

## Jersey & Guernsey Law Review – June 2007

### THE CHARTE AUX NORMANDS<sup>1</sup>

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1 If an entry in Wikipedia, the self-proclaimed peoples' encyclopaedia, were the touchstone of historical or contemporary significance in matters of customary law, the *Charte aux Normands* would fail miserably. But then, so would much else in the world of Norman customary law. Fortunately, and post modern wit apart, that is not the test of significance, though even a more refined and bespoke test will still struggle with the *Charte*. Written in Latin, and not easily available in any modern translation, it has been long neglected<sup>2</sup>. In so far as one is able reasonably to ascertain, the *Charte* has received one reference in Channel Islands case law: *Vaudin v Hamon*.<sup>3</sup> It does, however, figure in the syllabus for the Jersey advocates' and solicitors' examinations. Beyond that, it does not appear on our radar. However its relative anonymity should not lead us to conclude that it is without interest or, indeed, importance for Jersey and Guernsey lawyers.

2 There is not much contemporary historical analysis of the *Charte*, how it came about and what it meant. Good reason then to welcome the forthcoming article by Sophie Poirey, *La charte aux Normands, instrument de la contestation juridique*.<sup>4</sup> The paucity of contemporary analysis aside, earlier works are consistent in their conclusion of the important significance of the *Charte*, both for Normandy and the other provinces of France which were encouraged by Normandy's securing of such an affirmation of its rights.

3 The development of Normandy lived up to its auspicious start at the Treaty of St. Claire sur Epte in 911, and by the time of King John's loss of the duchy in 1204 it was a powerful and much enlarged entity. The separation of 1204 notwithstanding, Normandy enjoyed a long period of peace and economic prosperity through the twelfth and into the thirteenth centuries. Its territory was large, its population relatively numerous and its law strong and organised. The influence of the latter should not be underestimated. "One of the peculiar features of Normandy in the Middle Ages", wrote A Colville, "was that everything, or almost everything, that was arbitrary under the feudal system there rapidly became regularized and regulated".<sup>5</sup> According to Poirey, in her *Le droit Normand après*

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<sup>1</sup> This article is intended to make available an ancient text and briefly to provide its context. I am indebted to the following individuals without whose assistance the task would have been infinitely harder: David Eglington, Solange Hucker, Rebecca Maslin, Richard Falle and Sophie Poirey.

<sup>2</sup> There are French versions annexed to various editions of the *Grand Coutumier*. There is a modern French translation in R. Jouet *Et la Normandie devint Française* (Paris 1983). In so far as the author has been able to ascertain, there is no published English translation.

<sup>3</sup> [1974] AC 569 PC

<sup>4</sup> To be published as part of *La contestation du pouvoir en Normandie (Xe-XVIIIe siècles)*, *Actes du Colloque de Cerisy-la-Salle 29 septembre-3 octobre 2004* C. Bougy et S. Poirey (Caen). The reader is also referred to R. Jouet *op cit.*, A. Artonne, *Le Mouvement de 1314 et les chartes provinciales de 1315* (Paris 1912) and P. Le Cacheux, *l'Ordonnance de Louis X Hutin du 25 Décembre 1315 et ses rapports avec La Charte aux Normands*, *Bulletin de la Société des Antiquaires de Normandie* 1 (1945-46).

<sup>5</sup> Colville, *Les Etats de Normandie, leurs origines et leur développement au XIVe siècle* (Paris 1894) page 22 quoted in G. Bois, *The crisis of Feudalism Economy and Society in Eastern Normandy c. 1300-1550* (Cambridge 1984) pages 278-279.

1204: *ruptures et continuités*<sup>6</sup>, it was the power of the Norman dukes, intent on stabilising their territory, which enabled an almost uniform law throughout their lands. Thus it was “regularized and regulated” and set out in *coutumiers*, commencing with the *Très Ancien Coutumier* (at the beginning of the thirteenth century) and a few decades later, the *Grand Coutumier*. Importantly for the Normans, this internal discipline extended to taxation. Bois cites by way of example the strict limits on seigneurs for taxing their men by levying tithes or aids. Indeed, as he notes, the *Très Ancien Coutumier* expressly stated: “*Nullus vero hominem audeat tallius vel exactiones ab hominibus suis exigere, nisi per scriptum ducis et ejus indulgenciam scilicet pro gravamine guerre vel alia hujusmodi causa vel institutis que prediximus.*”<sup>7</sup> The position was confirmed in the *Grand Coutumier*.

