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# "*Lé Rouai, Nouot' Duc*" [\[1\]](#)

**Paul Matthews**

## **Introduction**

Every Channel Islander knows that the Queen (or King) of England is also the Duke of Normandy [\[2\]](#) . But is that really right? Does the medieval title of "Duke of Normandy" still exist? And, if it does, is it really the Queen who holds it? There is a wealth of historical and legal material, spanning at least three different jurisdictions, bearing on the point. As there is enough here for several doctoral theses, constraints of time and space mean that this article can only include the barest summary. Historians will shudder. But lawyers have a living to earn.

## **History**

By three grants, in 911, 924 and 933, French "Kings" ceded the area of France now known as Normandy to Scandinavian invaders. Their leader became known as *dux*, or duke, of Normandy. The boundaries of the areas ceded are imprecise [\[3\]](#), and there is no clear evidence that they included the Channel Islands, which the Normans may simply have taken by force from whoever was occupying them [\[4\]](#) . William of Normandy succeeded his father Robert as Duke in 1035. In 1066 he became King of England, by conquest if not also by nomination of Edward the Confessor [\[5\]](#) . It would be simple if we could say that every king (and queen regnant) of England since then has also been Duke of Normandy. But it would not be true. It was not even true when King William died. At the time of the Conquest, Normandy was part of France, and the Dukes of Normandy were (at least nominally) vassals of the Kings of France [\[6\]](#) . England was another matter, and its King was no man's vassal. On William's death in 1087, his eldest son Robert (Curthose) became Duke of Normandy, whilst his second son William (Rufus) became King of England [\[7\]](#) . William died a bachelor in 1100 in mysterious circumstances in the New Forest. A third son, Henry (Beauclerc) usurped the English throne from his elder brother [\[8\]](#) . Six years later, he deposed Robert as Duke of Normandy as well, depriving Robert's son (William Clito) of his inheritance in the process.

When King (and Duke) Henry died in 1135, he intended his daughter Matilda (or Maud) to succeed him in both titles [\[9\]](#) . But his nephew Stephen of Blois, preferred by the barons [\[10\]](#), fought a civil war with his cousin, and made himself king and duke. On the other hand, Matilda's second husband, Geoffrey Count of Anjou, managed to depose Stephen as Duke of Normandy, and himself became duke in right of his wife [\[11\]](#) . Indeed, in 1149-1150, during his own lifetime, he transmitted the title to their son Henry [\[12\]](#) . A deal was struck with Stephen, whose eldest son Eustace had died [\[13\]](#) . Stephen would remain king for his life, but Henry would succeed him on his death. Stephen died in 1154, and Henry at the age of 21 became King Henry II of England. He was now Duke of Normandy, Count of Anjou

since his father's death in 1151, and also Duke of Aquitaine in right of his own wife Eleanor. [\[14\]](#)

This valuable collection of French fiefs in the hands of a single determined individual [\[15\]](#) would have seemed alarming to the French king. At this time French kings were weak, and their vassals strong [\[16\]](#). How much territory the French king was really king of depended on many factors. But in practice it was very much smaller than modern day France [\[17\]](#). To have a powerful foreign king as a nominal vassal in many different parts of what you claimed as your kingdom was both difficult and dangerous. King Philippe Auguste (who had succeeded to the French throne in 1180) therefore encouraged Henry's four sons, Henry the younger [\[18\]](#), Richard, Geoffrey and John, to revolt against their father. In truth they needed little encouragement in this [\[19\]](#). Geoffrey (whom he courted first) [\[20\]](#) died in 1186, in his father's lifetime. He left a posthumous son, Arthur. Philippe Auguste turned his attention to Richard (The Lionheart) [\[21\]](#). Henry died in 1189, to be succeeded by Richard. But Richard was rarely in England, being more interested in the Crusades to the Holy Land. He caused Philippe Auguste little bother. After Richard's death in 1199, John usurped the place of his young nephew Arthur and became king. Geoffrey's widow was the heiress of the Duke of Brittany, to which title Arthur in due course succeeded.

Philippe Auguste now turned his attention to John. In 1202 he required John to come to France and appear before the Court of the French barons at Paris, to answer claims of breach of feudal obligations [\[22\]](#). John refused. Philippe Auguste was thus able to claim before the peers of France that all John's French possessions were forfeit to the French crown [\[23\]](#). With Duke Arthur's assistance, Philippe swept into Normandy and Anjou and drove John from the mainland of northern France by 1204 [\[24\]](#). He even managed to occupy the Channel Islands, on at least two occasions. But only temporarily [\[25\]](#). The French did so well against John that, with the support of the Pope (who had ordered John's "deposition"), they even contemplated invading England [\[26\]](#). However, in 1216 John died, to be succeeded by his own son King Henry III. The threat of invasion receded.

But Henry III did not give up the claim to continental Normandy. For much of his reign he was certainly described in legal documents as Duke of Normandy, even though the only parts of the Duchy still remaining even nominally under his control were the Channel Islands. In his confirmatory charter of 1223 [\[27\]](#), for example, Henry is described as King of England, Lord of Ireland, Duke of Normandy, Duke of Guyan (Guyenne, i.e. Aquitaine) and Earl of Anjou. He was similarly described in a Royal Writ issued to the Warden of the Channel Islands in 1248, requiring him to inquire into the laws instituted there by King John [\[28\]](#). In 1254 Henry conferred an apanage on his elder son Edward, granting him all his remaining French territories - including the Channel Islands - on terms "that they should never be separated from the Crown... but should remain to the Kings of England in their entirety for ever." [\[29\]](#)

The Anglo-French conflict over Normandy dragged on until 1259, when the Treaty of Paris was signed. By this treaty Henry, concerned to protect his more valuable interests in Aquitaine, expressly gave up all claim to Normandy [\[30\]](#), and never thereafter called himself Duke [\[31\]](#). If matters rested there, there would be no question of any English sovereign thereafter having legal right to the title Duke of Normandy. It is true that Henry's son Edward protested at his father's action, both then and once he had become king in 1272 [\[32\]](#). But Edward subsequently became Count of Ponthieu in right of his wife [\[33\]](#), and Normandy became less important to him. So he too renounced any claim he might have had

to Normandy, in the Treaty of Amiens in 1279 [34]. Consistently with this, in the legal text known as Britton [35], in his own confirmation of Magna Carta, in 1297 [36], and in other legal documents, such as a nomination of commissioners to hear a case in Jersey in 1305 [37], Edward I was described as King of England, Lord of Ireland, and Duke of Guyan, but (unlike his father in 1223 and 1248) neither as Duke of Normandy, nor as Earl of Anjou. This does not mean that the *status* of the Channel Islands changed [38]. But from now on their overlord was King of England, not Duke of Normandy, and, whatever the French of the time may have thought [39], any nominal suzerainty of the King of France had gone. [40]

As Shakespeare might say, the scene now moves to France. In 1314 the King of France, Philippe IV (Le Bel) died, leaving three sons and a daughter. These three sons were to become known as *Les Rois Maudits* [41]. Philippe's wife, their mother (who had predeceased her husband) had been Queen of Navarre and Countess of Champagne in her own right. Philippe's eldest son became King Louis X. He died in 1316, leaving a daughter Jeanne, aged 5, and a posthumous son (Jean) who lived only a few days. Jeanne's claim to succeed her baby brother was ignored in favour of her uncle, Philippe Le Bel's second son, also called Philippe (Le Long) [42]. Philippe was hurriedly crowned King Philippe V. An assembly of nobles, called for the purpose, approved the coronation:

*"Etiam declaratum fuit quod ad coronam Franciae mulier non succedit"*. [43]

