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[CUSTOMARY LAW]. *Coustumes des pais d'Aniou et du Maine* [Customary of Anjou and Maine]

In French with some Latin, decorated manuscript on parchment
France, Anjou or Maine, after 1463, c. 1475-1500.

134 ff. preceded and followed by a paper flyleaf, complete (collation: i³ [of 4? opening quire with tables], ii-iii⁸, iv¹⁰, v-ix⁸, x¹⁰, xi-xii⁸, xiii¹⁰, xiv-xvi⁸, xvii⁷ [8-1, with last folio of quire wanting, clearly blank]), written in brown ink in a very cursive bookhand (justification: 50 x 80 mm), catchwords, paragraph marks in red, some capitals stroked in red, two larger opening initials (3 lines high), large initials painted in red (3 to 4-line high) introducing each of the 16 parts, infill of first initial S with penwork design of a fish, numerous added contemporary marginal notes and corrections (some notes in Latin). Bound in later (19th c. or early 20th c.?) tan pigskin over pasteboard, back sewn on three raised bands, frame on covers composed of blind-stamped floral and foliate motifs (Binding a bit scuffed, but overall in very sound condition).
Dimensions 108 x 65 mm

This charming manuscript presents customary law as re-edited and re-issued under the "Good King" Rene of Anjou for the Anjou-Maine area of France. Early editors recorded only six manuscripts of the text, although none appears in auction records for nearly three hundred years! The present copy (from the illustrious collection of Mrs. Whitney-Hoff) appears to be at variance with published editions. Common in their day, customary manuscripts are of the greatest rarity; no doubt their utility was short-lived. The small "portable" format of the present copy is most unusual.

PROVENANCE

1. Undoubtedly copied in Anjou (Angers) or Maine (Le Mans) region of France given the very local nature of the text. Script and decoration suggest a circa 1475-1500 date for this copy, probably contemporary with the first incunable editions of the *Coustumes des pais d'Aniou et du Maine* (see below).
2. Grace Whitney-Hoff, her armorial bookplate pasted on the upper pastedown, repeated again on the verso of the front flyleaf. The present manuscript was catalogued and described in *Bibliothèque de Madame G. Whitney-Hoff*, no. 6, pp. 7-8 (Boinet, 1933, I). Grace Whitney-Hoff assembled a fine collection of manuscripts, early printing and bookbindings: "La superbe bibliothèque dont nous publions aujourd'hui le catalogue est parmi les collections privées une des plus belles, des plus intéressantes que l'on puisse rencontrer. Tous les livres qui la composent ont été choisis par Mme Whitney Hoff avec le sens le plus

averti..." (The superb library, the catalogue of which we are today publishing, is among the most beautiful of private collections, one of the most interesting that one can encounter. Mrs. Whitney Hoff has chosen all the books with the most informed sensibility [as quoted in Boinet, 1933, I]).

TEXT

ff. 1-3, Table of the 16 parts of the *Costumes d'Aniou et du Maine*, incipit, "Sensuit la table des costumes des pays d'Aniou et du Maine faictes aux grans jours d'iceluy lieu en l'an mil quatre cens et vingt [1420]";

f. 3v, blank;

ff. 4-135v, *Costumes des pais d'Aniou et du Maine* [Customs for Anjou and Maine, version of 1463], divided in 16 parts, incipit, "*Costumes des pais d'Aniou et du Maine*"; Part I, [Des seigneurs temporels]: "Pour la premiere partie de nostre livre nous declairerons de la justice et seigneurie des seigneurs temporelz des pais qui ont le peupple et les subgetz a gouverner soubz eulx et quelz droiz ilz ont sur les subjectz" (ff. 4-13v); Part II, [De la prevention]: "Pour la seconde partie nous traicterons des cas esquelz le prince videlicet le duc d'aniou et conte du maine..." (ff. 13v-19); Part III, [Des fiefs]: "La tierce partie est de la nature des fiez et des prouffilz et aventures qui appartiennent aux seigneurs..." (ff. 19-33); Part IV, [Des crimes et amendes]: "La quarte est des amendes..." (ff. 33-45v); Part V, [Des pertes de fiefs]: "La cinquiesme partie est des cas esquelz le vassal homme de foy pert son fief..." (ff. 45v-49); Part VI, [De despice de fief]: "En la sixiesme partie de ce livre de la nature de prez de fief..." (ff. 49-57); Part VII, [Des successions]: "En la septiesme partie nous traicterons des successions..." (ff. 57v-71); Part VIII, [Des partages]: "En la huitiesme partie est bien convenable apres les successions de traicter de la matiere des partages..." (ff. 71-73); Part IX, [Des acquests]: "En la neufivesme partie nous traicterons des acquisitions faictes entre homme et femme..." (ff. 73-78); Part X, [Des douaires]: "Pour la dixiesme partie nous traicterons des douaires..." (ff. 78-84v); Part XI, [Des donnoisons]: "En la unzieme partie nous traicterons des donnoisons et recompensacions..." (ff. 85-90); Part XII, [Des retraits liguagers]: "En la douziesme partie nous traicterons de la matiere de retraiz..." (ff. 90-107); Part XIII, [Des prescriptions]: "Pour la .XIII.e partie nous traicterons des prescripcions..." (ff. 107-117v); Part XIV, [Des expontions]: "Pour la .XIII.e partie et ensuyvant les matieres traictees et expediees nous traicterons de la matiere des exponcions..." (ff. 117v-119); Part XV, [Des hypothèques]: "Pour la .XV.e partie nous traicterons de la nature des ypothequez..." (ff. 119v-131); Part XVI, [De la communauté de biens]: "En la seiziesme partie nous traicterons en quel cas communauté a lieu..." (ff. 131-135v); explicit, "[...] Si don de heritage ou baillee a rente est fait a l'un des compaignons...et par ce moyen les autres n'y prendront rien" [critical edition in Beautemps-Beaupré, 1879, III, 169-509];