4 Following the annexation of Normandy in 1204, the French king, Philippe Auguste, realised that he had taken on a province accustomed to its autonomy and independence. Whilst he acted quickly to weaken and, in some cases suppress the more overt symbols of power, including the *sénéchal* (vice duke) and the *Échiquier* (which lost much of its judicial independence), the *coutume* was, in the main, left untouched.<sup>8</sup> The recognition of the *coutume* extended to specific exemptions for Normandy from Royal legislation. In Poirey's view, the monarchy's view on the Norman custom was driven by two main concerns. First, the Capetian kings were not powerful enough to attack the institutions of the Duchy head on. Thus, notwithstanding the edict of Montils les Tours in 1454 which required official redactions of provincial law throughout France, the Normans managed to avoid compliance for more than another century. Secondly, at a time when the kings were keen to bolster their authority in what was far from a centralized kingdom, *coutumiers* which preached the allegiance of seigneurs to the head of the feudal hierarchy were a boon.

5 The relatively light touch by which Philippe Auguste drew Normandy within the larger kingdom was, to a certain extent at least, not replicated by his successor, Saint Louis.<sup>9</sup> Even less so under the next King, Philippe Le Bel: “During the reign of Philippe the Fair the atmosphere suddenly changed. The difficulties of the royal exchequer, accentuated by conflicts with Aragon and Flanders, forced the Sovereign to tax Normandy on the same basis as other parts of the kingdom. This innovation met strong resistance. In 1292 the levy of a Royal tax was the signal for riots in Rouen. In 1304, the granting of a subsidy was the subject of genuine bargaining, at the end of which the king guaranteed the Normans their ‘ancient right’. But despite the hesitations and reservations, the idea gained ground amongst the Normans that their principles were threatened and that a new sanction was therefore imperative. The death of Philippe provide the occasion for it.”<sup>10</sup>

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<sup>6</sup> In *A-M Flambard Hélicher and V. Gazeau, 1204 La Normandie entre Plantagenêts et Capétiens* (2007) pages 289-308.

<sup>7</sup> “But not one may demand tallage or exactions from his men unless by the Duke's writ and indulgence, that is to say because of the burden of war or other similar cause or ordinances which we have proclaimed.”

<sup>8</sup> Poirey, *op. cit.* pages 289 to 290.

<sup>9</sup> Poirey, *ibid* page 292.

<sup>10</sup> Bois, *op. cit.* page 279.

6 That new sanction was the *Charte aux Normands* granted by King Louis le Hutin in 1315. Curiously, there appears to be little written about the actual circumstances in which the *Charte* came to be promulgated. The original preamble at least provides some context. It is addressed, by the King, "*à tous nos feaux, nos justiciers*" and is stated to be in answer to the complaints of the clerics, barons, knights and common people of the duchy of Normandy at the injustices "*griefs & de nouveautés*" suffered at the hands of Louis' predecessor kings. It confirmed the liberties and franchises of the duchy and the ancient customs and usages by which they had long been governed.

7 Following the *Charte*, Bois records that between 1315 and 1317 "Normandy, like all the kingdom, benefited from a kind of fiscal truce. The memory left by Philippe the Fair's measures was too recent, and the feudal reaction following his death too strong, for his sons not to ease earlier pressure...But such a situation could not last long. The implacable logic of the financial needs of a monarchy incessantly threatened with bankruptcy was bound to prevail." Thus, beginning in 1337, the means of extracting extraordinary income was expanded. That is another tale, well told by Bois.<sup>11</sup> Taxation aside however, the customs confirmed in the *Charte* continued to represent Norman law, unless modified by statute, until the French Revolution.

8 The *Charte* is not a statement of the custom, rather a confirmation. It does however in its twenty-three articles (they are not numbered, and their number can vary according to how you separate the paragraphs), list certain matters which had clearly been put in issue and which the charter was intended to settle. Some relate to jurisdiction, to services due to the King, to the payment of his *rentes*, and to currency. There are however, a number of articles which touch on the ancient custom. Moreover, just as the liberties and franchises granted by the English king in the Charter of Edward III in 1341 to the Channel Islanders was repeatedly confirmed by successive sovereigns, so the *Charte* was confirmed by a number of French kings, by Letters Patent, confirmed as binding both upon the province and upon the sovereign for the time being right up to the last patent of Henry III in 1579. In this way, as Richard Falle has observed<sup>12</sup>, the *Charte* can be seen as a bridge of authority supporting the continuity of the ancient custom right up until the time when it was reformed and promulgated in 1583.