In dynastic terms, this king fared no better. He died in 1322, also leaving a daughter, but no son. The circumstances of the father's succession hence excluded the daughter. So the third brother, Charles, became king. He reigned until 1328, when he died. He too left a posthumous daughter, but again no son. Jeanne, the daughter of Louis X, was now seventeen, but (given the declaration of 1317) it was too late for her. Philippe Le Bel's fourth child was a daughter, Isabelle. She had married King Edward II of England, the weak son of Edward I. Edward II had died the year before, and their son, the young Edward III, was now the King of England. Edward was thus the nephew of the last three French kings. That made him their nearest male heir. He was not - like Jeanne - a woman. But he was descended *through* a woman. And - much worse - he was the king of a deadly rival kingdom. Small surprise, therefore, that the nobles of France instead supported the late king's first cousin, Philippe De Valois, to become King Philippe VI. Edward was excluded expressly because he claimed through a woman:

*"Quod si dictus filius izabellae haberet aliquod jus in regno, hoc sibi naturalitur accederit ratione matris; ubi ergo mater nullum jus haberet, per consequens nec filius..."* [44]

So Edward III of England was passed over as King of France. His mother, Queen Isabelle, on his behalf sent envoys to protest. But to no avail [45]. The claim appears to have been dropped. In 1328 Edward was only sixteen. Indeed, he did homage to Philippe De Valois for his French fiefs, including Aquitaine [46]. But later on resentment grew (as it does). Within a few years his claim to the French throne itself led directly to the Hundred Years' War. Historians have debated the causes of this war [47]. Was it feudal, in that Edward III disliked doing homage to another king, his equal? Or was it dynastic, in that Edward resented being passed over for the French throne? Did Edward mean his claim to be taken seriously? Or was it just a diplomatic or negotiating tactic to obtain concessions elsewhere? From the point of view of this article, it does not matter very much.

What we should note is that from 1332 onwards Philippe De Valois, now King Philippe VI, gave his son Jean (later King Jean II Le Bon) the title Duke of Normandy [48]. Even Froissart, a fairly objective, even anglophile, observer of events, so refers to him in his Chronicles [49]. So it is clear that he was so known. And, once Jean succeeded his father as king in 1350, he conferred on his *own* eldest son Charles (later Charles V Le Sage) the title Duke of Normandy in his turn. Froissart again followed suit. [50]

In 1332 no one on the English side appears to have sought to be called Duke of Normandy [51]. Indeed Edward III did not claim the title of King of France until 1341 [52]. It was only about a quarter of a century later, about 1357, during his campaigns in Normandy, that Edward III of England appears for a short time to have used the title [53]. But unlike the kings of France, who gave it to their eldest sons, Edward kept the title for himself, and did not give it to his own son, the Black Prince. Understandably enough, Edward in his military campaign was seeking to trade on the family association with the surrounding area, despite the fact that it was over a hundred years since any of his ancestors had used the title. In any event the use of the title was ambiguous. Was Edward claiming to be Duke through his father, as successor to King John? Or was he claiming to be Duke through his mother, ie as successor to King Philippe Auguste, who had taken back Normandy for himself? Whatever the position, it appears the use of the title was tactical rather than heartfelt [54]. For only a few years later, in the Treaty of Bretigny, in 1360, King Edward III, like his grandfather and great grandfather before him, settled for guarantees about Aquitaine in return for agreeing to give up all claim to France itself and to mainland Normandy [55]. For the third time in a century, an English king in a solemn treaty put Aquitaine first and renounced, for himself and his successors, the title of Duke of Normandy [56]. But the Channel Islands themselves continued to be held by the English King and, whatever the previous position [57], for the future it would be in full ownership [58].

Bretigny marked a pause in the Hundred Years' War. It did not mark its end. Recriminations on each side, about the other keeping its terms, led in due course to Edward III's announcement in 1369 that he was retaking the name and title of King of France [59], and then to a resumption of hostilities [60]. This reached a pitch during the reign of King Henry V, 1413 - 1422. The Black Prince had died before becoming king, and his own son, Richard II, had been deposed in 1399 by his cousin Bolingbroke (Henry IV), the father of King Henry V. Henry V was thus the grandson of John of Gaunt, and the great grandson of King Edward III.

Henry however pressed his claim, not to be Duke of Normandy [61], *but to be King of France*. Shakespeare makes Henry V say

*"Cheerly to sea, the signs of war advance:*

*No King of England, if not King of France". [62]*

This is not just a great exit line. It accurately encapsulates the dynastic argument according to which the English king was also the person entitled to the French throne, and that the Valois kings were usurpers. In making his claim to the throne of France, Henry was met - seemingly for the first time - with reliance by King Charles VI "Le Fou" (grandson of Jean II Le Bon) on the Salic Law. We will return briefly to this issue later. Henry invaded France and (inter alia) won the battle of Agincourt in 1415. English statutes at the time refer to him as "King of England and France, and Lord of Ireland" [63]. Not Duke of Normandy. It is

true that, in the period 1417 to 1419, during his campaigns in France, he *did* refer to himself locally as the Duke of Normandy [64]. But, as with his great grandfather, this may well have been a practical approach.

In 1420 the victorious King Henry V entered the Treaty of Troyes with King Charles VI. This achieved everything that Henry wanted. He married Charles' daughter Catharine, and was recognised as heir to the French throne after the death of Charles. Charles VI's son, the Dauphin (also Charles) was disinherited. Two very important features of the Treaty of Troyes should be noted. First, Henry no longer claimed to be King of France [65]. Instead he claimed to be *heir* to the King of France. So he no longer attacked the title of the French king. Instead he claimed *through* it. Secondly, mainland Normandy was *in future* to be treated in legal terms *as a part of France* [66]. Once Henry became King of France [67], it was to go where France went, and not separately. Until then, it was to be retained by Henry in his own hands [68]. But the Treaty left the Channel Islands in the hands of the English King as King; they were not rejoined to continental Normandy [69]. The Treaty was bitterly attacked by Charles the Dauphin, and with reason, since it disinherited him. Unfortunately, Henry V died in 1422, shortly after the birth of his son (who became King Henry VI), and shortly before the French King Charles VI himself. On the death of Charles VI, mainland Normandy was indeed reunited with France [70]. No attempt appears ever to have been made to reintegrate the Channel Islands into Normandy, let alone into France itself. We will never know what would have happened had Henry V survived.

What *did* happen was a continuation of the Hundred Years' War. Inevitably, those supporting Henry VI claimed him, following the treaty of Troyes, to be King of France as well as of England. No separate claim to be Duke of Normandy can be found [71]. Given the favourable terms of the Treaty of Troyes, it would be surprising if any were made. Nevertheless, distinctions between France generally and Normandy in particular were occasionally found [72]. It is unclear whether these had any greater significance than the purely geographical. At that point in the war, the English retained physical control of Normandy, but not all of France. There was accordingly reason why some English statutes should expressly purport to have effect in Normandy, but not in the rest of France. The French, meanwhile, aided by Jeanne D'Arc, made gains. They retook Paris in 1436, and, after the battle of Formigny in 1450, managed to seize back the territory of mainland Normandy. Thereafter, the only Dukes of Normandy so called are found on the French side. They include Charles de Berry (brother of Louis XI) for a few months in 1465 to 1466, and (centuries later) Louis Charles, the second son of Louis XVI and Marie Antoinette, who from his birth in 1785, until the death in 1789 of his elder brother, the Dauphin, had borne the title of Duke of Normandy. [73]

## Royal Titles

We have seen how the titles claimed by English (and French) monarchs varied over the late medieval period. It would be sensible to complete the picture by bringing the claiming of titles more or less up to date. All English monarchs from Henry VI on [74], without exception, claimed the title of "King (or Queen) of France", until the Treaty of Amiens in 1802, by which the claim to that title was formally abandoned [75]. However I can trace no claim by any of them to be Duke of Normandy. This is hardly surprising, as such a claim would be inconsistent with the treaties of Paris, Bretigny, Amiens and of course Troyes, under which the clearest title to be King of France arose. Thus, in an Order in Council of

