The Reign of King John

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Chapter VI

KING OR TYRANT

The dominant feature of the political history of England during the second half of John’s reign was the series of quarrels between the king and various groups of barons that culminated in a fairly general revolt of the feudal aristocracy. The fact that the formulation of Magna Carta was an incident of this revolt makes the study of its origins and progress of more than ordinary interest and importance. Magna Carta occupies a deservedly high place in the history of political thought. While an adequate comprehension of the document requires far more than a knowledge of its immediate background, such a knowledge is absolutely essential for its interpretation. This absorbing interest in the background of Magna Carta is bound to distort any account of the history of the period. Events that form an essential part of it take on an importance that they would not otherwise have. The historian who wants to achieve a reasonably well-balanced narrative must continually guard against neglecting events of contemporary importance because they have no apparent relevance to Magna Carta. The next few chapters will be unbalanced in the sense that events forming a part of the background of Magna Carta will be treated at greater length than they would otherwise deserve, but no important phase of the political history of the period will be intentionally neglected.

Two fairly distinct types of grievances lay behind the revolt of the feudal aristocracy against King John. In a feudal state the political power and prestige and the surplus of goods produced by the labor of farmers, merchants, and artisans were divided between the monarch and the members of the feudal class. The political history of every feudal state of western Europe is essentially an account of the efforts of each of these parties to increase its share at the expense of the other. This process had been going on in England since the Norman Conquest. William I, William II, and Henry I had vigorously developed the power of the crown and had
successfully suppressed feudal rebellions. During the long contest between King Stephen and the Empress Matilda the feudal class had recovered much of what it had lost and actually gained some new ground. Henry II had restored the crown to the position it had occupied under his grandfather and developed its power still further. He too was obliged to suppress a large-scale revolt of his vassals. When Richard came to the throne, the English feudal class was still smarting from the crushing defeat inflicted on it by his father. This fact combined with Richard's military prestige and personal popularity saved him from having to face a revolt. But the behavior of the barons when they learned of Richard's death showed that they had lost neither their ambitions nor their rebellious spirit. In short any king who tried to increase the power of the crown or even maintain its position as he found it was liable to be confronted with a baronial rising.

Most of the grievances that eventually found expression in Magna Carta grew out of this fundamental contest between the crown and the feudal class. Almost all of them had existed in the reigns of Henry II and Richard if not in that of Henry I. John made a few unpopular innovations and some of his practices made old grievances more acutely felt, but the general issues between him and the feudal class were far from new. Some of John's innovations and aggravated practices have already been discussed. Others will be mentioned as we examine his government in the later years of his reign.

General grievances produce general discontent, but they have to be extremely acute before they can in themselves cause a revolt against a reasonably strong government. A rebellion requires leaders, and they are likely to have more personal reasons for their disaffection than any general dislike of the government's policy. The grievances of John's feudal vassals as a whole supplied excellent tinder, but the spark had to come from men with personal reasons for hating the king and his government. These personal grievances grew out of John's quarrels with individual barons or small groups of barons. Hence these quarrels will have an important place in my discussion of this period.

The seven or eight years preceding the outbreak of the baronial
revolt saw little change in the personnel of John's government. The most important new appointment was that of Peter des Roches as justiciar to succeed Geoffrey fitz Peter.\(^1\) Peter's elevation was deeply resented by the barons. Not only was he considered a foreign adventurer, but he was believed to be John's creature. Actually it seems doubtful that the change made much difference. While Geoffrey may well have opposed John's policies in council, he seems to have always carried them out loyally and effectively. The king's dislike for him was probably based on envy of his wealth, power, and prestige.\(^2\)