9 Several of the articles concern prescription. The 5<sup>th</sup> article states that time could run against the King and confirms the importance of possessory title in the duchy: the King would respect the right of any one within the duchy who had peaceably possessed land for a year and a day, the matter to be settled in court "*selon la coutume du pays*". The 18<sup>th</sup> article confirms the prescriptive period of 40 years for *possession quadragénaire* in Normandy and it is this article which is considered in *Vaudin v Hamon*.

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<sup>11</sup> *Op. cit.* pages 28 to 281.

<sup>12</sup> In an unpublished note on the *Charte aux Normands*.

10 The *Vaudin* case concerned a claim to immovable property in Sark and, specifically, the interpretation of section 1 of the *Loi (1909) relative à la prescription immobilière*. The Privy Council concluded that the words "*qui se prescrivent maintenant*" in the section -

*"A partir du 1er avril 1909 toutes choses immobilières, et actions réelles ou dépendantes de la réalité, qui se prescrivent maintenant par le laps de trente ans seront prescrites par le laps de vingt ans; et suffira la tenue de vingt ans, bien entendu qu'elle soit de bonne foi, pour titre compétent en matière héréditaire."*

showed "clearly" that the statute "looks back to and builds upon the pre-existing law".<sup>13</sup>

11 That pre-existing law was, *via* an 1852 statute, held to be the *Charte* which the Court dated as 1314, rather than 1315. Article 18 of the *Charte* was found to be "concerned with title and is dealing throughout with the conditions on which title may be acquired".

Wilberforce LJ delivered the main judgment -

"This text [Article 18], though not simple, on careful examination leads to conclusions upon which the present appeal can be decided. For its proper understanding, it must first be appreciated that it is dealing, as any law relating to prescription must deal, not only with claims to acquire title to corporeal, or tangible immovables (*meubles corporels*), which are capable of possession, but with claims of an incorporeal character against property (sometimes called in Guernsey *droits réels*) free from which an owner of land may claim to hold the land after expiry of a period during which those claims or rights have not been exercised. In relation to these claims or rights the text provides for extinction by prescription but this extinction is accompanied by, and indeed produces, a positive title, free from them, in the owner of the property.

In their Lordships' opinion, one thing the text certainly does not do is by prescription to extinguish an owner's title to corporeal immovables unless another person was in a position to show an acquisitive prescriptive title; and, most importantly, as a condition of the latter, possession "*paisiblement*" has to be shown. Even under the first sentence, which may operate extintively, it is made clear that the purpose of the prescription is to enable a person to prove good title - "*pour titre compétent*." To suppose that, in relation to a corporeal immovable, it does nothing but provide for extinction of adverse claims after 40 years, would be inconsistent with the second sentence which requires that, in relation to corporeal immovables, possession must be "*paisible*."<sup>14</sup>

12 Finally, readers of the Review will no doubt wish to take due note of the 16<sup>th</sup> article which touches on the advocates in the Norman Courts and their duties. In translation -

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<sup>13</sup> Page 582.

<sup>14</sup> Page 583.

"That any advocate, howsoever great the cause, pleading or instructing do not receive for his salary more than £30 *tournois* and that in the smaller cases the fees shall be taxed for the advocates according to the quality of the case, the custom of the Bar, the capacity of the client, the ability of the advocate and the said advocates shall be constrained by these every year by their oath and that he who shall do to the contrary shall be harshly punished."

13 This article will now set out the text. Not unusually, in our jurisdictions, choice of ancient text is determined by what is available. The *Charte* in (as far as one can reasonably ascertain) its original Latin form is included in the works of several of the commentators on Norman law. The Latin version of the *Charte* which we now set out is taken from a 1588 edition of *Coustumes du Pais de Normandie* published in Rouen. The French version is taken from that reproduced by Anne Bellanger, *La Charte aux Normands*.<sup>15</sup> The preamble is not set out for a number of reasons. First, as noted, the *Charte* was endorsed by a number of later monarchs. The draftsmen of each successive endorsement clearly sought to outdo the previous draftsman in the pages of flowery preamble dedicated to the perceived virtues of the monarch in question. Such panegyrics have no relevance for the contemporary lawyer. Secondly, and more prosaically, the French translation does not include them either.