ff. 135v-136, Added notes, in Latin;

f. 136v, inscription (practitioner's notes?), faintly legible, ending: "[...] la quarte est fin de non recevoir."

This manuscript contains a copy of the *Costumes des pais d'Aniou et du Maine* [Customary local laws for the people of Anjou and Maine], as revised and re-drafted in the years 1462-1463 at the request of

René d'Anjou (1409-1480), duke of Anjou and king of Naples and Sicily. Side by side with written law, be it through the Gratian's Decretals or Justinian's Code, customary law existed throughout the Middle Ages and in all parts of Europe. Like much popular literature, customary law was oral, and like oral literature, it differed considerably from time to time and from place to place. Even neighboring towns could observe significant deviations in customs such as, for example, inheritance. Beginning in the thirteenth and fourteenth centuries customary law was transcribed, the first customary manuscripts dating from this period (see Cohen, 1992, for a good introduction). The most important extant collection from northern France is that of Philippe de Beaumanoir, c. 1283, the monumental *Coutumes of Clermont et Beauvaisis*, but many regions had their own customs copied down to serve for more efficient application of local law. These were frequently updated and emended to reflect the changing times.

Until 1442, historic Anjou and Maine constituted a single "sénéchaussée," centered around the city of Angers. However, even after their political separation (historic Maine was given in "apanage" to his brother Charles, Count of Maine in 1440 until his death in 1472), the two regions continued to be ruled by the same customary laws, which were officially codified in 1462-1463. Eventually, by royal letters patent of 1506 the king of France ordered that the "Coutumes" of Anjou and Maine be compiled separately and published: this was completed in 1508 (see Gouron, 1975, p. 25 and following for successive editions of the *Coutumes* common to both Anjou and Maine). Until 1508, both manuscripts copies and incunable editions contain the *Coutumes* for both regions of Anjou and Maine.

The "good king René," duke of Anjou and king of Naples and Sicily, established a brilliant court at Angers from 1443 onwards. By letters patent dated 6 October 1458, René d'Anjou ordered the reformation of the "Coutume" of Anjou and Maine: the re-drafted "Coutumes" were confirmed in 1463 (See Beautemps-Beaupré, III, pp. 150-151). For Louis, who saw himself as a reformer of legislation, his desire to have the "Coutumes" redrafted went along with his aspiration to abridge the length of trials and to diminish the expenses of justice (Beauchamps-Beaupré, III, p. 151). René's version was not the first redaction of the "Coutumes," whose complex textual tradition and successive versions were carefully classified and edited by Beautemps-Beaupré in his monumental study entitled *Coutumes et institutions de l'Anjou et du Maine antérieures au XVIe siècle* (1877-1893). The oldest compilation of customary law for Anjou-Maine is certainly the compilation known as the *Etablissements de Saint-Louis* (c. 1270) that begins with an ordinance of St. Louis but goes on to provide material from an anonymous customary of Touraine-Anjou written circa 1246.

Beautemps-Beaupré records only 6 manuscripts that contain the revised "Coutume" of 1463 (BB, III, pp. 117-128): these are Angers, BM, MS. 333; Angers, BM, MS. 334; London, British Library, Harleian MS 4413; London, British Library, Add. MS 23 969; Paris, BnF, MS n.a.f. 4172; another manuscript, now lost. Beautemps-Beaupré also lists some seven successive editions of the 1463 *Coutumes d'Anjou et du Maine*, all very rare (Beautemps-Beaupré, III, pp. 129-139). The *editio princeps* of the shared *Coutumes d'Anjou et du Maine* was published in Angers, Jean de la Tour et Morel, circa 1476-1477, incipit: "Cy commencent les coutumes du pays daniou e du // mayne contenant seize parties. La premiere partie de noustre livre nous declairerons la justi // ce e seigneurie des seigneurs temporels desditz pais..."; explicit: "[...] et par ce moie[n] // les autres ny prendront riens. Deo Gratias" [Brunet, II, col. 347; Beautemps-Beaupré, III, 129; Pellechet, 4012].