Probably of greater significance than the advancement of Peter des Roches was the rapid rise of Richard Marsh. Richard became a member of John's court in 1205 and by 1207 had become clerk of the chamber.\(^3\) During the course of 1209 he succeeded Hugh de Welles as senior clerk of the chancery, but he continued to act as an officer of the chamber.\(^4\) While the interdict rested on England, he showed himself extremely adept at extorting money from the clergy and was rewarded with two archdeaconries—Northumberland and Richmond.\(^5\) When Walter de Grey became bishop of Coventry in October 1214, Richard Marsh succeeded him as chancellor.\(^6\) With the possible exception of John de Grey, bishop of Norwich, Richard was John's most trusted servant. When the king was in Poitou in the spring of 1214, he despatched Richard to England to supervise the conduct of the government under Peter des Roches and William Brewer.\(^7\) Twice in 1212 and once in 1214 he watched over the sessions of the exchequer. In fact some writs ordering the payment of funds were addressed to him as well as to the treasurer and chamberlains.\(^8\) During these periods Richard Marsh seems to have had in his hands the actual exercise of the functions of three great officers—chamberlain, chancellor, and

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\(^1\) *Rot. pat.*, p. 110.
\(^3\) *Rot. liberate*, pp. 274-275; *Rot. pat.*, p. 74.
\(^4\) *Calendar of charter rolls*, IV, 7; *Rot. claus.*, I, 153.
\(^5\) *Rot. pat.*, pp. 93, 102, 105.
\(^7\) *Rot. pat.*, p. 139.
\(^8\) *Rot. claus.*, I, 183-185.
treasurer. Thus a fair part of the functions of government were concentrated in the hands of one highly trusted royal servant.

The same essential stability of personnel that existed in the central administration appeared also in that of the shires. The only striking innovation during this period was the appointment of mercenary captains to three shrievalties. When in 1208 John decided to curb the power of William de Briouse, he placed the two shires that bordered on William's Marcher fiefs, Herefordshire and Gloucestershire, in the care of Gerard de Athies. Ger
d had been a soldier in the service of the Plantagenets since Richard's reign. John placed him in command of the great fortress of Loches. When that castle fell to Philip Augustus, John ransomed Gerard and brought him to England. He also brought over a number of Gerard's relatives. Gerard served as sheriff for only two years, but he was replaced by his kinsman Engelard de Cigogné who held the two shires until after the issuing of Magna Carta. Another mercenary captain who seems to have been a relative of Gerard's, Philip Marc, became sheriff of Nottingham and Derby in 1208 and held that office for the rest of John's reign. The appointment of these foreign soldiers to English shrievalties was fiercely resented by the barons, and in chapter 50 of Magna Carta John promised to remove them from office. While it is perfectly conceivable that these mercenary captains ruled their shires with an unusually heavy hand and without too fine a regard for English customs, there is little evidence that they were worse than many native sheriffs. Certainly there is no indication that they were hated by the people they ruled as cordially as was William Brewer. It seems likely that dislike of seeing foreigners in profitable offices was the chief cause for the baronial hatred for Gerard and his relatives.

The rest of the English shrievalties were held by essentially the

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9 Rot. pat., pp. 78, 83.
10 Landon, Itinerary, p. 132.
11 Coggeshall, p. 146.
12 Rot. claus., I, 57, 79, 97, 104; Rot. pat., pp. 56, 65.
13 Pipe roll 11 John, Public Record Office.
14 Rot. pat., p. 86.
same group of men that had served in the early years of the reign. While sheriffs were shifted from one county to another, there was little change in the group as a whole. Some of these shifts were apparently connected with John's quarrels with his barons and will be discussed later in that connection. It is interesting to notice that nine men who held office as sheriff during this period took part in the baronial revolt against John. Three of them were among the twenty-five barons chosen to enforce Magna Carta. Hence John can hardly be charged with filling the shrievalties with his creatures.

Our knowledge of the activities of the royal government during the four years following the levying of the thirteenth of 1207 will always be extremely limited because of a grave lack of sources. While patent and charter rolls exist for the tenth year of John's reign, 1208-1209, the far more valuable close roll is missing. Then for three years, the eleventh, twelfth, and thirteenth, there are no chancery rolls. The only available official records are the pipe rolls, a missæ roll for the eleventh year, and a præstita roll for the twelfth. The chroniclers were primarily interested in the great struggle between John and the church and make only casual references to domestic politics. These sources show clearly that interesting things were being done, but tell us little or nothing about them.

