this restriction a customs officer might, for a fee or bribe, issue a ship carrying foreign produce with a customs declaration to the effect that the goods were produced in Anguilla. Cargo from the international trading depots of St Barts would then be able to enter St Kitts or Antigua cleared from Anguilla. This was a serious offence under the Navigation Acts. It was eventually discovered that a St Kitts merchant named Claxton doing

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<sup>18</sup> See Chapter 8: Pirates.

business with St Barts produced the forged Anguilla clearances. Deputy governor Benjamin Gumbs was cleared. The Governor-in-Chief declared him to be innocent of the accusation. The charge of issuing false clearances made against deputy governor Gumbs was of long standing. Eight years earlier in the records of the trials held by the Anguillian Council we see the first stirrings of the rumour. And it is a surprise to note that the charge comes out of Anguilla itself (see table 9).

At a meeting of his Majesty's Council this 5 day of June 1756 being present:	
The Worshipful John Hughes Esq, President	
Joseph Burnett	] Esq's and Members of the Council
Edward Payne	]
Honourable Benjamin Gumbs Esq	]
versus	]
John Watts	]
for writing and sending a scandalous letter wherein said Watts accuses said Benjamin Gumbs Esq of giving out blank clearances.	
It is the opinion of the majority of this Court that John Watts having produced a blank clearance with Benjamin Gumbs Esq's name signed thereto as Governor and Principal Officer is a false and forged blank clearance, as it appears to us not to be the Governor's hand writing, as also John Watts declaring he never received nor ever sent to said Benjamin Gumbs Esq for any such clearance and refuseth to give said Benjamin Gumbs Esq the satisfaction of letting him know where he got the same, that the said John Watts be liable and obliged to pay upon sight to the Honourable Benjamin Gumbs Esq the sum of one thousand pounds current money for such scandalous letter and false report with cost of suit as said Watts did not prove the contrary.	
Signed by Command Joseph Burnett, Clerk to the Council	

Table 9: Hon Benjamin Gumbs v John Watts

The case was tried by the deputy governor's own court in Anguilla. Not surprisingly, the decision of the Council was in his favour. What is surprising, is that it was only a majority, not a unanimous, decision. One of John



Hughes, Joseph Burnett or Edward Payne appears not to have believed that the Hon Benjamin Gumbs was innocent.

Another case in 1769 illustrates the lives and times of the churchmen of Anguilla. Life was brutal in Anguilla and the other Leeward Islands in the eighteenth century. This case shows just how brutish it could be. John Carter brought a prosecution against the Anglican parson, Rev Jonathan Fleming (see table 10).

Anguilla	
At a Meeting of His Majesty's Council this 14th day of November 1769	
being present:	
The Honourable Benjamin Roberts Esq. Deputy Governor	
John Smith	]
John Hughes	] Esq's and Members of Council
John Romney	]
Peter Gumbs	]
John Carter prosecutes two Negro men belonging to the Reverend Jonathan Fleming named Bristol and Cruix for the murder of a negroe man belonging to said Carter named Venture.	
It is the opinion of this Court that as the Reverend Jonathan Fleming doth acknowledge he gave his Negroes orders frequently whom he appointed as watchmen to kill any Negro or Negroes destroying him in his canes and that the said Jonathan Fleming shall pay Mr Carter for his Negro the sum of sixty pounds current money agreeable to the appraised value, as there have been sundry proofs appeared that he was not killed when first apprehended but was murdered after he was taken, and Parson Fleming to pay costs of suit £4.19.	
By Command, John Payne, Clerk to the Council	

Table 10: John Carter v Rev Jonathan Fleming.