*Primo eis ac suis heredibus & successoribus concedimus, statuimus & etiam ordinamus, quod nos, aut nostri successores in dicto ducatu Normaniæ de cæterò aliam monetam quam Turonensem & Pariensiensem & grossos Turonenses ac obolos albos de pondere & valore quibus erant tempore supradicti proavi nostri fieri non faciemus, neca aliam monetam cursum habere quoquo modo, maxime cum ob hoc certos redditus in dicto ducatu de triennio in triennium percipiamus ab antiquo.*

*Item quod redditus nobis debitos pro dicta pecunia non mutanda qui in dicto ducatu monetariam alias focagium nuncupantur, levare non faciemus aut etiam aliquantulum permittemus levare nisi quatenus in registro consuetudinis Normaniæ continetur, usu quocumque*

*A euls, a leurs hoirs, et a leurs successeurs avons estably, et ordonné, et de rechief ordonnons, que nous, ou nos successeurs en la duchié de Normandie doresnavant, autre monnoie, que tournois et Parisis, et de gros tournois, et de mailles blanches du pois et de la valüe, que ils estoient au temps de nostre bisael, ne ferons, ne autre monoye avoir cours en aucune maniere, veu que pour ce certaines rentes en ladite duchié, de trois ans en trois ans, nous recevons d'ancieneté.*

*Item. Que nous ne ferons lever, ne souffrirons les rentes qui nous sont dûes pour ladite monnoie non müer, qui en ladite duchié est appelé Moneage, ou Fouage, estre levées en aucune manières en aucune maniere, si n'est comme il est contenu au registre de la*

<sup>15</sup> Caen 1961

*contrario in permissis non obstante.*

*Item quod illi nobiles aut ignobiles qui nobis & successoribus nostris in guerris & exercitibus nostris certa debent servitia, ipsis servitiis persolutis liberi remaneat & immunes nec ulterius per nos aut nostros successores possint cogi inuiti ad alia servitia exercitus nobis facienda, nisi in casu in quo retrobannum ex causa imminente rationabiliter fieri oporteret: Illi vero dicti ducatus qui ad aliqua servitia certa nobis non tenentur, ad aliqua servitia exercitus nobis facienda, vel præstandas nobis propter hoc financias compelli nequeant, nisi in casu superiùs & immediate declarato.*

*Item cum homines nostri dicti ducatus servitia nobis ab ipsis debita ratione nostri exercitus, vel alias nobis persolverint in servitiis vel auxiliis eisdem à suis subtenentibus debitis nihil juris de cætero poterimus aut debemus reclamare seu aliquatenus vindicare salvo jure nostro in casu retrobanni.*

*Item si nos aut nostri successores aliqua jura redditus aut possessiones, ab aliquo dicti ducatus possessa per annum & diem pacifice velimus in futurum quomodolibet vindicare aut alias ad nos pertinere debere dicamus apud ipsum possessorem possessione liberè manente secundum patriæ*

*coutume de Normandie, nonobstant quelconque usage contraire ausdites choses.*

*Item. Que iceux nobles, et non nobles, qui a nous et a nos successeurs en nos guerres et ost, doivent certains, services et homages, iceux services payez, demeurent quittes et francs, sans ce que par nous, ne per nos successeurs puissent estre contrains a autre service d'ost fait q nous, fors en cas de l'arriere-ban, qui convient estre raisonnable et de cause apparissant.*

*Item. Que iceux homes qui ne sont tenus envers nous en aucuns certains services, a cause de ladite duchié, ne puissent estre contrains a aucun service estre fait a nous, ou finance estre pretée, fors en cas dessus dit, et derrainement déclaré.*

*Item. Quand les homes de nostre duchié de Normandie nous aurons payé les services dûs pour raison de nostre ost, ou autrement, nous ne pourrons, ne ne devons reclamer, ou en aucune maniere avoir aucune chose doresnavant aux aydes, ou aux services dûs a ceux de leurs soutenans, sauf notre droit en cas d'arriere-ban.*

*Item. Se nous, ou nos successeurs voullons en temps a venir acquerir, ou dire a nous appartenir aucuns droits de rente, ou de possession, qui ayt esté possedée par aucun de notre duchié, par an et jour paisiblement, la cause, on negoce soit terminée doresnavant sur la propriété selon la coutume du pays,*