The year 1208-1209 seems to have been devoted chiefly to organizing the administration of the vast amount of ecclesiastical property seized because of the interdict. During the following summer the government apparently turned its attention to the royal forests. Wendover states that all buildings, fences, and ditches that had been constructed within the borders of the forests were razed. The *Annals of Dunstable* suggests that in Essex at least this included structures on clearings that were so old that they were assumed to be legal. The annalist adds that eighty foresters

15 Henry de Braybrook, William Malet, Hugh de Neville, Gilbert fitz Renfrew, Reginald de Cornhill the younger, William de Huntingfield, John fitz Robert, John fitz Hugh, Robert de Ropsley.
16 William Malet, William de Huntingfield, John fitz Robert.
17 Wendover, III, 50-51.
in Essex were imprisoned and forced to ransom themselves. The pipe roll shows that the forests of Essex were in the hands of special royal custodians for several years. Except for the general statement of Wendover, there seems to be no clear evidence that the government's purge of the forests extended beyond Essex.

A series of accounts on the pipe roll of 1211 indicates that John made an interesting administrative experiment, but nothing further is known about it. These show the receipts of the "custodians of the ports" from Michaelmas 1210 to mid-Lent 1211. There were five groups of custodians headed respectively by Earl William of Salisbury, Gilbert fitz Renfrew, William de Albini, Aubrey de Vere, earl of Oxford, and Hugh de Neville. All of them record sums received from a customs duty on woad. Most of the groups also received money from an "assize of grain" which was presumably a tax on the export of corn. One group seems to have collected tolls on ships entering ports. The Annals of Waverley state than in 1211 John closed all the ports of England. These groups of officials may have been intended to enforce restrictions on trade as well as to collect dues. But without additional evidence any statements about this experiment can be mere guesses.

With the coming of John's fourteenth year the chancery rolls appear once more—in fact for that year we possess the patent, close, charter, pipe, and misae rolls. Despite this abundance of material there are but a few references to one of the most important administrative events of John's reign. On June 1, 1212, writs were issued directing the sheriffs of England to conduct an extensive inquiry into all tenements held in chief of the crown by knight service or serjeantry. They were to list all such tenements with the names of the holders and the service owed. The sheriffs were also to list all lands once held in capite that had lost this status through alienation. They were to report who alienated them, what consideration or service he received, and what the occasion of alienation was.

19 Pipe rolls 12 and 13 John, Public Record Office.
20 Pipe roll 13 John, Public Record Office.
21 Annals of Waverley, p. 266.
22 Red book of the exchequer, II, cclxxv; Book of fees, I, 52.
If this incredibly ambitious project could have been carried out exactly, it would have furnished a complete survey of the feudal organization of England in 1212 and the history of that organization up to that time. The whole process of sub-infeudation would have been laid bare before us, and we should be able to see in detail how the church built up its estates. The listing of lands given in marriage would have filled many of the gaps in our knowledge of feudal genealogy. But obviously no such survey could be made. If the records we possess are safe criteria, it was even impossible to furnish all the information desired on the contemporary situation. In most shires there are long lists of tenements labelled "service unknown." In other cases the statement is made that the land in question was held as part of a certain barony. Except in the returns for Lincolnshire printed in the Book of fees there is little information about mesne fiefs and lands given in free alms.

As we have no information about this inquest beyond what is supplied by the writ that initiated it and the returns printed in the Red book of the exchequer and the Book of fees, one can only speculate as to John's purpose. It seems unlikely that the government had any great interest in the baronies. Their holders were perfectly well known and their service was firmly fixed by long custom. Moreover the form of the returns make it practically impossible to use them to discover the service due from a barony. In all probability the administration's concern was centered in small holdings that were not part of a formally organized barony. They might well be escaping their obligations. The returns show that there were a large number of serjeanties held by a wide variety of services. John was undoubtedly anxious that the holders should not escape their obligations as tenants-in-chief. Henry II and Richard had been extremely lavish with their grants from the demesne of the crown and from the demesnes of escheated baronies. The government wanted to know the obligations of the holders of these

23 Ibid., pp. 72, 79, 81, 82, 83, 88, 90, 97, 129, 131.
24 Ibid., pp. 74, 75, 83, 93, 120, 122, 123, 137.
26 For a discussion of the returns see ibid., I, 52-65.
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grants. Then there was the "land of the Normans" that had been distributed by John. He may well have had little clear idea about who held these lands and what service was due from them. In short I am convinced that the royal government was primarily interested in the small tenants-in-chief. As far as the barons were concerned the chief question was what lands they held that were not covered by the service due from their barony. For instance it seems clear that Earl William Marshal had been doing no service whatever for his manor of Tidworth in Wilts. In the inquest he claimed to hold it by serjeantry as marshal of the court, but in all probability he invented this tenure for the occasion. Many barons held detached fees that they could easily forget, and the government was anxious to unearth them.