The facts as set out above indicate that John Carter prosecuted Bristol and Cruix for the felony offence of murder. However, the court found that the reverend set his slaves Bristol and Cruix as watchmen over his

sugarcane fields. He frequently instructed them to kill any slave they found stealing his cane. On the night in question, Bristol and Cruix caught Venture in one of the cane fields. They killed him. Killing him was not the problem. If they killed him on the spot when they caught him, all was in order. It was perfectly legal under the system of slavery for Parson Fleming to shoot and kill on the spot the slave of another planter for chewing on a piece of his cane. The problem was that Venture was caught and then murdered sometime afterwards. Perhaps he was brought before Parson Fleming for questioning, and Parson Fleming then ordered him to be killed. The record is not clear how long after he was seized he was killed. The planters of Anguilla thought this excessive. Not that Parson Fleming was liable for any criminal act. Under the laws and customs of that slave-owning era, he committed no crime. He was merely liable to pay compensation for the damage Venture's owner suffered. The parson was ordered to pay £60 current money to Venture's owner, John Carter. No penalty was imposed on Bristol and Cruix.

To offer some small excuse for the Council, it is perhaps necessary to remind ourselves that at this point, over a hundred years since the founding of the colony, there was still no judge or court appointed with jurisdiction to try felonies committed by free people in Anguilla. Even

if the Council wanted to charge Parson Fleming with murder, there was no court to try him in. Slaves, on the other hand, were frequently prosecuted and convicted by the Council, to the extent of being hanged by the neck at the scaffold in Crocus Bay until, as the sentences read, they were "*Dead, dead, dead.*"

Parson Fleming first appeared in the Anguilla Archives in the year 1749 when William Gumbs Sr appointed him one of the executors of his Will. In 1754 we see him paying a debt of £100 in cotton, suggesting he was a major cotton planter by Anguillian standards. He passed from the scene in 1774 when he made his last Will jointly with his wife Ann on 17 January. He died the same year, and his Will was proved before deputy governor John Smith. He was a grandfather when he died, leaving eleven children and at least one grandchild. He left his estate, his slaves, and appurtenances to his three sons, Jonathan Jr, Thomas Hodge Fleming, and John Hodge Fleming. To each of his six daughters he left five slaves under the age of twenty and £500 on the date of their marriage. Two of his children were retarded, for he instructed his three eldest sons to take care of their needs for the balance of their lives. On his death, he gave his faithful slave Mingo his freedom. He was the ancestor of all the Flemings of Anguilla.

In addition to its executive and judicial functions, the Council occasionally tried its hand at a little informal law-making. Deputy governor Gumbs seems to have done his best to bring his rude and unruly little island under some form of government. Getting the citizenry to respect the bailiff was no easier then than it was to be in later years. In a decision of 1756, the Council made an enactment (see table 11).

At a meeting of His Majesty's Council this 29th day July 1756, being present:		
The Honourable Benjamin Gumbs Esq, Deputy Governor		
John Hughes	]	
Edward Rogers	]	Esqs, Members of Council
Joseph Burnett	]	
It is this day ordered by the aforesaid Governor and Council that all persons in this Island that judgments hath been obtained against for debts and executions against them and will not come to any compliance with their creditors in making payment but on the contrary stand in contempt of the law and keep their Negroes out in the woods, that the Marshall can no ways come at anything, therefore it is ordered as above said that all such persons' Negroes or effects shall be sold as if the same was levied upon by the Marshall to the highest bidder for ready pay.		
Signed by Command, Joseph Burnett, Clerk to the Council		

Table 11: Order of the Council

The meaning of this Order is that whenever in future a judgment was given against a planter for a debt, and that planter indulged in the subterfuge of hiding his slaves and possessions out in the woods so that the bailiff could not find them to seize and sell in execution or satisfaction of the debt, the bailiff might still hold the auction in the absence of the goods. He might sell the slaves and effects of the defaulting judgment debtor as if they were in his possession and he was able to exhibit them at the

auction. It was then, presumably, for the brave purchaser to venture into the woods to seek and locate the hidden goods that he bought. He must use whatever force was necessary to take them into his possession. It is difficult to see how this attempted solution did not cause serious beaches of the peace. It was a prescription for causing more problems than that which it was designed to solve.

This is called an Order, but it is not a decision made in any court case. It is really a form of legislation, a sort of statute, something that only a legislative assembly could validly make. Yet, for all the shortcomings of the measure, it shows the Anguillians casting about by experiment for some method of making themselves more amenable to the Courts and to a system to law. This example of law-making is unique in the record and was not repeated.