Henry VII [76], the Jersey record shows that Thomas Lemprière was "*Bailli de notre Souverain Sire le Roi d'Angleterre en l'Isle de Jersey*." In the body of the Order a reference was made to "the subjects of the King of the said Island." Similarly, Orders in Council of King Henry VIII in 1541, addressed (in Latin) to "Hillary Delaroque, lieutenant of the bailiff of our Island of Jersey", referred to the King simply as "King of England and of France, Defender of the Faith, Lord of Ireland and Head of the Anglican Church on Earth. [77]" And, in another Jersey court document referring to a Jersey family, King Philip and Queen Mary were described as King and Queen of England, France, Naples, Jerusalem and Ireland, and many other princely and noble titles too, but *nothing at all* in relation to Normandy [78]. The charters to Jersey of later monarchs [79] show only that they claimed to be Kings (or Queens) of England and France, and Lords of Ireland. None of them claimed to be Duke of Normandy. The Charter of Queen Elizabeth I [80] makes some references to Dukes of Normandy, in confirming earlier charters and grants "of our said progenitors formerly Kings of England and Dukes of Normandy", and in reserving rights due "by the prerogative of our Crown of England or the Dukedom of Normandy or otherwise". But there is no suggestion whatever that she claimed herself to be Duke. Subsequent Royal Charters are to similar effect.

As against that, there are letters patent of King James in 1615 [81], recording the decision of the Privy Council in a dispute about the right of nomination of Bailiff. Although the opening words in giving his titles refer only to James being king (of England, Scotland, France and Ireland), there is in the body of the document a phrase referring to

"Us our heyres & succes[sors] Kinges of this Realme of England and Duckes of Normandie...."

The act of the Royal Court enrolling these letters patent [82] also referred to King James I as "*Le Roy d'Angleterre et Duc de Normandie &c*". In addition there is an extract [83] (probably made in 1617) from the rolls of the Royal Court referring to the king as "*Roy de la Grande Bretagne France et Irlande et Duc de Normandie defenseur de la Foy etc*". The first of these appears to be an isolated incident, and the others are local actions by Jersey officials, and not consistent with royal claims. However, Advocate Raoul Lemprière has described an incident at the coronation of King George III where a person apparently "representing the Duke of Normandy" took part in the ceremony [84]. Unfortunately, I have been unable to trace the source of this statement, or any contemporary evidence supporting it [85]. This is meagre support indeed for a claim to the subsistence of the title "Duke of Normandy" in the English sovereign.

The titles of English kings and queens since 1802 make reference to diverse other territories, from Ireland to India, but never to Normandy as such. Many British and U.K. statutes refer to the Channel Islands, in turn making plain that they are within "Her Majesty's Dominions". But they do not suggest that the sovereign in relation to these territories is anything other than queen (or king). The present Queen's title makes no claim to be Duke of Normandy, or, indeed, Duke of anywhere [86]. She is "of the United Kingdom of Great Britain and Northern Ireland and of her other Realms and Territories, Queen, Defender of the Faith and Head of the Commonwealth" [87]. The Channel Islands are not within the United Kingdom [88], but they are within Her Majesty's "other Realms and Territories" [89], and of these she claims to be - and is - Queen, not Duke. When a Crown appointment is made in the Channel Island by Letters Patent, the Queen is described as Queen. Not as Duke of Normandy. In other commonwealth countries her titles are sometimes varied by local

legislation [90]. So for example in Canada she is Queen of Canada and in New Zealand she is Queen of New Zealand. But there is no Jersey legislation that I am aware of that makes any similar provision, let alone any that calls her Duke of Normandy.

## Law

So much - so shortly - for the history, and the royal titles. What of the law? There is some difficulty in talking about "law" in this area, and particularly in relation to the late medieval period. This is not *private* law, like contract or tort law. It relates to what we would now call "public" law, law relating to public institutions and authorities. And particularly to international relations : public international law, in fact. Not a well-established subject in the late medieval period. Moreover, the actual rules relating to royal succession and titles at this time were simply not settled [91]. But this is a law review, and we must do our best.

### *Salic Law*

First, the Salic Law. This is really like Sherlock Holmes' mysterious incident of the dog in the night time. We have seen how in 1317 the French nobility (after the event) approved the coronation of Philippe V as King, and for good measure declared that no woman could hold the throne. And in 1328 this was extended to a man claiming through a woman. But no one referred to the Salic Law to justify this view [92]. Indeed, the doctors of the University of Paris in 1317 had used a completely different reason for preferring Philippe to his niece Jeanne, and that was that he was one generation less removed from St Louis (Philippe's great grandfather) [93]. Strange as this view seems to us today, there were a number of late thirteenth century cases of European royal succession apparently on this basis. [94]

An alternative view might have been election by the nobility. But elective monarchy had disappeared from France centuries before [95], and the notion of legislative power in the barons was no part of the prevailing culture [96]. So even if this was what actually happened, it could not be expressed in that way.

It might have been the requirements of the coronation ceremony. Even if, by this time, the ceremony no longer *made* a king, it had far greater significance in ensuring his *recognition* than the equivalent English ceremony [97]. It was explicitly religious. The French King was the "*Très Chrétien*" [98]. He was anointed and crowned King "of Father, Son & Holy Spirit" [99]. It was said "women ... could not touch sacred things, which French Kings must" [100]. But although that might explain why a woman could not be *queen*, it could not explain why she could not *transmit the right of kingship* to her own son. In any event, the earliest that this view is found in French sources is in 1418-1419, a century after the events of 1317 and 1328.

A further, misogynistic justification for the exclusion of women was advanced by the Chevalier of the *Songe du Vergier* [101]. Women are prone to tell lies, and hence cannot give evidence in law. "They are uncertain, rash, and malicious; in all things they follow the dictates of their arbitrary desires. They are, especially, weak.. [A] woman is manifestly less fitted to defend their commonwealth than is a man". [102]

But it was in reality a question of the right man for the job. France needed a strong, French, King. In the circumstances, Philippe de Valois was the best candidate [103]. The Salic Law

had nothing to do with it. The essentially practical approach can be illustrated in this way. The Kingdom of Navarre and the County of Champagne had belonged to Louis X, as the eldest son of his mother, Joan, Queen of Navarre and Countess of Champagne in her own right. No one claiming through the Queen of Navarre could suggest that, as a matter of law (eg the Salic Law) those titles could not be held by a woman. Yet Louis X's own five year old daughter, Jeanne, was in practice passed over in favour of her uncle, Philippe Le Long, King Philippe V. And after him her other uncle, Charles IV. And on his death, the nobles could support Philippe De Valois as king: he was after all royal, the son of Philippe IV Le Bel's younger brother. But, and importantly, he had no claim whatever to be King of Navarre and Count of Champagne. These were titles which descended through Philippe IV Le Bel's wife. So these titles were now, somewhat belatedly, recognised in little Jeanne, aged seventeen.

So not only was the Salic Law not expressly invoked in awarding the French throne to Philippe De Valois; it was expressly *not* applied in relation to the Kingdom of Navarre and County of Champagne. And it does not appear ever to have been invoked in relation to the title Duke of Normandy. Indeed, as we have seen, Stephen of Blois, Geoffrey of Anjou and King Henry II all became Duke of Normandy, the first through his mother Adela, daughter of Henry I; the other two through King Henry's other daughter Matilda. Geoffrey claimed as husband, Henry II as son [104]. If the point mattered, neither Victoria nor Elizabeth II would be disqualified by sex from holding the title by virtue of the Salic Law.

