

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY T.M. PITMAN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 5th MARCH 2013**

Question

Will H.M. Attorney General clarify whether or not there has ever been a private prosecution in Jersey's history; if so, when and what this involved and where can the details be found; further still, where is the law written that still currently excludes private prosecutions and when and why was this implemented?

Answer

There are no private prosecutions in Jersey. They are not a part of Jersey Law.

In the case of the Att.Gen. v Devonshire Hotel Ltd (1987-88 JLR 588-589) the Court said:

“The position of the Attorney General in relation to the prosecution of offences is very succinctly put by Charles Le Quesne in “*A Constitutional History of Jersey*” at 23 (1856):

“He [the Procureur] is, from his Office, Public Prosecutor. No individual is allowed to prosecute for crime, except the Attorney General, on behalf of the Crown. All reports of the police to the Royal Court are to be presented through him, and the accusations against prisoners, in consequence of those written reports, are brought forward by him. He is often consulted by the police in matters of difficulty, and they are guided by his instructions ... He is the upholder of public order, and can prosecute for all crimes and misdemeanours.”

An Order in Council of 23rd November, 1749, confirmed by a further Order of 31st October, 1751, declares that “*the Procureur is the Superior Officer [as between himself and the King's Advocate] and the proper person to commence and carry on all criminal prosecutions ...*”. The Order also recognises that the Procureur has a common law right to enter a *noli prosequi* in certain cases.”

Article 6 of the Loi (1864) réglant la procedure criminelle, provides that all cases take place in the name of the Attorney General.

Unlike in England and Wales private prosecutions are not a part of Jersey law. In England and Wales, however, the Director of Public Prosecutions has the power under Section 6(2) of the Prosecution of Offences Act 1985 to take over the conduct of any private prosecution and to proceed with it or withdraw it.