

# Notes on French Titles

In 2001, while preparing the first edition of our notes on French feudal titles, we were initially sceptical about their survival into the 21st century but, while looking for guidance in the wider realms of feudal law we found helpful parallels in Scottish practice and then, after asking whether the European Union had any views, we were led to a paper written by the head of a department in the European Commission who held a doctorate in law and believed French feudal titles to have retained their validity. As a consequence of this subject now being discussed increasingly on the Internet we asked the author for permission to publish his paper online and were informed that as he had not written it with open publication in mind, and as he had recently revised some of his conclusions, he could not allow us to publish it in its original form. As the original paper had been very persuasive in its influence we now publish this third edition of Notes on French Titles with the text of the second edition in the left hand columns and, on the right, explanatory comment influenced by the unavailability for publication of that author's paper.

The political turmoil of the long history of France has left the study of noble titles, courtesy titles and feudal titles confused. Nobility was abolished in the Revolution (although some argue that only the caste's fiscal privileges were abolished) but noble titles continue (added to birth certificates as a safeguard) and there are in France today around 3,500 noble families plus another 15,000 described as families *d'apparence noble* who may have *une particule* (the “*de*”) and possess, or did possess, titled lands. The latter, although clearly not noble, are known as “*anciennes honorables*.” As in Scotland, French feudal titles, which belonged to the land and were borne by the land's owner, continued in parallel with the personal titles introduced later (and with the quasi-feudal *majorat* titles).



# Notes on French Titles

A genuine and legitimate French feudal title may be obtained with the purchase of titled land possessing unchallengeable documentation and history. The transaction must pass through a *notaire*, a lawyer with specialist qualifications, appointed by the state and representing the state (which is in this sense a party to the transaction). The purchaser thus acquires the right to use the title and may also petition the *Conseil Français d'Héraldique* for the registration of the fief's ancient arms, either as his own or, if he already bears arms, quartered with his own. The arms may then be borne with the exterior ornaments appropriate to the rank of the titled land, which means primarily the use of the correct coronet of rank placed above the shield.

The historic position of French titles is this —

During the Middle Ages all the nobility of France, from the seigneur (equivalent to an English lord of a manor) up to a duke, owed their nobility to their title of “*écuyer*”. (It has been said similarly in England, but without legal force, that the nobility are first of all gentlemen.) The rank of *écuyer* was personal. All other nobility was based on the possession of land ~ the seigneur held one manor, as also the baron; the count held two or three, or possibly a large parish; the marquis held more; and the duke would have more again.

The controversy surrounding French feudal titles starts with the question of whether they still exist. One argument is that they were abolished during the Revolution because feudalism was then abolished, and the counter argument is that only feudal tenure was abolished, noble titles and feudal titles continuing. The Scottish parallel is of interest because it appeared at one point that recent legislation there abolishing feudal tenure would remove the similarities shared by the two countries, but when the changes became law the continuation of feudal titles was assured even though, unlike in France, they are now forever separated from the land on which they were based.

On balance it seems fair to argue that feudal titles whose original existence no one has doubted may have continued to exist unless they were specifically abolished. No royal or presidential decree enacting such a measure has been traced, but post-Restoration recognition of noble rank has usually required a *majorat* (an endowment ensuring the noble can live in appropriate style), and early ones seem to support the continuation of feudal titles by listing titled lands among their properties.

Readers should note the first paragraph does not state that “a genuine and legitimate French feudal title” may be bought. It is the titled land that is bought and its new owner chooses whether or not to use the title of the land. How much of the titled land is necessary to carry the title appears to be a grey area, but the lawyers known to have advised buyers seem to have accepted what was offered without demur. In the most recent case known the area was about one acre and within the site of the old castle.

*“Je suis né Gentilhomme et non pas Roy,”* claimed François I — a gentleman then being one whose nobility and rank of *écuyer* could be dated from the distant past when there were only two classes in France: those who owned the land, the *noblesse*, and those who tilled it, the *roturiers*. The nobles paid no taxes, apart from the quit rent paid to the king, but they were originally responsible for the provision of all military service, and for administration of justice in their jurisdiction.