The invocation of the Salic Law as a reason for choosing Philippe de Valois came much later. The earliest reference seems to have been in 1358 [105], without perhaps anyone realising its importance to France. That importance was only brought out by Jean de Montreuil [106] about 60 years later, when Henry V was King of England. And there were other polemics to similar effect [107]. But the classic work on the subject was not published until 1464 [108], a century and a half after the events supposed to be based on it! Nevertheless, the sentiment was long-lived. The exclusion of women from the throne of France survived into the Constitution of 3 September 1791 [109], under which Louis XVI continued as King, the *Sénatus-consulte organique* of 1804, making Napoleon the Emperor of the French [110], and even the *Sénatus-consulte* of 1852, making Napoleon III Emperor [111]. It also survived into the systems of satellite states, though in Spain it was expressly abolished (in favour of the daughter of Ferdinand VII, who succeeded her father as Isabel II in 1833).

The argument based on the Salic law was not strong, in any event. Shakespeare, basing himself on Archbishop Chichele's statement in Holinshed's *Chronicles*, gives the Archbishop of Canterbury in *Henry V* a powerfully destructive speech: the Salic law applied to a part of Germany, not France; that part was later conquered *by the French*; French Kings have succeeded to the Crown through women; and lastly the Bible is also invoked, for good measure. [112]

### ***French Law***

Secondly, French law in general. There are a number of problems for the English lawyer looking at French law from the medieval to the pre-revolutionary period. First of all there is language. The older texts are in late medieval Latin or old French. Second, there is a political and cultural dimension which the modern Englishman finds far more difficult to approach than (say) the equivalent period in English legal history (which is hard enough).



Third, there is very little academic material actually available to an English lawyer. French lawyers do not seem very interested in legal history before the Revolution, and the little there is cannot easily be accessed in England. Nonetheless, I have tried to make sense of the few resources I have.

We must begin with the fact that William the Conqueror and his successors down to John were peers of France, holding the dukedoms of Normandy and (latterly) of Aquitaine. As the Dukes were *Kings* of a powerful neighbouring state, there were obvious tensions in the feudal relation between them and the Kings of France. As already described [113], in 1202 John's refusal to appear before the nobles of France to answer allegations of breaking his feudal obligations may have led directly to (i) a declaration by the Court of France of forfeiture of the title and honours of Duke of Normandy [114], and (ii) the forced taking (or retaking) of possession by the French King, by way of execution of the judgment of the French Court. (In modern times the very *existence* of the judgment has been controverted by the British side [115], but that need not detain us here: this is the perspective of *French* law, after all.) But what is clear is that the judgment - if it existed - was not enforced in relation to the Channel Islands. It is difficult to know how medieval lawyers would have viewed this failure. Perhaps they would have seen it as enabling John to continue to be regarded as *de facto* Duke of (at least part of) Normandy. Or perhaps they would have seen it as simply leaving it open to John to establish a new title, based on war-like occupation and resistance to invasion by the French but attaching to him as *King of England*. The latter appears to have been the preferred view of the judges of the International Court of Justice in the *Minquiers and Ecrehous* case in 1953 . [116]

As to mainland Normandy, on the other hand, French lawyers appear to have had no doubt. The *Ancienne Coutume* [117], which De Gruchy said [118] was written probably at the end of the thirteenth century, but for which he took the text from that of Le Rouillé's *Grand Coutumier of 1539* [119], simply said that the King of France now held the lordship and dignity of the duchy. Whilst not all the great writers on the *Coutume de Normandie* express a view, Bérault [120], Godefroy [121], Routier [122], Basnage [123], and Houïard [124] all took the view that the Duchy of Normandy belonged to the Crown of France. The French King indeed granted a Charter to the Normans in 1315 [125] . But in none of these sources is there any reference to the Channel Islands.

What is not so clear is whether the French lawyers took the view that their King *was* the Duke, or whether there was no longer a Duke, and Normandy was held directly by the King. Bérault expressly referred to John as "*le dernier des Ducs de Normandie*" [126] . As already stated [127], there were rare examples of subsequent French Kings granting the title of Duke of Normandy to their own sons. This supports the latter view. (In addition, it would be consistent with the English law relating to merger of titles in the Crown. [128] )

The complicating factor is the abolition of the French monarchy. As is well known, this did not happen as a single event, but as a series of events, lasting from the Revolution to the end of the Franco-Prussian War [129] . The original despotic monarchy was replaced in 1791 by a constitutional one, which was then in the following year abolished. The First Republic was succeeded in 1804 by the Empire, and then (in 1815) by the restoration of the Monarchy. But that lasted only until 1848, and the institution of the Second Republic. In 1852, the Second Empire replaced that, to be itself replaced by the Third Republic in 1871. The constitutional documents governing these changes [130] do not (perhaps unsurprisingly) deal with questions of titles and honours. And I have been unable to locate any discussion of

the possible transmission of any residual rights of the King (whether as King or Duke) through to some officer or institution (e.g. the President) of the Republic.

But three practical points can be made. First, the pretender to the French throne, the Count of Paris, does not claim to be Duke of Normandy. Indeed, his ancestors have claimed (and held) a wide variety of titles, including Duke of Chartres, Duke of Orleans, and Duke of Guise, but never of Normandy. And his eldest son bears the title Count of Chambord. Second, *the French Republic* asserted its claim to the Minquiers and the Ecrehous before the International Court of Justice as successor to the French monarchy, based on the forfeiture of King John's title. That of course would not demonstrate a particular *person* as holding (in whatever representative or official capacity) the rights due anciently to the Duke of Normandy.

The third point may do so. Until 1993, the Principality of Andorra was governed by a medieval system which involved the sharing of the role of head of state by two co-princes [131]. A thirteenth century quarrel over sovereignty was settled in 1278 by awarding it to the Counts of Foix and the Bishops of Urgel *jointly*. The title of Count of Foix was united with that of the King of Navarre in 1479, and in 1589 Henry, King of Navarre, became King Henry IV of France. So, from 1589 on, the King of France was a co-prince of Andorra. At the Revolution relations between France and Andorra were suspended, and only resumed under the Empire in 1806 [132]. The French co-prince thereafter was the French Head of State. So it remained, even under the Third, Fourth and Fifth Republics, that the President was the co-prince, as successor to the medieval seigniorial rights of the Counts of Foix. In the absence of other authority, this may prove an appropriate parallel for modern French law to follow, if called upon to do so. Channel Islanders who have hitherto toasted "the Duke of Normandy" may not find the logic very appealing, but, if it is right that the title Duke of Normandy - or the rights attaching to it - survives, then *French* law, at least, might well treat as the person entitled to exercise those rights the President of the French Republic. Of course, in reality there is no practical possibility of the French president seeking to do so in relation *to the Channel Islands*. But in relation to mainland Normandy the argument has both practical and juristic merit.

### ***English Law***

Let us now briefly consider English law. The status of the Channel Islands is hardly in doubt. When Philippe Auguste retook possession of continental Normandy in 1204, King John retained the Channel Islands. As the International Court of Justice held in 1953, in the *Minquiers and Ecrehous* case [133], he did not do so as the vassal of the King of France. His right as Duke of Normandy lapsed, and a separate title grew up by force of occupation, which attached to him *as King of England*. This was confirmed by Bretigny (and Calais) in 1360. In addition, we have seen [134] that the use of the title Duke of Normandy by English monarchs after 1259 was sporadic and for some temporary purpose during battle campaigns. And it ceased entirely after 1420. Yet the English Kings continued to hold the Channel Islands. It must have been *as King of England*. There is no suggestion of any grant after 1204 by anyone of any other title relating to the Channel Islands. In the plea *De Quo Warranto* of 1309, for example, the King's justices in Eyre asked the commonalty of Jersey what law they used and by what law they claimed to be governed, and other related questions. The questions and answers recorded refer to the current lord as "the Lord the King", never as the "Duke". Indeed, the only reference to the Duke at all is in the answer

given by "Willelmus des Mareys" [dumaresq?] [135], which includes the following words (in translation):

"He says that it is manifest that all the Islanders are of one and the same tongue, and *at the time which the Duchy of Normandy had a Duke*, the Islands were of that Duke, and as often as the Islanders make a perquisition of the Court of the Lord the King, it is always written at their suggestion according to the law and custom of the Islands ..." [136] (emphasis supplied).