*consuetudinem causa seu negotium super proprietate de cætero terminentur, quocumque usu contrario non obstante. Si verò utrum possessor per annum & diem possederit rem petitam aut petendam à nobis vel non merito in dubium revocetur quæstione super huiusmodi dubio possessionis pendente, res ipsa in manu nostrat tanquam in manu superioris sequestrabitur quousque de ipsa possessione cognitum fuerit & etiam diffinitum, & si finaliter inuentum fuerit ipsum possessorem per annum & diem rem de qua agetur pacifice possedis, possessio pacifice apud ipsum remanebit, & proprietatis iudicium agitabitur ut præfertur.*

*Item quod de cætero per nos aut nostros successores in dicto ducatu in personis aut bonis ibidem cōmorantiū ultra redditus census & servitia nobis debita taillias, subventiones, impositiones aut exactiones quascunque facere nō possimus, nec etiam debeamus nisi evidens utilitas vel urgens necessitas id exposcat.*

*Item quod de cætero nullus serviens noster spadæ uel alius officialis noster cuiuscunque cōditionis existat, servitium vel officium sibi cōcessum alij cuicunque locare valeat quocunque colore quæsito, alias ipso facto ipsum servitium vel officium amittat.*

*Item quod illis qui nostro nomine nummata quæcumque pro nostris munitionibus aut necessariis ubilibet capere voluerint non parcatur impune, nisi literas apertas deferant & ostendant*

*la possession demourant franchement par devers iceux possesseurs, nonobstant usage au contraire. Item. Se il est doute, sçavoir si le possesseur a possédé par an et jour la chose requise, la question pendant d'icelle possession, icelle mesme chose sera gardée en nostre main comme souverain, jusques a tant qu'il ayt esté cogueu d'icelle possession, et definy. Et se il est trouvé finalement, qu'il ayt icelle chose possédée paisiblement par an et jour, la possession lui remaindra paisible, et le jugement de la propriété sera fait et demené, si comme devant est dit.*

*Item. Doresnavant par nous, ou par nos successeurs, en ladite duchié ès personnes, ou ès biens, outre rentes chevets et services dûs a nous, tailles, et subventions, impositions, contractions, ou exactions quelconques faire ne puissions, ne doions sur iceux qui y demeurent, si nécessité grand ne le requiert.*

*Item. Doresnavant que aucun nostre sergent de l'épée, ou autre nostre officier, de quelconque condition qu'il soit, service, ou office a lui octroyé ne puisse loüer a autre, par quelque maniere que ce soit. Et se autrement il le fait il perdra iceluy office, ou service.*

*Item. Aucun ne obéisse a ceux, qui en nostre nom auronst voulu prendre denrées quelconques, pour nos garnisons et necessitez, se ils n'apportent lettres patentes scellées de*

*super hoc confectas sigillo nostro aut Magistri hospitij nostri communitas & etiam dum sit huiusmodi literas nostras vel dicti Magistri nostri detulerini loci justitiarum vocare teneantur & per fide dignos nummata facere appretiari pretio legitimo secundum temporis & loci qualitatem & pretium sic taxatum solvere antequam nummata permittatur deferre. Qui vero contrarium fecerint per justitiarium loci arrestentur per eum ad quem pertinuerit corrigendi.*

*Item quod de cætero de nemoribus mortuis videlicet Gallice des Saulx, Marsaulx, Espine & Puine, Seur, Aulne, Genest, Geneure & Ronces, nullus in Ducatu Normaniæ cuiuscumque conditionis existat tertium & dangerium vel eorum alterũ nobis aut alteri nostro nomine de cætero solvere teneatur, nec quisque ratione tertij & dangerij pro dictis nemoribus mortuis, de cætero valeant molestari usu quocumque contrario non obstante.*

*Item quod si aliquis dicat sua nemora plantata suisse ab antiquo, & sic proeis tertium & dageriũ non deberi, Bailliuus in cuius bailliua dicta nemora sita fuerint aut Magistri forestarũ nostrarũ seu alter eorumde qua primum poterit ad dicta nemora condescendat, & vocatis fide dignis non suspectis in talibus expertis inquirat ut decebit super hoc diligentius veritate, & per circumstantias aut præsumptiones universas quæ tam pro nobis quam pro parte facere possent quæstione pro nobis aut cõtra nos diffiniat sine mora, nisi alias adeo dubium vel obscurum sibi occurrat quod ad Scacarium nostrum Rothomagenfem*

*notre schel, ou de notre hostel. Et jaçoit qu'ils apportent lettres de nous, ou dudit maître, ils soient tenus appeler la justice du lieu, et faire priser par loyaux hommes, les denrées, et payer le prix qui en sera trouvé, avant qu'ils les emportent. Et qui fera le contraire soit arrêté par cil a qui il appartiendra a eux corigier.*