Two other cases of 1756 show the Governor and Council imposing stiff fines against unruly subjects who obstructed or assaulted the bailiff (see tables 12 and 13).

Anguilla. At a Meeting of his Majesty's Council this [ . . . ] 1756

Being present:

The Honourable Benjamin Gumbs Esq, Deputy Governor	
John Hughes	]
Joseph Burnett	]
	Esqs Members of the Council

[ . . . ] Brooks	]
versus	]
William Richardson	]

for assaulting him in a riotous manner when using his authority in commanding his Majesty's Peace in the Highway.

It's the opinion of this court that William Richardson shall immediately give in security for his better behaviour and also to pay a fine of fifteen pounds

with costs of suit.

Signed by command,  
Joseph Burnett CC

Table 12: Brooks v William Richardson.

Here we see William Richardson being fined £15 for assaulting the bailiff who was trying to stop an altercation in the highway.

In the other 1756 case the bailiff prosecuted Abraham Arrindell Jr for assaulting him in the execution of his duty and for resisting arrest.

At a meeting of his Majesty's Council being present:

The Honourable Benjamin Gumbs Esq, Deputy Governor  
John Hughes  
Joseph Burnett

[ . . . ] Brooks                    ]  
   ]  
   ]  
Abraham Arrindell Jr            ]

For loading a gun with powder and ball and saying he would shoot said Brooks, and also being the occasion of making a riot to wrest himself out of the Marshall's custody.

It's the opinion of the court that Abraham Arrindell shall pay a fine of 25 pounds for opposing the Governor's authority and give in security for his good behaviour until the next Sessions with costs of suit.

Signed by Command,  
Joseph Burnett, CC

Table 13: Brooks v Abraham Arrindell Jr.

Arrindell loaded a gun with powder and ball and said he would shoot him. He also wrestled himself out of the Marshal's custody. He was fined £25 pounds for opposing the Governor's authority and was bound over to keep the peace and be of good behaviour until the next Court Sessions. The case is interesting in that it shows the Anguilla Council attempting to set itself up as a

criminal court with the power to fine and imprison a free man. The members of the Council possessed no appointment other than as justices of the peace with power to try summary cases. They would not attempt to try a more serious charge, say a felony, as any appeal to the Governor-in-Chief must succeed.

Two cases provide us revealing glimpses at the conditions of slavery on our island at the time. In 1769, Benjamin Gumbs III prosecuted Andrew Johnston for what the planters considered at the time to be the extremely grave offence of "*harbouring and entertaining*" slaves. This expression did not necessarily refer to some form of social entertainment. It was a common charge brought against Methodist and Baptist preachers who were caught preaching to slaves (see table 14). Throughout the islands, Methodists and Baptists were particularly disliked by the Anglican clergy and their parishoners precisely because, unlike the Anglicans and Catholics, they preached to the slaves.

Anguilla. October 3rd 1769. At a meeting of his Majesty's Council being present		
The Honourable Benjamin Roberts Esq, Deputy Governor		
John Smith	]	
John Hughes	]	Esq's, Members
Isaac Arrindell Sr	]	of Council
Benjamin Gumbs 3rd Esq.	]	
Versus	]	
Andrew Johnston	]	
For harbouring and entertaining his the said Gumbs' Negroes which was at that time run away for several days before.		
It is the opinion of the majority of this Court that the said Andrew Johnston shall immediately be imprisoned in the Common Gaol of this island and		

there to continue for six weeks and also to pay costs of this suit £3 12s.

By command,  
John Payne, CC

Table 14: Benjamin Gumbs 3rd v Andrew Johnson. (Anguilla Archives)

Whether Johnson was merely preaching to them, as is likely, or whether he was an anti-slavery advocate trying to assist the slaves to escape, is not clear. But he was, not surprisingly for the times, punished with six weeks imprisonment and ordered to pay the costs of his trial of £3 12s.