Then there is the possibility that John hoped to uncover flaws in the titles of some of the barons whom he suspected of disloyalty. A few months before the inauguration of the inquest Henry de Bohun, earl of Hereford, had been summoned to the king's court to tell what service he performed for his barony of Trowbridge and to whom he gave this service. At the same time Earl William of Salisbury and his wife instituted suit against Earl Henry for this barony. The origin of the barony of Trowbridge is obscure. Of the eight townships mentioned in 1212 as belonging to the barony, presumably as demesnes, two belonged at the time of Domesday book to Edward of Salisbury, three to Brictric, and three to three other crown tenants. The great-grandfather of Earl Henry had married the daughter of Edward of Salisbury and had undoubtedly received with her the two estates that had been Edward's in Domesday. It is quite possible that the other lands had passed through the hands of the house of Salisbury before they went to the Bohuns. If John's instructions to gather full information about lands given as marriage portions should be carried out, all the details of the creation of the barony of Trowbridge would come to light. Obviously Earl William of Salisbury claimed that the barony should be held of him—the inquest might support his claim.

27 Red book of the exchequer, II, 487. This may not be actually part of the returns to this inquest.
28 Curia regis rolls, VI, 270, 320.
While there is no absolute evidence that there was any connection between Earl William’s suit that certainly had John’s support and the decision to hold the inquest, there seems a decided possibility that there was.

Finally it seems likely that the king was interested in the source of the lands held by the various monastic establishments. When the ecclesiastical property was seized at the time of the interdict, the barons had claimed the custody of the houses founded by their predecessors. The fact that the rights of patronage over houses founded by their ancestors were guaranteed to the barons by a section of Magna Carta indicates that the question was an important one. Through the inquest into lands granted in free alms John could discover what lay behind baronial claims to these rights. He may also have been interested in uncovering fraudulent grants in free alms—lands given to a monastic house and then re-granted to the donor as a fief. This abuse was prohibited in an early re-issue of Magna Carta.

As the inquest of 1212 preceded immediately the outbreak of the conspiracy of Robert fitz Walter and Eustace de Vesci, one is tempted to connect the two events and to suggest that the inquest may have been a major reason for baronial discontent. But this seems extremely unlikely. The general policy of John was to seek every right, service, and source of revenue that he could possibly find. As part of the implementation of this policy the inquest may well have been unpopular. But I cannot see in it any serious threat to the position of the barons or any indication that extra demands for service were made on them because of it. The scutage of Poitou of 1214 was based on the same assessments that had prevailed since 1167.

The formal taxation imposed by John’s government between 1207 and 1215 was extremely moderate. There was a scutage of one pound in 1209, another at two or three marks in 1210, one at two marks in 1211, and one at three marks in 1214. The first three were levied on the occasions of expeditions into Scotland, Ireland,
and Wales. While the fines imposed on those tenants-in-chief who sought to buy exemption from service in these expeditions were extremely heavy, most of the tenants performed their service. As these exactations were connected with actual military operations, they were unquestionably proper. The fourth of these scutages was levied on the occasion of John's expedition against Philip Augustus. Although the rate was the highest ever asked by John, the fact that no fines were demanded made the actual financial burden on those who did not serve lighter than usual. In fact a scutage unaccompanied with fines was actually profitable for most barons. The burden was borne by their mesne tenants who paid the higher rate.