*Item. Que aucun de ladite duchié de Normandie, de quelque condition qu'il soit, ne soit tenu payer doresnavant a nous, ne a aucun en nostre nom, tiers ne dangier de mort-bois, c'est a sçavoir, de Saulx, de Marsaulx, de Espine, Puisne, Sceur, Aulnes, Genest, Genievre et Ronches, ne aucun par raison du tiers et dangier pour les dits mort-bois ne puissent doresnavant estre molestez, non contrestant quelque usage au contraire.*

*Item. Se aucun dit que ses bois ayent esté planté d'ancieneté, et pour ce n'en doit-il tiers, ne dangier, le baillif en quel bailliage les bois sont, ou les maîtres de de nos forests, ou l'un de ceux qui premier pourra, voise au lieu, preudes hommes non souspeçonneux appelez, enquerre comme il appartiendra sur ce diligemment la véritém et definisse sans demeure, la question pour nous, ou contre nous, par les circonstances, et presomptions de bonnes gens, se pour ce doubte, ou obscurité ne luy appert, laquelle chose, si elle luy appert, il renvoye en nostre eschiquier a Rouën, afin que ce qui en doit estre fait, soit*

*huiusmodi negotium sit merito remittendum. Quo casu ille qui super hoc inquisiverit negotium & inquestam sub suo sigillo interclusam in proximo tunc sequenti nostro Scacario remittere non postponat ut super his quid agendum fuerit celeriter iudicetur.*

*Item quod ubicumque per gentes nostras vel aliquos deputatos ab eisdem aliqua pecunia levata feurit pro pontibus faciendis vel reficiendis vel in statu tenendis, quod huiusmodi pecunia per comptum legitimu in dictis usibus covertatur, & si quid residuum fuerit aut quicquid de cætero levare contigerit ad usus prædictos integraliter & providè conseruetur.*

*Item quod ubicumque potes sumptibus & expensis nostris facere aut reficere seu in statu tenere cosuevimus ab antiquo pro ipsis faciendis, reficiendis vel in statu tenendis nullus noster subditus de cætero aliquatenus contribuere teneatur.*

*Item quod quilibet nobilis aut alius quicunque ratione dignitatis sui feodi quod obtinet in ducatu Normaniæ de cætero veriscum & res vayas in sua terra percipiat integraliter prout in registro consuetudinis Normaniæ continetur quocúmque usu contrario non obstante.*

*Item quod de cetero de triennio in triennium in ducatu nostro Normaniæ inquisitores sufficientes & idoneos, nos & nostri successores mittere teneamur, pro reformadis, corrigendis & puniendis*

*jugé hastivement.*

*Item. En quelque lieu que monoye aura esté levée par nos gens, ou aucuns leurs deputez pour pons estre faits, ou refaits, ou estre tenus en estat, que icelle monoye, par bon compte et loyal, soit convertie es dits usages? Et si aucun residu y a, ou aucune chose, outre ce qui aura esté levé pour les usages devant dits, entierement soient conservez pour lesdits usages.*

*Item. Que aucun nostre soumis ne soit tenu doresnavant en aucune maniere, a faire, ne a tenir en estat les pons, que nous avons accoustumé a faire, ou refaire, ou a tenir en estat a nos couts et depens.*

*Item. Que chascun noble, ou autre par la raison de sa droiture, ou de son fiés, qu'il tient en la duchié de Normandie, doresnavant varech et choses gaives en sa terre, ayt, et prenne entierement, si coume est contenu au registre de la coustume de Normandie, usage au contraire non contrestant.*

*Item. Que doresnavant en notre duchié de Normandie, nous et nos successeurs serons tenus envoyer enquesteurs suffisans de trois ans en trois ans, pour reformer, corriger et punir les exés de*

*excessibus officialium nostrorum quorumcúmque qui officia nostra gesserint in ducatu memorato.*

*Item quod in ducatu Normaniæ nullus liber homo de cætero ponatur in quæstionibus vel tormentis nisi vehementes præsumptiones & veri similes coniecturæ ipsum reddant suspectum de crimine capitali et in eo casu in quo poni debet in tormentis talibus subiiciatur & adeo moderatis quod propter gravitatem tormentorum mors aut membri mutilatio aliquatenus non sequatur.*