On the other hand, a further plea *De Quo Warranto*, of 1331, recites petitions from the commonalty of the Islands to the King, including these words (in translation):

"Whereas the Islands are anciently parcel of the Duchy of Normandy and in such manner hold of our Lord the King as of the Duke ..." [137]

This is ambiguous. It may well mean that they hold of the King as they used to hold of his ancestor, the Duke. On the other hand, it might be taken to suggest that the King was regarded *in the Islands* as the Duke. But that is as far as it goes. There is no suggestion that the King endorsed this approach, even if that is what was meant. The King's style and titles in the plea make no reference to Normandy.

Coke, in his *Institutes*, said that

"the possessions of [the Channel Islands] being Parcel of the duchy of Normandy, are a good seisin for the King of England for the whole duchy." [138]

But as we have seen [139], this did not mean that the King was other than a King. Instead, Coke used this statement to justify the use of the "customs of Normandy" there.

Hale, writing in the seventeenth century, held that King had given up the title of Duke of Normandy [140], the Islands were "annexed to the Crown of England", and "*infra dominium regni sui Angliae*" [141], though "not Parcel of the Realm of England" [142]. Blackstone [143] in the eighteenth century took a similar view, as have modern writers [144]. None of them suggested that the King was also the Duke. In the nineteenth and twentieth centuries English case law has confirmed that Jersey and Guernsey, whilst part of the domains of the Crown, and though in a popular sense part of the United Kingdom [145], are not *legally* within the United Kingdom [146]. One modern judicial dictum additionally says that they are "part of the domains of Her Majesty *as Duke of Normandy*" [147]. But this is a lone voice, and it seems that no argument was addressed on whether the Queen really *was* the Duke. Indeed, it was irrelevant to the decision in the matter, which concerned the construction of the phrase "beyond the seas" in English rules of court. Lastly, wherever English statutes [148] refer to the Channel Islands (which is not often) or to the Royal Style and Titles [149], there is no mention of the Duke of Normandy. Any references are to the King (or Queen) of the United Kingdom. No UK statute changing the succession to the English or British throne, whether in 1689, 1702 or 1936, has ever referred to or dealt with the title Duke of Normandy. This strongly suggests that the title had gone. (Alternatively, it would permit an argument that the current holder of the title was not the Queen, but the Stuart pretender to the British throne, the Prince of Bavaria!)

The conclusion, so far as *English* law is concerned, must be that British monarchs are not Dukes of Normandy, even in respect of the Channel Islands. But even if they could otherwise be, under English law, Dukes of Normandy, there is a further difficulty in the way. As a matter of English peerage law, it seems that when a peer becomes King, the peerage is merged into the higher title, and disappears [150]. Thus, for example, when King Edward VIII abdicated in 1936, and the Duke of York succeeded him as King George VI, the title of Duke of York ceased to exist, and could only be revived or recreated by a new grant, such as occurred in 1986.

This can be seen also in relation to the Duchy of Lancaster. John of Gaunt was Edward III's fourth son, created Duke of Lancaster in 1362. His son Henry Bolingbroke succeeded him in that title on his death in February 1399. His cousin King Richard II abdicated in Henry's favour in September 1399, and Henry was crowned King Henry IV in October 1399. But, although the new King ceased as a matter of law to be the Duke of Lancaster, he was mindful of the turbulent times in which he lived, and of how he had deposed the previous king [151]. So he went to some trouble to have the lands and revenues of the Duchy of Lancaster administered separately from those of the Crown [152], and to obtain Parliamentary approval for this [153]. In that way he would always have something to fall back on if he ceased to be king. This separation has been maintained ever since [154].

It is true that there exist documents referring to the King as Duke of Lancaster. These include instruments under the seal of the Duchy of Lancaster [155], and letters patent under the great seal. In addition Acts of Parliament dealing with Duchy affairs sometimes did so too. One [156] in Victorian times referred to Queen Victoria as *Duchess* of Lancaster. Closer still to the title of this essay is the time-honoured form of the loyal toast in Lancashire: "The King, Duke of Lancaster", or, in the reign of Queen Victoria and of the present Queen, "The Queen, Duke of Lancaster". But our concern here is with *what the law is*, not with *what laymen think it is*. And the fact is that the Royal style does not include any claim to be Duke of Lancaster. Nor could it, short of Parliamentary sanction. As Lord Cairns said, in a peerage case in 1876,

"The Duchy of Cornwall is held by the Prince of Wales for the time being - the Prince of Wales becomes the sovereign of the country - becoming the sovereign of the country, it is impossible that he can hold any other dignity. The fountain and source of all dignities cannot hold a dignity himself. The dignity, therefore, as a dignity to be held by the sovereign terminates, not by virtue of any provision in its creation but from the absolute incapacity of the sovereign to hold a dignity." [157]

Of course, this does not apply to foreign dignities. Norman and early Plantagenet kings could claim to be King of England (by conquest) and Duke of Normandy or of Aquitaine (as vassals of the King of France). But we have already dealt with the title Duke of Normandy as a *French* title, under French law [158]. Here we are considering it as an English title.

It may be said that there is a third possibility, that *English* law might recognise the subsistence of the *French* title "Duke of Normandy" in someone, though French law would not (or might not) so recognise it. There is not much learning on the conflict of laws as applied to dignities and titles of honour. The general rule appears to be that *English* law does not recognise foreign dignities and titles [159]. Whether the Sovereign is exempt from that

rule is unclear, but there are examples of licences being granted by the Sovereign to accept and enjoy such dignities [160]. At the end of the day, as a practical matter, either the legal system giving rise to the title recognises it or it does not. If it does not, then - whatever English law might think - for all practical purposes it does not exist. Although France is a republic, titles - even those dating back to medieval times - are officially recognised [161]. At best it would seem that the pretender to the title would have to apply to the appropriate authority or tribunal in France to adjudicate on the question whether, under French law, the title can still be said to subsist today. There is no prospect of that happening in this case.

## *Jersey Law*

I turn finally to Jersey law. The status of Jersey as a dependency of the British (via the English) Crown has already been dealt with [162]. I have also mentioned the Royal Charters, with their almost complete lack of reference to Dukes of Normandy [163], and the local court documents, with their *occasional* reference to them [164]. Of the Jersey legal writers, I have found nothing in Le Geyt relevant to the argument. Poingdestre wrote a section of his "*Les Lois et Coutumes de L'Ile de Jersey*" [165] called "*Des Droicts de la Couronne d'Angleterre en Jersey*". In that section he calls the islands

*"le plus ancien Patrimoine & le plus indubitable des Roys d'Angleterre ..."*  
[166]

And the islanders

*"les plus anciens Subjects desdits roys d'Angleterre ..."* [167]

The only Duke he refers to is the first one, Rou (or Rollo). King John is referred to as *le Roy Jean* [168], and the King at the time he was writing as "*Sa Majesté*" [169]. There is no support here for the view that Kings of England after 1259 were also Dukes of Normandy.