Altogether too much has been made of the expedition to Poitou and the scutage connected with it as one of the reasons for the baronial revolt. Ralph of Coggeshall says that when John was about to cross to the continent in 1213 the northern barons refused to go on the ground that they owed no service outside the realm, but Wendover states that their reason for declining to leave England was that the kingdom was still under interdict. According to Walter of Coventry the northern barons claimed in the autumn of 1214 that the scutage of Poitou was illegal because they owed no service outside England. Now by 1213 King John was at bitter odds with several groups of barons, and it is quite conceivable that his foes advanced this argument to hamper his expedition to Poitou. It was not a new idea—the same claim had been advanced against King Richard. But both Richard and John had imposed and collected scutages and fines in connection with expeditions to the continent. The argument was a feeble one, and the barons must have known that it was.

As a matter of fact if one can assume that the men who followed John to Poitou had no strong objections to the expedition, opposition to the campaign was by no means general among the

34 Coggeshall, p. 167; Wendover, III, 80.
35 Coventry, II, 218.
36 Jocelin de Brakelond, p. 63.
barons who were to become the leading spirits of the revolt. Of forty-four rebels mentioned by Wendover as meeting in arms in the spring of 1215 at Stamford thirteen had served in Poitou and two others had sent their sons in their places. Of the twenty-five barons chosen to enforce Magna Carta eight had been on the Poitevin expedition and two had been represented by their sons. If one considers the suggestion of Coggeshall and Coventry that it was chiefly the “northern barons” who opposed the expedition, the result is even more interesting. If one includes Lincolnshire among the northern shires there are fifteen northern barons on Wendover’s list of those at Stamford. Six of these had followed John to Poitou. Of the seven northern barons among the twenty-five chosen to enforce the charter three were in Poitou. The chief agitators of the revolt against John—Robert fitz Walter, Eustace de Vesci, William de Mowbray, Henry de Bohun, and Geoffrey de Mandeville—did not take part in the expedition, but they were bitter foes of John long before 1214.

Examination of another passage in Ralph de Coggeshall will illustrate further the care that must be used in connection with the statements made by the chroniclers. Ralph says that John crossed to Poitou in 1214 with few earls but with many knights of minor importance. The chronicler probably meant this statement to suggest how unpopular the expedition was, and it has been used freely if not recklessly by historians. There were fifteen earls in England in 1214. Ranulf, earl of Chester, William de Ferrers, earl of Derby, Aubrey de Vere, earl of Oxford, and Henry, earl of Warwick, accompanied John. William, earl of Salisbury, commanded the English contingent in the Imperial army. Roger Bigod, earl of Norfolk, and Saher de Quency, earl of Winchester, sent sons in their places and William, earl of Arundel, William, earl of Devon, and William Marshal, earl of Pembroke, sent their contingents to the host. William Marshal was bound by his

37 In general I have established the men who went to Poitou by the lists of loans made there entered on the pipe rolls. Most of the barons with John also witnessed charters issued in Poitou.

38 Coggeshall, p. 168.

39 Layettes du trésor des chartes, I, 405-406.

40 Lists of loans on pipe roll. Rot. claus., I, 206.
homage to Philip Augustus for his barony of Longueville not to serve John in France, and the earls of Norfolk and Devon were far too old for active campaigning. Richard de Clare, earl of Hertford, William de Warren, earl of Surrey, David, earl of Huntingdon, Henry de Bohun, earl of Hereford, and Geoffrey de Mandeville, earl of Essex and Gloucester, neither went in person nor sent contingents, but Geoffrey's younger brother, William de Mandeville, was in the host. Thus a third of the English earls took part in the campaign in person, another third performed their service through deputies, and only a third abstained altogether. While Coggeshall's statement is correct—few earls went with John—it has little to do with the popularity of the expedition among the English earls.

In short there seems to be no sound reason for placing the expedition to Poitou and the scutage connected with it among the reasons for the baronial revolt. There is no evidence that any baron opposed the campaign who did not already hate John for other reasons and a fair number of his future enemies accompanied him. Although the scutage rate of three marks was unusually high, the absence of fines meant that the burden was borne by the mesne tenants instead of by the barons. But it seems very likely that the failure of this expedition seriously weakened John's position and encouraged the disaffected. Ever since the campaign of 1206 the king had been building up his war-chest. The need for money to recover his continental lands had been the official reason for the heavy and unpopular thirteenth of 1207. John had spent vast sums subsidizing potential allies among the neighbors and discontented vassals of Philip Augustus. The plan for the campaign of 1214—two armies moving from the north and the south to catch the French royal domain in a vise—was extremely ambitious. Certainly no English or French king had ever conceived so extensive a military operation. When John left for Poitou in 1214, he had

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41 These earls received no loans and all but Richard de Clare seem to have been charged with scutage. He was acquitted and may have sent knights. Rot. claus., I, 212.