*Item quod nullus advocatus pro maiori causa ultra triginta libras Turonenses pro salario recipiat, in cæteris vero minoribus causis ipsis advocatis à iudice sua salaria statuuntur secundum qualitatem causæ, consuetudinem fori, possibilitatem clientuli, & industriam advocati, & de iis advocati quolibet anno juramentis propriis adstringantur, & qui contrarium fecerit gravissime puniatur.*

*Item cum causæ ducatus Normaniæ secundum patriæ consuetudinem debeant terminari quod ex quo in Scacario nostro Rothomagensi fuerint terminatæ vel sententialiter definitæ per quamcunque viam ad nos vel Parlamentum nostrum Parisius de cætero nullatenus deferantur, nec etiam super causis dicti ducatus ad Parlamentum nostrum aliqui valeant adiornari.*

*Item quod quadragenaria præscriptio*

*nos officiers en nostre duchié de Normandie.*

*Item. Que en la duchié de Normandie, nul franc homme doresenavant ne soit mis en questions, ne en tourmens se presomptions et conjectures vraysemblables ne le rendent souspeçonneux de crime capital. Et si pour iceux cas, il est mis en tourmens, soit mis en tourmens si attrempez, que pour la grieveté des tourmens, mort, ne perte de ses membres ne ensieue.*

*Item. Que aucun avocat ne reçoive pour son salaire, pour la greigneur cause, outre trante livres tournois, et ès autres mendres soient les salaires establis du juge, selon quantité des causes, et la coutumance du lieu, et le pouair de la personne, et la noblesse de l'avocat. Es dites choses soient les avocats contrains chacun an par leur serment, et qui fera le contraire soit puni grifvement.*

*Item. Comme les causes de la duchié de Normandie, selon la coutume du pays doivent estre terminées, que depuis qu'elles auront esté terminées, ou finies par sentence, par quelque voye que ce soit en nostre eschiquier a Roüen, doresenavant ne puissent estre apportées, ni envoyées, ou a nous, ou en nostre parment, ni que aucun puisse en nostre parlement estre adjourné des causes de ladite duchié.*

*Item. Que la prescription, ou la tenüe de*

*cuilibet in ducatu Normaniæ de cætero sufficiat pro titulo competenti siue de totali alta aut bassa justitia contendatur, siue de quocumque articulo ad alta aut bassam justitia siue ad alteram earumdem quomodolibet pertinenti siue ex quacumque alia re cotendatur, & si quisquam ducatus Normaniæ cuiuscumque conditionis aut status existat aliquid de præmissis aut aliquod præmissorum per quadraginta annos pacifice possederit super hoc nequaquam molestetur ulterius aut à nostris justitiariis permittatur aliquatenus molestari: quinimo contrarium volens facere nullatenus admittatur cum talibus ius, consuetudo, & ordinatio, dicti proavi nostri evidentissime adversentur quocúmque usu contrario non obstante, per\_\_\_c tamē in causis juris patronatus Ecclesiarum nobis aut (quo) aliis non intēdimus præiudiciu generare, sed volumus constitutionem & consuetudinem scriptas super hoc inviolabiliter observari.*

*Item quod de cætero hæreditas cuiuscumque pro defectu solutionis nostrorum debitorum nostro patrimonio applicanda quantum valere posset in decem annis fide dignorum testimonio iuratori legitime primitus æstimetur, et pro tali æstimatione & pretio non minori dicto nostro patrimonio absque alterius præiudicio assignetur.*

*Item quod si alicuius hæreditas nobis aut nostris successoribus obvenerit ob defectum solutionis nostrorum debitorum quod intra annum in quo hæreditas ad nos taliter devenerit illi de genere ipsius*

*quarante ans suffise a chascun en Normandie doresnavant pour titre competant, en toute haute justice et basse, ou de quelconque chose que ce soit. Et se aucun de la duchié de Normandie, de quelconque condition ou estat qu'il soit, aucunes des choses dessusdites aura possedées par quarante ans paisiblement, qu'il ne soit sur ce molesté en aucune maniere de nos justiciers, ne souffert estre molesté. Et qui le contraire voudra faire, il ne soit de rien ouy, ne reçu en aucune maniere, combien que le droit de la coutume, et l'ordonnance dudit nostre bisael soient evidemment contraires a ces choses, et ce voullons estre gardé nonobstant tout usage contraire. Non pourtant nous ne voullons garder fermement la constitution de la coustume sur ce faite, sans enfreindre.*