Le Gros in his *Droit Coutumier* [170] has a section entitled "*De l'organisation judiciaire à l'époque du Vieux Coutumier et des Droits du Duc*" [171], but this does not appear to be suggesting that English monarchs after 1259 are Dukes of Normandy. De Gruchy's work on *Medieval Land Tenures in Jersey* [172] contains a number of references to the Kings of England, but only one to the "King-Duke" [173]. Lemasurier's book *Le Droit de l'Ile de Jersey* [174] contains little bearing on the point, though it refers constantly to the King of England rather than to the Duke of Normandy as sovereign. For example, he says that, after 1204,

*"Les insulaires ne rendaient plus hommage à un roi qui était Duc de Normandie, mais au seul roi d'Angleterre"*. [175]

As for legislation, there is no Royal Titles legislation that I have found. Nor have I found any independent legislation there dealing with changes to the order of succession, eg after the deposition of James II, or on the accession of George I, or at the abdication of Edward VIII. The Code of 1771 contains, in the Oaths to be taken by various officials, references to "*notre Souverain... par la Grace de Dieu, Roi de la Grande Bretagne, France et Irlande, et les Dominions qui en dépendent...*" In particular, the oath for advocates refers to "*cette son Isle de Jersey*". The inference is obvious. This is the *King's* island, the *King's* Court, and so on. Not the Duke's. A *règlement* of 1937, concerning the variation of permitted hours for the

sale of alcohol at the time of the coronation refers to "*la célébration du Couronnement de Leurs Majestés le Roi George V et la Reine Elizabeth.*" No mention of the Duke (or Duchess). A rare Jersey law that refers to the *feudal* rights of the Crown is the Seigneurial Rights (Abolition) (Jersey) Law 1966. This makes a number of references to "Her Majesty" and "Her Majesty in Council". There is no reference to the Duchy or the Duke of Normandy. Lastly, letters patent appointing Crown Officers in Jersey, up to and including the office of Bailiff, refer to the British monarch in the style and titles already discussed. Normandy is nowhere mentioned. Accordingly I conclude that there is no basis *in Jersey law*, as distinct from English law, for treating the Queen as Duke of Normandy. She is the Queen, and that is that.

## Conclusion

Let us summarise the position. Kings of England were Dukes of Normandy, in a real and meaningful sense, up to 1204. They *claimed* to be so until 1259, when they gave up the title by international treaty. For the next 160 years there were very rare - and short lived - attempts to call themselves Dukes of Normandy, but none after 1420. French law would probably judge the English Kings to have forfeited the title in 1202, and, although it appears to have been granted or used a few times thereafter by French Kings, for most of the following centuries there was, according to French law, no Duke. If there are residual feudal or seigneurial rights relating to the Dukedom in continental Normandy, they have probably passed to the French President. But, in relation to the Channel Islands, the English Kings established a new and original title, effectively by force. English law, however, does not recognise the creation of any separate Dukedom - or other title - in relation to the Islands, and holds that the British monarch is their sovereign, in the capacity of King or Queen. In any event, the King or Queen could not also be Duke under English peerage law. Jersey law accepts - indeed asserts - the status of Crown dependency accorded under English law, but does not provide for, or recognise, any separate title for the British sovereign in Jersey.

This is as it should be. In modern times it would plainly be offensive to a friendly neighbour state (France) for the British Crown to assert a right to the title of Duke of a large part of that state. It would also be misleading, as it would suggest a connection - even a power - which no longer exists. Of course Jersey law *could* provide expressly for the sovereign to be known and referred to there as (say) the Duke of the Channel Islands, or something of the sort. A kind of titular UDI. But that would involve the loss of the immediate and obvious (not to say popular) connection with Britain. In addition, there would be a need for separate legislation whenever the succession was altered, and also for co-ordination with Guernsey.

The wisest course is to leave things as they are. The Queen in Jersey is, legally speaking, the Queen. The vestiges of history relating to Ducal titles that remind Jersey of its Norman past are, unlike some other areas of customary Norman law, of no practical importance today. They are best left, as they are, to a piece of harmless after-dinner whimsy: "To the Queen, our Duke" [\[176\]](#) .

*Paul Matthews is a solicitor of the Supreme Court of England and Wales and a consultant with the firm of Withers, 12, Gough Square, London EC4A 3DE.*

Footnotes - [\(Top\)](#)

[1] - "The King, our Duke"

[2] - Le Feuvre, *Histouaithes et Gens d'Jerri*, 1976, 49-50; Lemprière, *Customs, Ceremonies and Traditions of the Channel Islands*, 1976, 25-26; Kelleher, *Triumph of the Country*, 1994, 13; Mautalent-Reboul, unpublished doctoral thesis, *Le Droit Privé Jersiais* (1995, University of Caen), p4 n8

[3] - Le Patourel, *The Norman Empire*, 1976, 3-13

[4] - See the judgment of Judge Levi Carneiro in the International Court of Justice in the *Minquiers and Ecrehous case*, 1953, 85-86; cf Balleine's *History of Jersey*, revised ed 1981, 19, and Bois, *A Constitutional History of Jersey*, 1972, 14, Mautalent-Reboul, *op cit*, 11, n34, and Harris, *cyber.loi*, Ch 1 ([www.crills.com/cyber.loi](http://www.crills.com/cyber.loi))

[5] - Bates, *William the Conqueror*, 1989, Ch 5; Chibnall, *Anglo-Norman England*, 1986, 54-55

[6] - Le Patourel, *The Norman Empire*, 1976, 218-221.

[7] - This was apparently part of a settlement of the dispute between father and eldest son: see Bates, *William the Conqueror*, 1989, 160-163, 180-181; cf Warren, *Henry II*, 1973, 46, and Chibnall, *op cit*, 56

[8] - Chibnall, *op cit*, 66-67

[9] - *Ibid*, 83

[10] - Warren, *Henry II*, 1973, 12; Chibnall, *op cit*, 85

[11] - Warren, *op cit*, 30-32; Chibnall *op cit*, 97

[12] - Warren, *op cit*, 38; Chibnall, *op cit*, 97; this was recognised by King Louis VII of France in 1151; Warren, *op cit*

[13] - Warren, *op cit*, 51-53; Chibnall, *op cit*, 99

[14] - The former wife of King Louis VII of France

[15] - See Reynolds, *Fiefs and Vassals*, 1994, 272

[16] - See the judgment of Judge Levi Carneiro in the International Court of Justice in the *Minquiers and Ecrehous case*, 1953, 86; see also Selden, *Titles of Honor*, 1614, 195

[17] - See Guérard, *France, 1959*, 82; *Sumption, The Hundred Years' War, 1990*, 15-18

[18] - He died in 1183 without issue

- [19] - Warren, *Henry II*, 1973, Chs 15, 16; Benjamin, in Saul (ed) *England in Europe 1066-1453*, 1994, 73-74
- [20] - See Hutton, *Philip Augustus*, 1896, 39
- [21] - *Ibid*, 40
- [22] - Warren, *King John*, 1961, 71-74
- [23] - *Ibid*, 74-75; Curry, *The Hundred Years' War*, 1993, 33-34; Hutton, *Philip Augustus*, 1896, 65-67
- [24] - Warren, *King John*, 1961, 93-99; Gillingham in Saul (ed), *op cit*, Ch VIII; the name John "Lackland" however comes not from this loss, but from being originally excluded from his father's intended division of lands: Warren, *Henry II*, 1973, 594; Warren, *King John*, 1961, 28
- [25] - Balleine's *History of Jersey*, revised ed 1981, 27
- [26] - Hutton, *op cit*, 83-85; Gillingham, *loc cit*, 89
- [27] - See *Halsbury's Statutes of England*, vol 10, 15
- [28] - PRO, Chancery Inquisition *Post Mortem*, 32 Hen III, No 6
- [29] - Studd, in Saul (ed), *op cit*, 104; Prestwich, *Edward I*, 2nd ed 1997, 10-11
- [30] - Curry, *The Hundred Years' War*, 1993, 36
- [31] - 1 Co Inst 7b; Powicke, *The Thirteenth Century*, 2nd ed 1961, 318; Studd, *loc cit*, 102
- [32] - Ormrod in (ed) Bates & Curry, *England and Normandy in the Middle Ages*, 1994, 199
- [33] - Johnstone (1914) 29 EHR 435; Prestwick, *op cit*, 316-317
- [34] - Curry, *op cit*, 39
- [35] - Britton, Ed Nichols 1865, Bk I, Prologue
- [36] - See *Halsbury's Statutes of England*, vol 10, 14
- [37] - See *Jersey Prison Board case, Appendix Part 2, No 58 (October 24th 1305)*
- [38] - Powicke, *The Thirteenth Century*, 2nd ed 1961, 318
- [39] - Mautalent-Reboul, *op cit*, 32



[40] - See the judgment of November 17th 1953 of the International Court of Justice in the *Minquiers and Ecrehos case*, at 56, 76, 87

[41] - On the French succession at this time see Potter (1937) 52 EHR 235, Curry, *op.cit.*, 44-46.