42 On July 9 John sent a letter from La Rochelle indicating a desire to make peace with any of his foes who crossed to aid his campaign. Rot. pat., p. 118.
completed a series of successful campaigns. The Irish baronage had been reduced to obedience and the native kings over-awed, the Welsh had been driven into their mountain fastnesses, and the king of Scotland had been forced to give his two daughters and many nobles as hostages as well as to raise a large sum of money for peace. John was feared by all. He returned from Poitou thoroughly beaten with his brother Earl William of Salisbury a prisoner of King Philip. All he had to show for his costly expedition was a few temporary gains in Poitou and a cousin of Philip Augustus, Robert, son of Count Robert of Dreux, as a prisoner. Barons who had hesitated to beard the victor over Irish, Welsh, and Scots would be far less daunted by the king who had been defeated by the prince royal of France at the head of a fragment of the French host.

In addition to the four scutages there were a few taxes of other kinds during this period, but there is too little evidence available to enable one to discuss them with any confidence. The tallage of the Jews in 1210 has been dealt with in a previous chapter. There are a few references to an “aid to relax the interdict” levied in 1214. This tax was a tallage levied on the urban and rural royal demesne. Then there were special aids that were not apparently levied on the country as a whole. In 1210 Bristol and its suburbs and Gloucester paid a very heavy “aid for the king’s passage to Ireland.” Bristol and its suburb of Redcliff each paid 1,000 marks while Gloucester paid 500 marks. In the same year the men of Lancashire paid £131 for repairing Lancaster castle. Obviously the line between such special aids and pure extortions is rather thin. In 1211 London made the king a gift of 2,000 marks. The money extracted from the clergy was called a gift or a fine pretty impartially. Thus in 1211 Brian de Lisle accounted for forty marks gift from the abbey of York, a gift of £20 from the abbey of Selby, and a fine of 300 marks from the abbey of Rufford. The clerks of Yorkshire and Lancashire made the king a gift of 3,390

43 Rot. claus., I, 208-209; Rot. pat., p. 111; Mitchell, Studies in taxation, pp. 116-118.
44 Pipe roll 12 John, Public Record Office.
45 Pipe roll 13 John, Public Record Office.
marks.\textsuperscript{46} All these sums were presumably included in the total of money extorted from the church that was discussed in a previous chapter.

In addition to the revenues from the shires, royal boroughs, manors of the royal demesne, scutages, tallages, aids, customs duties, and monopolies the Angevin kings drew important sums from feudal incidents, fines offered for special privileges, and penalties for offenses. The most valuable of the feudal incidents was the right of wardship. According to English custom when a vassal died leaving a minor or a female as heir, the lord had custody of the fief. After he had given the widow her dower and provided for the support of the late vassal's children, the lord could use the revenues of the fief as he saw fit. The English kings had made their rights of wardship more profitable by inventing a device called prerogative wardship. While the ordinary lord received the custody only of fiefs held from him, the king claimed custody of all fiefs held by a tenant-in-chief. Thus a baron who had a vassal holding twenty knights' fees of him and only one fee in chief from the crown, lost his right of custody over the twenty fees. It seems probable that John was the first king to extend the claim to prerogative wardship to serjeanties held in chief and that this was one of the prime reasons for the deep interest taken in such serjeanties in the inquest of 1212.\textsuperscript{47} Obviously the right of wardship gave many opportunities for abuse. The lord was entitled to the income from the estate, but he was expected to conserve the capital—to keep up the number of stock on the manors, keep the buildings in repair, conserve the woods and other resources, and refrain from extortion of money from the tenants of all classes.\textsuperscript{46} When, as was usual, the lord sold the custody of the fief to the highest bidder, the temptation of the latter to abuse his rights was very strong. But unfortunately it is very difficult to

\textsuperscript{46} \textit{Ibid.}

\textsuperscript{47} Chapter 37 of Magna Carta states that a petty serjeantry held of the king shall not be the occasion for prerogative wardship. William Marshal had seen fit to secure his position as lord by a special royal charter in a case of this sort.