As the centuries passed there were changes. Losses on the battlefields reduced the number of nobles to such an unacceptable level that recruitment became necessary. Accordingly, the richer merchants and *roturiers* were permitted to acquire noble fiefs and, after three generations of homage, to have their great-grandchildren accounted noble, the great-grandsons having been deemed to have attained the rank of *écuyer*. NOTE ~ the purchase of a noble fief alone did not create nobility. A noble had to be in the rank of *écuyer*. The position of the non-noble who bought a noble fief was made quite plain by royal edicts — “The non-noble *roturier* buying a ‘fief-noble’ will not on that account be ennobled, nor enter the rank and degree of nobles, no matter of what revenue and value the fiefs they have acquired may be.” (Ordinance of Blois, 1579, Article 238)

Continued losses in the ranks of the nobility required

The second paragraph in the left column and the continuation on the next page discuss some of the many changes in the definition and structure of the French nobility down the centuries, a far more complicated progression than known in England or Scotland. The complexity increased during and after the time of Napoleon, so familiarity with the laws to the extent achieved by peerage lawyers in the British Isles is claimed to require a lifetime of dedication.

The complexity has allowed a wide variety of bogus titles to flourish, to the extent now that critics who judge the situation strictly insist that only five per cent of those who claim a French title today have the right to do so. It has been claimed similarly that even at the time of the Revolution only a similar proportion bore their titles by right, which explains why ancestry was then considered by many to be of far greater importance than rank – a view widely held today in the Britain governed by New Labour.

But “bogus” titles in France come in many colours. Some are accepted widely by the truly genuine noble families and yet are not recognised by the associations whose task is to authenticate their use, while at the other extreme it is not difficult to find reports of the frauds who seize what they believe to be an extinct title and use it for criminal purposes. Between the extremes are, for example, those who have exploited the laws to acquire a form of nobility that will after perhaps three generations be accepted. It is claimed that “the ridicule fades but the title stays.” (A few years ago *Paris Match* in a major article illustrated the ease with which noble status could be acquired by having a journalist arrange to be adopted by a titled gentleman who, with no heirs of his body, for cash would adopt one.)

further slackening in the application of the principles, and by the beginning of the 17th century nobility could be acquired in seven different ways — (a) by distant ancestry; (b) through the mother; (c) by knighthood; (d) by letters patent; (e) by fiefs; (f) by office; and (g) by military service. However, few of these conferred immediate nobility — “*noblesse a tierce foy*”, for example, applied to fiefs, as before, and for nobility from military service it was necessary to have a father and grandfather who had served for twenty years as a junior officer at least. Titles continued to belong to the land, and until the end of the 18th century there were virtually no personal titles. The later kings created a few dukes by letters patent, and in the 19th century it became fashionable to assume or usurp titles, a practice despised by the ancient nobility. At the time of the Revolution it was estimated that fewer than five percent of the titles in use could be justified by holding a fief of the rank of the title.

Arms were never granted in France – the right there to arms has always been prescriptive. However, only nobles were permitted to add to the shield the coronet, helmet, crest, mantling, etc of full heraldic achievement, and with the intention of arresting the growing misuse of arms the Parliament of Paris on August 13, 1613 forbade all non-noble proprietors of noble fiefs to style themselves baron or count or marquis, or to bear coronets on their arms without the licence of letters patent verified by the court.

A tale is told of the Counts of Rochambeau of which the last of the direct line, Vimeur de Rochambeau, died in the 19th century, but before departing this life he adopted a young man, Achille Lacroix, to secure the title's future. This transmission of titles is permissible if there can be no other blood-related claimant. The Thiéry family combined this use of the law with another facility, that of inheriting a title or name from a man who, without heirs of his body, was killed in the war. The name of an uncle, Bercegol du Moulin, killed in the 1914-18 war, was first adopted, and then the eldest son was adopted by the last Duke of Fitz-James, thus becoming Thiéry de Bercegol du Moulin de Fitz-James.

Many do not go to such lengths. When Phillipe Junot was to marry Caroline of Monaco his father, an eminently respectable citizen of Paris, began to talk of his ancestor, the Duke of Abrantes, the title borne by Andoche Junot, ADC to Napoleon, who rose to the rank of General. But such a descent for Phillipe Junot's family is not proven, nor has it been found recorded anywhere, as is the situation with so many other families of ancestrally ambitious leanings, yet such claims are common and often go unquestioned. It is almost a free-for-all.

Against this background the purchasers of anciently titled land who resuscitate and use the titles with discretion are probably unlikely to be challenged. There appear to be no incidents of any being accused of unlawful use of a feudal title, and if their arms are registered with one of the associations (all of which are unofficial) they can claim a form of copyright protection for them.