[42] - Sumption, *The Hundred Years' War*, 1990, 106

[43] - "Also it was declared that a woman does not succeed to the Crown of France" : *Continuator of Guillaume de Nangis*, ed *Société de l'histoire de France*, vol 1, 434

[44] - "That if the said son of Isabelle were to have any right to the throne, this would naturally have come to him by virtue of his mother; therefore as the mother had no right, consequently neither did the son...." : *ibid*, vol 2, 83-84

[45] - Curry, *op cit*, 46-48; Demurger, *Temps de crises, temps d'espoirs*, 1990 Sumption, *The Hundred Years' War*, 1990, 109

[46] - Curry *op cit*, 49

[47] - See eg Curry, *op cit*; Sumption, *op cit*; Demurger, *op cit*; Ormrod, *The Reign of Edward III*, 1990; Ormrod in Bates and Curry (eds), *op cit*; Studd, in Saul (ed), *op cit*

[48] - Contamine in Bates and Curry (eds), *op cit*, 227

[49] - Froissart, *Chronicles*, Penguin ed, 60; see also Selden, *Titles of Honor*, 1614, 173

[50] - *Ibid*, 129, 133, 138, 147

[51] - Le Patourel suggests, on very slender evidence, that (in 1331 at least) the English King remained Duke of Normandy to the inhabitants of the Channel Islands: *The Medieval Administration of the Channel Islands*, 1937, 29; but the plea of *Quo Warranto* on which Le Patourel relies clearly shows that (whatever the Channel Islanders thought) the King claimed only to be King of England, Lord of Ireland and Duke of Aquitaine: *Placita Coram Rege*, 5 Edw III, Mich, discussed below in text to n 137.

[52] - *Rot Parl* 14 Ed III, n 9

[53] - Ormrod, *loc cit*, 205, 206; Curry, *op cit*, 62

[54] - For the alternative view, see Ormrod, *loc cit*, 210

[55] - Curry, *op cit*, 66; the renunciation clauses were in fact subsequently omitted in the Treaty of Calais, ratifying Bretigny, later in the year: Ormrod, *loc cit*, 210; Chaplais, *Camden Miscellany*, vol xix (1952), 6

[56] - Although he was allowed to keep the fortress and lordship of St Sauveur: Ormrod, *loc cit*, 212), and the French abandoned any claim to the Channel Islands (Falle, *An account of the Island of Jersey*, 1837, 47; *Role de Tractat.Pacis Franc*, 34 Edw III m.10; Judgment of

Judge Levi Carneiro in the International Court of Justice dated November 17th 1953 in the *Minquiers and Ecrehos* case, p 94)

[57] - See text to note 40 above

[58] - Judgment of the International Court of Justice dated November 17th 1953 in the *Minquiers and Ecrehos* case, p 76

[59] - *Rot Parl* 43 Edw III, n 25; Meron, *Henry's Wars and Shakespeare's Laws*, 1993, 20; Jones, *Ducal Brittany 1364-1399*, 1970, 60

[60] - Curry, *op cit*, 67; Jones, *op cit*, Chs III, IV; Perroy, *Camden Miscellany*, vol xix (1952), viii - xix

[61] - His Charter to the Channel Islands in 1413-14 does not include in his titles any reference to Normandy: PRO, French Roll (Chancery) 1 Hen V, m 1 No 3

[62] - *Henry V*, Act 2 Sc 2, 189-190.

[63] - Eg the statute 7 Hen V (1419)

[64] - Curry, *op cit*, 99-100; Curry in Bates and Curry (eds), *op cit*, 248

[65] - See the statute 8 Hen V, c 1 (1420)

[66] - Curry in Bates and Curry (eds), 236

[67] - Curry, *op cit*, 105-106, and in Bates & Curry (eds), *op cit*, 237; Demurger, *op cit*, 103

[68] - Waugh, in Little and Powicke (eds), *Essays in Medieval History*, 349-359; Demurger, *op cit*, 103

[69] - See the judgment of Judge Levi Carneiro in the International Court of Justice dated 17 November 1953 in the *Minquiers and Ecrehos* case, at 94-95

[70] - Allmand and Armstrong, *English Suits Before the Parlement of Paris, 1420-1436*, 1982, 4-6; cf Mautalent-Reboul, *op cit*, 62, n 180

[71] - Again, Henry VI's Charter to Jersey of 1441-42 makes no claim to be Duke of Normandy: PRO, French Roll (Chancery) 20 Hen VI, m 14 No 9

[72] - Eg the statute 4 Hen VI, c 2; and see Curry in Bates and Curry (eds), *op cit*, 238

[73] - Contamine in Bates & Curry (eds), *op cit*, 222, 233

[74] - See the statute 2 Hen VI (1423), and 1 Co Inst 7b

[75] - The last statutes to style the English King as also King of France were those of 41 Geo III (1800)

- [76] - Dated June 17th 1495, dealing with Mont Orgueil
- [77] - *Ordres du Conseil*, 1897 ed, vol 1, pp 2-3
- [78] - Balleine's *History of Jersey*, revised ed, 1981, 95; this style appears to have been typical: 1 Co Inst 7b
- [79] - See generally Heyting, *Jersey and the United Kingdom*, 1977, 6-18
- [80] - PRO, Patent Roll, 4 Eliz I (1562), Part 3, m 37
- [81] - *Jersey: Ordres du Conseil*, 1897 ed, vol I, page 96
- [82] - September 21st 1615
- [83] - PRO, State Papers, Domestic, Addenda, James I, Vol 41, No 20
- [84] - *History of the Channel Islands*, 1974, 29
- [85] - Although Hale, *Prerogatives of the King*, ed Yale 1975 (*Selden Society*, vol 92), writing in the mid-seventeenth century says (at 46): "But indeed since the times of Henry 6 our titles to the duchies of Aquitaine and Normandy are become but titular; only in the coronation of the Kings he that personates those dukes do help to perform the ceremony." This, of course, is a century earlier than George III.
- [86] - As to the Duchy of Lancaster, see *Halsbury's Laws of England*, 4th ed, Vol 8, para 1523, and below, text to nn 147-153
- [87] - Royal Titles Act 1953; Proclamation of May 28th 1953; De Smith (1953) 2 ICLQ 263
- [88] - See *Navigators and General Insurance Co Ltd v Ringrose* [1962] 1 WLR 173; cf *Stoneham v Ocean, Railway and General Accident Insurance Co* (1887) 19 QBD 237
- [89] - Though The Queen's official website does not mention the Channel Islands at all, whether as a Commonwealth realm or a dependent territory [www.royal.gov.uk/acs/style.aspx](http://www.royal.gov.uk/acs/style.aspx), and links from there to "Realms" and "Territories" (update April 2014 - website link now not available but relevant information appears to be found at <http://www.royal.gov.uk/MonarchUK/QueenandCrowndependencies/ChannelIslands.aspx>)
- [90] - De Smith, *loc cit*, 272-3
- [91] - Potter, *loc cit*, 239
- [92] - Demurger, *op cit*, 10-11, 41
- [93] - Potter (1937) 52 EHR 235, 239
- [94] - *Ibid*, n 1