Five years later, in 1774, Thomas Hodge prosecuted a runaway slave Exelious for burning cane fields of his owner Edward Gumbs and of Benjamin Gumbs Sr (see table 15). The record of the case reads:

Anguilla. [ . . . ] 1774

At a meeting of His Majesty's Council. Present:

The Honourable John Smith Esq, lieutenant governor  
John Payne ]  
Benjamin Gumbs 3rd ]  
Paul Ruan ] Esqs, Members of the Council  
Peter Gumbs ]  
John Shepherd, Clerk ]

Thomas Hodge and others has made complaint that a Negro man named Exelious the property of Edward Gumbs is suspected and accused of burning a parcel of canes the property of Benjamin Gumbs Sr and Edward Gumbs and that the said Exelious made his elopement for some months past and has killed and destroyed many stock in this island of which being very hurtful and injurious to many poor families.

The above said Governor and Council have fully examined and enquired in the merits of the said accusation and that as there is positive proof that the said Exelious was guilty of putting fire to the said piece of canes maliciously, but as it is believed he has been guilty of sundry misdemeanours the said Court orders that the said Negro man Exelious shall be banished off the island in six weeks from the date hereof and never more to return under the penalty to be paid by his owner of sixty six pounds current gold or silver money.

By command.  
John Payne, Clerk to the Council

Table 15: Thomas Hodge v Exelious. (Anguilla Archives)



In 1776 we see a case of blasphemy tried by the Council. The Rev John Shepherd is clerk to the Council, as well as the resident Anglican minister. He takes his two duties seriously. He brings a prosecution against John Henville, the local tailor (see table 16).

<p>Anguilla</p> <p>May 28th 1776 At a Meeting of His Majesty's Council being a Special Court. Present:</p> <p>The Honourable John Smith Esq, Lieutenant Governor John Payne ] Benjamin Gumbs ] Esqs, Members of Council James Nihil ] John Shepherd, Clerk to the Council</p> <p style="padding-left: 40px;">John Shepherd Esq, one of His Majesty's Council, in behalf of our Sovereign Lord the King prosecutes John Anville, tailor</p> <p style="padding-left: 40px;">for making use of several unbecoming expressions in public company as a blasphemy to the Lord our God by saying if God Almighty did come and tell him contrary to some passages that he passed or expressed, he would tell Him that He the Lord was a liar which heinous expressions is an abhorrence to God and Man.</p> <p>It is the opinion of the Majority of this Court that John Anville be imprisoned from this hour until nine o'clock on Saturday morning which time he shall be taken out of jail by the constables and be obliged to walk barefoot from the jail door with a label on his forehead with the word on it "Blaspheming" to the breastworks in Upper Quarter and return from thence in the same manner to The Road and walk around the Pond and confess himself a great sinner, ask God pardon, and pay cost of suit being £4.1s.</p> <p style="text-align: right;">By command John Payne, Clerk to the Council</p>
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Table 16: John Shepherd v John Henville. (Anguilla Archives)

Besides the quaintness of the punishment imposed on Henville by the Council, we learn some pieces of historic information. The original name of the part of The Valley we now call The Quarter was evidently 'The Upper Quarter' as appears in the sentence of the Council. The word 'upper' in Anguilla as we have seen means 'eastwards'. The use of this adjective here indicates that

when the original Valley Plantation was divided into four parts in the late seventeenth century, the part that was easternmost was described as the upper quarter which eventually became its name. We know that two of the others were North Valley and South Valley Plantations. What the fourth quarter was is not certain, but it was most probably the Statia Valley Plantation. The word 'upper' has fallen away, and we now refer to that part of The Valley simply as 'The Quarter'.

A breastwork usually means an earthwork thrown up to breast height providing protection to men firing over it from a standing position. The reference in the sentence of the Council to 'the breastworks' to which Mr Henville was sentenced to walk from the prison suggests that the local militia at some point in time erected a temporary fortification in this area, probably for protection in case of an invasion. The exact location of this fortification in the Quarter is now lost.

Justice in Anguilla during our period was rough and ready, and occasionally perverse as in some of the cases above. Such government as there was towards the end, was jealously guarded by the planters and merchants that wielded it. All things taken into consideration it was a marked improvement over the lawless conditions that existed for generations of Anguillians in earlier times.