The Revolution abolished the feudal structure of French society and left chaos. It sought to destroy the privileges of property, which meant the right to receive rents. However, titles in the sense of “handles to names”, some of which belonged to leading revolutionaries, were not threatened. Counts remained counts, bishops remained bishops. (The reason for the continued life of “handles” during the Revolution could be that no one thought of their abolition because they were not viewed as capable of abolition any more than ancestry could be abolished. The title deeds were tangible and could be burnt; “handles” and ancestry were indestructible.)

After the Restoration Louis XVIII resolved the contradictions with the issue in 1814 of a Charter of which Article 71 stated explicitly — “*La noblesse ancienne reprend ses droits, la nouvelle conserve les siens.*” (The old nobility recovers its rights, the new retains its.) Then in 1848 the *Garde des Sceaux* (Minister of Justice) made an historic decision in which he clearly confirmed to the old Château d’Esclignac its rank as a Duchy and to **its owner** the title of Duke d’Esclignac. This confirmed the ancient principle of transmission of feudal rank through the ownership of titled land.

The current position of French feudal titles may be summarised as —

The Château d’Esclignac decision mentioned in the second paragraph on the left is both interesting and confusing. The present owner of the Château has been reported to have found recently a document, dated 1848, signed by the then *Garde des Sceaux*, M. de Peyronnet, confirming that the then owner was entitled to bear the old title *duc d’Esclignac*. He then met the current *Garde des Sceaux*, M. Prebend, informally and asked if this still applied – and was told that the Minister was bound by the most recent documentation. This was, of course, an informal answer, so the Minister may change his mind, but it is of interest.

The existence of this report suggests that in 1848 there must have been doubt or confusion. Why does this document exist? The Duke in 1848 should have been the son of the first Duke (who died in 1827, having been created in 1787 and made a peer in 1819), who had been Duke of Fimarcon during his father’s lifetime. The first Duke had been obliged to create a *majorat* but failed to do so. This barred his son from succeeding, but he was promised a new duchy, again on condition that a *majorat* be created, and again this was not done. However, in 1829 he was granted the personal title of Duke – but the confirmatory Letters Patent appear not to have been issued and he died in 1873. Who then was the 1848 Duke of Esclignac? And as the *majorat* was never formed, can the duchy still be claimed, as it is, to be rightfully a feudal title? Or is the 1848 document proof that despite the records a *majorat* was formed? During his father’s lifetime the young Duke had been also a Marquis, so was the Château of Esclignac then a feudal marquissate, and did the current owner confuse this with the duchy? More research is needed.

1. The French titles that were abolished in the Revolution and were required to be fed into bonfires in front of the town halls were the titles to land. The titles in the sense of “handles to names” continued and this was confirmed at the Restoration.

2. Feudal titles attached to land remain attached even in the 21st century, and ownership of titled land carries with it the right to use the title.

3. Feudal and personal titles still exist in law, but the status and privileges of nobility are no longer recognised by the law (although status is, of course, recognized by custom, as illustrated magazines bear witness each month).

4. **Frenchmen** protect their titles by incorporating them in their name when their *Etat Civil* has been amended after the supporting documentation has been examined and approved.

5. **Foreigners** use the documentation provided by the seller and the *notaire*, and by the *Conseil Français d'Héraldique*, to adopt their titles in their own countries.



From the Baronage pages

During the controversy over the current status of feudal titles in France, the most misleading factor has been the confusion between nobility as a quality (which of old could be accompanied by fiscal privileges) and the nobility as an identifiable group of families (a group that exerted political power).

The critical issue is this — **nobility** effectively ceased to exist when the Revolution abolished the political status and privileges of **the nobility**, but **the nobility** certainly continued to exist as a caste even though the ancient concept of **nobility** in France was dead. When in 1814 Louis XVIII decreed that the rights of **the nobility** would continue, he was indirectly confirming that **the nobility** was alive and well, but *égalité* and *fraternité* had killed the concept of **nobility**. Hence when a genuine feudal title is acquired today, as in the 1848 Château d'Esclignac decision, the old aristocratic title will be borne lawfully by the new owner, but it will not today be a noble title. The new owner will not become a French noble. He will rank as the owner of a feudal title.

In the composition five years ago of the summary listed in the opposite column the views of both sides of the validity argument were taken into account and the balance was tipped by the fact that lands held to be anciently titled were going to buyers advised by French lawyers, and those transactions were owed to the buyers' wish to possess a French title. As only one such purchase is known to have occurred during the last twelve months, this may indicate that French lawyers are now taking a different view of the validity. The advice of the Baronage editors remains as it was: buyers must retain an independent French lawyer — as has been always emphasised on the Baronage website.