[95] - Cf Guérard, *France, 1959*, 81

[96] - Potter, *loc cit*, 240-241

[97] - Demurger, *op cit*, 39-41; Potter *loc cit*, 251

[98] - Demurger, *op cit*, 41

[99] - *Ibid*

[100] - Anon, *La loi salicque, premiere loy des Francois*, fol 88v; see also Terre Rouge, *Contra rebelles suorum regum*, published by Hotman, 1585, 88

[101] - Circa 1376, authorship uncertain: see Potter, *loc cit*, 241, n 3

[102] - Potter, *loc it*, 242; this reasoning reminds us of the 1980's English advertisement for a brand of beer that announced: "I don't like it, so I've never tried it"

[103] - Potter, *loc cit*, 237; Guérard France, 1959, 100-101; Sumption, *The Hundred Years' War*, 1990, 105-107

[104] - The French lawyer Hoiard in his *Dictionnaire Analytique de la Coûtume de Normandie*, 1780, vol 1, pp xi-xii, accepted them as 10th, 11th and 12th dukes respectively

[105] - Potter, *loc cit*, 247; Contamine (1987) *13 Perspectives Médiévales* 67

[106] - *Traité contre les Anglois*; see Potter, *loc cit*; Contamine, *loc cit*

[107] - Potter, *loc cit*; Meron, *op cit*, 30-31

[108] - *La loi salique, premiere loy des Francois*; Potter, *loc cit*

[109] - Title III, Chap II, Section I, Art 1

[110] - May 18th 1804, Title II, Art 3

[111] - November 7th 1852, Art 2

[112] - *Henry V*, Act I, Sc 2, lines 11-100; see also Selden, *Titles of Honor*, 1614, 175-176 and Hale, *Prerogatives of the King*, ed Yale (*Selden Society*, vol 92, 1976) 64

[113] - Above, text to nn 22-24

[114] - There is a puzzle here: John was summoned, not as Duke of Normandy, but as Duke of *Acquitaine*; see Warren, *King John*, 74

[115] - See the judgment of the International Court of Justice in the *Minquiers and Ecrehous* case, 1953, 56-57

- [116] - *Ibid*, 56, 76; cf Coke, text to note 138 below
- [117] - De Gruchy (ed), 1881, Ch 12
- [118] - *Ibid*, VIII
- [119] - Nicolle, *The Origin and Development of Jersey Law*, 1998, paras 75, 17.5.1
- [120] - *La Coustume Réformée*, 6th ed 1660, 3
- [121] - *Commentaires sur la Coustume Réformée*, 1626, 7
- [122] - *Principes Généraux du Droit Civil et Coutumier*, 2nd ed 1748, 17
- [123] - *Oeuvres*, 4th ed 1778, 6
- [124] - *Dictionnaire de la Coutume de Normandie*, 1780, vol 1, xvi
- [125] - See Nicolle, *op cit*, Section 3
- [126] - *Loc cit*; also Hoüard, *loc cit*, listed John as 14th (and last) duke
- [127] - Above, text to nn 48-50 and 73
- [128] - Below, text to nn 150-157
- [129] - See generally Furet, *Revolutionary France 1770-1880*, 1988 (trans 1992)
- [130] - See *Constitutions et documents politiques*, ed Duverger
- [131] - See generally Brutails, *La Coutume d'Andorre*, 2nd ed 1965, Ch II
- [132] - *Decree of March 27th 1806*
- [133] - [1953] ICJ 47, 56-57, 76
- [134] - Above, text to nn 53-54, 63-64
- [135] - See Nicolle, *The Origin and Development of Jersey Law*, 1998, para 11.3
- [136] - See *Jersey Prison Board case, Appendix, Part 2, No 59 (PRO Assize Roll No 1160)*
- [137] - *Ibid*, No 67 (*Placita Coram Rege, Mich, 5 Edw III*); Bois (*op cit*, para 4/16 ) translates the last few words ("come de duc") as "as the Duke", which seems to be wrong
- [138] - 4 Co Inst 286; Eagleston, *The Channel Islands under Tudor Government*, 53, n 11
- [139] - 1 Co Inst 7b, note 74 above; cf 1 Co Inst 7a

[140] - *Prerogatives of the King*, ed Yale 1976 (*Selden Society*, vol 92), Ch s 3, 5; *History of the Common Law*, ed Gray 1971 ch VI 74-75

[141] - *Ibid*, Ch 3 sec 5

[142] - *History of the Common Law*, ed Gray 1971, Ch IX, 118-121

[143] - 1 BI Comm 104

[144] - Holdsworth, *History of English Law*, vol 1, 520-521; Smith and Sheridan, *The British Commonwealth*, vol 1, 1141, 1145; Harris, *cyber.loi*, Ch 1

[145] - *Stoneham v Ocean, Railway and General Accident Insurance Co* (1887) 19 QBD 237; and the official website for the Jersey government is within the UK "domain", at [www.jersey.gov.uk](http://www.jersey.gov.uk) (update April 2014 - website is now [www.gov.je](http://www.gov.je))

[146] - *Renouf v AG for Jersey* [1936] AC 445, 460; *Navigators and General Insurance Co Ltd v Ringrose* [1962] 1 WLR 173; *Interpretation Act 1978*, Sch 1, definition of "British Islands"

[147] - *Rover International Ltd v Cannon Films Sales Ltd* [1987] 1 WLR 1597, 1603

[148] - Eg the Demise of the Crown Act 1727, Preamble

[149] - See text to notes 86-90 above

[150] - Vincent, *Discoverie of Errors*, 1622, 299; *Plowden, Commentaries*, 214, 217; *Lord Oranmore's case* (1848) 2 HLC 910; *Buckhurst Peerage case* (1876) 2 App Cas 1, 28; *Complete Peerage*, 1929, vol vii, 418

[151] - See *AG for the Duchy of Lancaster v Duke of Devonshire* (1884) 14 QBD 195, 197

[152] - Somerville, *History of the Duchy of Lancaster*, 1953, 139

[153] - *Ibid*, 140-141; 4 Co Inst 205

[154] - *Halsbury's Laws of England*, 4th ed, vol 8 (original), para 1523

[155] - Somerville, *op cit*, 149-151

[156] - Chancery of Lancaster Act 1850

[157] - *Buckhurst Peerage case* (1876) 2 App Cas 1, 28

[158] - Above, text to nn 113-128

[159] - See *Halsbury's Laws of England*, 4th ed, vol 35, para 977

[\[160\]](#) - Eg the *De Scales Peerage Case (1857) Minutes of Evidence 71*

[\[161\]](#) - Pinches, *European Nobility and Heraldry*, 1994, 34

[\[162\]](#) - Above, text to 133-149

[\[163\]](#) - Above, text to nn 79-80

[\[164\]](#) - Above, text to nn 81-83

[\[165\]](#) - Published 1928

[\[166\]](#) - *Ibid*, 1

[\[167\]](#) - *Ibid*

[\[168\]](#) - Eg at p3

[\[169\]](#) - Eg at p2

[\[170\]](#) - Published 1943

[\[171\]](#) - At page 404

[\[172\]](#) - Published 1957

[\[173\]](#) - At page 37

[\[174\]](#) - Published 1956

[\[175\]](#) - At page 337

[\[176\]](#) - I am grateful for the comments and assistance furnished by a number of persons in producing this essay, including Sir Philip Bailhache, Terry Sowden QC, and Stéphanie Nicolle QC, who must not be taken necessarily to agree with it. They have however saved me from a number of errors. Those which remain are my responsibility alone.