\textsuperscript{46} This theory of wardship is best expressed in chapters four and five of Magna Carta.
find clear evidence of such abuse. Our only material on the exercise of the royal right of wardship comes from the accounts of the custodians preserved on the pipe roll, and as we do not know what the fiefs yielded their holders, it is impossible to estimate whether or not the crown was milking them too heavily. While the sale of stock from the manors of the Stutville barony after the death of William de Stutville was so vast in scale that it is hard to believe it represented the annual increment, we do not really know that it did not. There is, however, one point that is suggestive. The royal custodians always collected a heavy tallage from a barony the first year it was in their hands. But on the whole one can only say that while it is highly probable that John abused his right of wardship, it is impossible to prove it.

Closely connected with the right of wardship was that of marriage. The English kings had always maintained that their assent was necessary before a tenant-in-chief could give his daughter in marriage. While Henry I in his charter of liberties had promised not to demand money for this assent, neither he nor his successors had allowed this promise to trouble them and Henry II had in some cases at least extended this right to male heirs. When a vassal died leaving a minor or a female heir, the marriage of the heir was arranged by the lord. Here too the king used his prerogative—he claimed the right to marry the heir of any tenant-in-chief no matter how much he had held of other lords. This too John clearly tried to extend to royal serjeanties. Heirs and heiresses were valuable commodities and they were used to bring in revenue and to strengthen the king's political position. They were sold at a good price to men the king wanted to favor. There was apparently little or no objection to the selling of the marriage of heirs and heiresses. The men who bought them were offering fines for privileges. There was, however, a strong feeling that the mates chosen must be suitable—that the heir or heiress must not be "disparaged." Unfortunately we do not know enough about the social distinctions prevalent in thirteenth-century England to

49 For more extended discussion of the right of wardship see Painter, *Feudal barony*, pp. 64-66.
50 Charter of liberties of Henry I, c. 3.
be certain what this meant precisely. It was clearly not improper to marry the heiress of a great earldom to a simple English knight—no one seems to have resented the marriages of William Marshal, Geoffroy fitz Peter, and Saher de Quency. It is equally clear that it would have been considered disgraceful to marry an heiress to a villain, but villains were not likely to be able to buy them. In all probability it would be disparaging to marry a woman of the feudal class to a burgher, but even here one cannot feel too certain. The line between burgher and baron could be thin. Gervase de Cornhill was a burgher of London, but his two eldest sons married the heiresses of barons. Despite the obscurity of just what was meant by disparagement, it is not hard to guess what the issue was in John's reign. It seems very likely that a number of John's favorite servants, both native and foreign, were men of humble origin—especially the captains who had won their position with their swords. When John gave or sold an heiress to one of these men, it disparaged her. Unfortunately it is impossible to estimate how frequently or how flagrantly John did this because in general we do not know which of his servants were considered of unworthy birth. The marriage of Fawkes de Breauté to the daughter of Warin fitz Gerold who was the widow of Baldwin, heir to the earldom of Devon, was clearly considered outrageous. Fawkes was a foreigner of obscure origin. The marriage of Peter de Maulay to the daughter and heiress of Robert de Turnham may also have been considered disparaging, but as we know nothing of Peter's birth we cannot be certain. Actually I suspect that the men the barons had in mind when mentioning disparagement in Magna Carta were John's foreign mercenary captains. But except for Fawkes and Hugh de Vivonne, none of these men seems to have acquired an heiress of rank.