*Item. Que l'heritage de quiconques qui soit tenu, qu'il convenra par la defaute du payement de nos dettes, estre appliqué a nostre patrimoine, soit estimé loyaument ce qu'il pourra vaoir en dix ans, par le temoignage de loyaux hommes. Et pour cette estimation du prix. Et non pas mendre, a nostre patrimoine, sans prejudice d'autruy, soit assigné.*

*Item. Quand l'heritage sera venu a nous, ou a nos successeurs pour la defaute du payement de nos dettes, que dedans l'an auquel l'heritage nous sera ainsi venu, ceux du lignage de celui de*

*cuius fuerit hæreditas aut dominus à quo tenebatur, ipsa hæreditas in defectum illius de genere ad retrahendum de cætero sine difficultate admittantur, seruata in hac parte consuetudine patriæ inter nostros subditos hactenus observata usu quocúmque contrario non obstante.*

*Item quod propter quamcunque donationem, permutationem aut alienationem qualemcunque de bonis ad nostrum patrimonium pertinentibus per nos aut nostros successores cuicúmque factam aut faciendam dicti nostri subditi per illum in quem dictum nostrum patrimonium transtulerimus ut præfertur in loco vel sub iudice remotioritrahí non possint, nec ipsi subditi comparere aut respondere teneantur quod ipsi antea tenebantur ac etiam ipsis nostris subditis ducatus Normaniæ ob hoc præiudicium aliquod nullatenus generetur in super peproræmissa aut aliquod premissorum patriæ consuetudinem non intendimus aliquatenus erga subditos immutari.*

*Item quod super executione literarum, obligationum coram nostris iudicibus confectarum partes de cætero nullatenus ponantur in processu: et si contrarium fiat non teneat ipso iure nisi ex parte debitoris solutio allegetur: in quo casu saisita manu nostra de quantitate petita probationes ex parte debitoris admittantur.*

*Item quod in ullo casu in mercato bursæ querelatus nisi mercatum possideat respondere nullatenus teneatur etiam si nos mercatum bursæ retrahere*

*qui l'heritage fust, ou le seigneur de qui l'heritage, suivant la coustume du pays qui est gardée entre nos soumis, non contrestant usage contraire?*

*Item. Que aucun ne soit trait pardevant, aucun juge étrange, ne eu lieu lointain, pour quelconque don, permutation, ou par quelconque maniere faite, ou a faire des biens de nostre patrimoine, par nous, ou par nos successeurs, ne que aucun soit tenu comparer, ne répondre neant plus qu'il estoit pardevant, et que a nos soubmis de la duchié de Normandie aucun prejudice ne puisse estre acquis, ni engendré. Et si n'entendons pas envers nos soumis müer les choses dessus dites, ou aucunes d'icelles contre la coustume du pays.*

*Item. Que sur l'execution des lettres d'obligation faites devant nos juges, les parties ne seront mises en aucune maniere en procez, et si le contraire est fait ne tienne pas, si le payement n'est allegué du debiteur, auquel cas nostre main garnie de la quantité de la dette, la preuve soit reçüe de la partie du debiteur.*

*Item. Que en aucun cas de marchié debourcé, le querellé ne soit tenu a répondre, se il ne possède le marchié, au cas mesmes que nous efforcerions a*

*niteremur: Hæc autem omnia & singula supradicta ad perpetuam rei memoriam nostris subditis quibuscunque huiusmodi ducatus Normaniæ concessimus, concedimus, & auctoritate regia confirmamus, & ab omnibus nostris justitiariis præcipimus perpetuo inviolabiliter observari. Datum apud Vicennum sub sigillo nostro anno Domini millesimo trecentesimo quinto decimo mense Julio. Aliarum vero literarum tenor est talis.*

*(Coustumes du Pais de Normandie, Anciens Ressors, et Enclaves d'iceluy A Rouen, pour Thomas Mallard, marchand Libraire, demourant à Rouen)*

*retraire ledit marchié. Item. Toutes les choses dessusdites et chacune d'icelles nous octroions, et avons octroyé a tous nos soubmis de la duchié de Normandie a memoire prepetuel, et les confermons de l'autorité royal, et a tous nos justiciers le commandons a estre fermement gardé a perpetuité, sans aucune corruption. Donné a Vincennes sous nostre scel, duquel nous usions nostre pere vivant, au 19ème jour du mois de mars, en l'an de grace MCCCXV.*

*(Anne Bellanger, La Charte aux Normands, Mémoire D.E.S. Faculté d'Histoire de Caen, 1961, 120 pages, non publié).*

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