The present manuscript clearly contains the 1463 official redaction of the *Coutumes d'Anjou et du Maine*, but presents some variants with the known manuscripts and the early fifteenth-century editions. For instance, this manuscript seems to be the only one that mentions a date of 1420, referring to the "Grands Jours" of 1420 (f. 1: "Sensuit la table des coustumes des pays d'Aniou et du Maine faictes aux grans jours d'iceluy lieu en l'an mil quatre cens et vingt"). A basic principle of northern French law was that no one should judge his own case: hence, the "Grands Jours d'Angers" were exceptional tribunals or courts that judged in last instance important matters. The men who staffed these courts were at first great lords, but later were to be composed largely of men who had a long experience of legal problems. This date of 1420 could mean that the present version situates itself somewhere between the 1411 compilation (see Beautemps-Beaupré, II, pp. 385-606, Version E [Coutumes de 1411] that begins: "Ce sont les coustumes et stilles observez et gardez es pays d'Anjou et du Maine, faiz aux Grans jours d'Anjou par les gens du Conseil desdiz pays, en l'an mil .IIII. et unze [1411] lesquelles se divisent en seize parties" and the 1463 official and corrected redaction ordered by the Roi René d'Anjou. Also noteworthy is the uncommonly small format of the present manuscript undoubtedly copied for easy transportation and reference. It is quite likely a legal practitioner or official transcribed the present manuscript for professional use.

The survival of only six manuscripts of the Customary of Anjou and Maine (see above) signals the rarity of the present manuscript. None of these manuscripts is in a North American collection. Scrutiny of the Schoenberg Database reconfirms just how uncommon our manuscript is. Only one other manuscript of this text (evidently not the same as the present copy, although this cannot be firmly verified) is recorded for sale in the Database, and this was in 1722 (De Hondt Catalogue). There does exist a copy of the incunable—also rare—related to, but not identical with, the present text, see Paris, 1486; Burns Law Library, George Washington University (cf. Meade, 2009, p. 46). The Burns Library exemplar of the incunable is one of only two recorded copies in the United States and the only one that is complete. In general, French Customaries in manuscript form infrequently change hands either at auction or through booksellers. Only three copies of Customaries of other regions in France are recorded in the Schoenberg Database over the last one hundred years. One of these is the more common *Grand Coutumier de Normandie*; the same manuscript sold on a number of different occasions. We have identified two manuscript Customaries in North America, although surely there must be others: a Customary of Brittany at the University of Michigan, Ann Arbor (Faye and Bond, pp. 289-90, no. 230), and an exceptional illuminated copy of the Norman Customary in the Library of Congress, Washington, D.C. (Faye and Bond, p. 115, no. 6).

LITERATURE

[Anjou-Maine]. *Cy commencent les coustumes des pays d'aniou et du maine contenans seize parties*, Paris, Le Petit Laurens pour Jehan Petit, circa 1495 [Paris, BnF, NUMM-52957].

Beautemps-Beaupré, C.-J. *Coutumes et institutions de l'Anjou et du Maine antérieures au XVIe siècle...1e partie. Coutumes et styles*, Paris, A. Durand et Pedone-Lauriel, 1877-1893.

Boinet, A. *Bibliothèque de Madame G. Whitney-Hoff. Catalogue des manuscrits, incunables, éditions rares, reliures anciennes et modernes*, Paris, Léon Gruel, 1933, vol. I.

Cohen, Esther. *The Crossroads of Justice. Law and Culture in Late Medieval France*, Leiden, Leiden, E. J. Brill, 1992 (Brill's Studies in Intellectual History, 36).

Gasnier, M. *Étude comparative du droit familial dans la coutume du Maine de 1508*, Le-Mêle-sur-Sarthe, 1982.

Gouron, A. *Bibliographie des coutumes de France: éditions antérieures à la Révolution*, Genève, Droz, 1975.

Hubrecht, G. "Bibliographie des coutumes: les coutumes d'Anjou et du Maine," in *Bulletin de la Société des bibliophiles de Guyenne*, 1957, no. 65-66.

Kakewich, M. L. *The Good King: René of Anjou and Fifteenth century Europe*, Basingstoke, 2008.

Meade, Jennie C. "The Hunt for the 1580 *Coutume de Paris*: Building the French Customary Law Collection at The Jacob Burns Law Library," *GW Law School Newsletter*, Summer 2009, pp. 43-47.

Rippier, M. *Préface historique pour servir a la conference de la Coûtume du Maine avec la Coûtume de Paris...*, A Paris, Chez Jacques Josse, 1704.

Touraille, Pierre. *Coutumes du pays et duché d'Anjou, avec des notes sur chaque article, servant de conference aux coutumes de Maine, Paris et Touraine*, La Flèche, 1651.

ONLINE RESOURCES

Digital version of Paris, 1495 edition: "Cy commencent les coutumes des pays danjou et du Maine contenans seize parties":

<http://visualiseur.bnf.fr/ark:/12148/bpt6k52957x>

Digital version of Beautemps-Beaupré, 1879, vol. III, with critical edition of Customs of 1463:

<http://visualiseur.bnf.fr/ark:/12148/bpt6k39622q>

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