As it never occurred to anyone that young heirs and heiresses ought to have any voice in choosing their mates, they could be injured only by disparagement. But a widow was in a different position. By feudal custom she was entitled to enjoy for life a dowry from her husband's lands—usually one-third—and what-

51 On this question see Painter, Feudal barony, pp. 66-72.
ever property she had brought into the marriage—her marriage portion or her inheritance if she were an heiress in her own right. There was a general feeling that she should be allowed to remain single if she wanted to and if she chose to wed should be permitted to choose her second husband subject to her lord’s approval. Henry I had promised not to compel a widow to re-marry. While his charter does not actually say that he will exact no fine from her for obtaining possession of her dower and marriage portion, that was probably its intent. But neither Henry nor his successors could resist the temptation to sell widows whether they were willing or not. There were servants to be rewarded and barons to be won over to say nothing of the money gained by the sale. When a tenant-in-chief died, his widow as a matter of course offered a fine to have her dowry and her marriage portion, to remain single if she wanted to, and if she married to choose her husband with the king’s assent. In the cases of widows of barons who were not heiresses in their own rights John usually demanded from one hundred to three hundred marks. When an inheritance was involved, the fines were much higher. Amabile, widow of Hugh Bardolf, and a co-heiress of the Limesi barony offered 2,000 marks. Margery, widow of Robert fitz Roger, gave £1,000. Beatrice, widow of Doun Bardolf, and daughter and heiress of William de Warren, lord of Wormegay, offered 3,100 marks. The largest such fine during the reign was imposed on Hawise, countess of Aumale who was obliged to offer 5,000 marks. To force a woman who had married three times at the king’s behest to pay so enormous a sum to obtain possession of her inheritance at the death of her third husband might well seem unreasonable.

Another important feudal incident was relief. When a vassal died, his heir was obliged to pay the lord a sum of money. By the time of Henry I custom had fixed the rate of relief at £5 per

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52 Charter of Henry I, c. 3.
53 For examples see Pipe roll 3 John, p. 18; Pipe roll 4 John, p. 126; Pipe roll 5 John, pp. 22, 104.
54 Pipe roll 7 John, p. 34; Rot. chart., p. 150.
55 Pipe roll 16 John, Public Record Office.
56 Ibid.
57 Rot. chart., p. 189.
knight's fee for mesne tenants. In his charter of liberties Henry promised not to charge tenants-in-chief all he thought they could pay, but to accept a "just and legitimate relief."58 While Henry's charter did not specify what a just and legitimate relief was, it is clear that by Richard's reign at least £100 was generally accepted as the reasonable relief for a barony.59 But here again the temptation was to charge all the traffic would bear. We find Richard accepting a fine of 100 marks to persuade him to accept a "reasonable relief" of £100.60 Then it was usually easy to think of special reasons for demanding a high relief. When an heir had an unquestioned right to a barony that had been held for a long time by his ancestors under an unchallenged title, he might escape with a relief of £100. But usually a flaw could be found in the heir's position. Then his succession to his father's lands became to a greater or lesser extent an act of grace. Actually very few of the reliefs accepted by John were as low as £100 for a barony. In 1201 Robert de Tatershall paid this sum, in 1205 Robert Arsic, and in 1209 Robert de Pinkeny.61 These were all reasonably modest baronies held by firm titles. In 1203 John de Balon paid £100, but he held a tiny barony of only one knight's fee.62 But Norman de Arcy in 1206, William de Beauchamp in 1207, and Henry de Pomeroy in 1207 paid 600 marks each for baronies to which their title seems to have been clear.63 Toward the end of his reign John exacted some enormous reliefs where no reasonable excuse can be found for doing so. Robert de Vere paid 1,000 marks for the lands of his brother, Earl Aubrey, and despite their comtal title the Vere barony was of very moderate value.64 John de Lacy had to offer a relief of 7,000 marks for the lands of his father, Roger de Lacy, constable of Chester.65 Then in 1214 William fitz Alan was

58 Charter of Henry I, c. 2.
59 Painter, Feudal barony, p. 59.
60 Pipe roll 10 Richard I, p. 222.
61 Pipe roll 5 John, p. 193; Pipe roll 7 John, p. 151; Pipe roll 11 John, Public Record Office; Rot. oblatis, pp. 44, 255.
62 Pipe roll 5 John, p. 57.
63 Pipe roll 8 John, p. 104; Pipe roll 9 John, pp. 77, 157.
64 Rot. claus., I, 173.
65 Rot. oblatis, p. 495.
charged the incredible sum of 10,000 marks for his medium-sized barony. The same relief had been imposed on Nicholas de Stutville in 1205, but his case was rather complicated. His brother had owed the crown a large sum and the fine for relief included quittance of debts. The same was true of Warin de Montchesney who paid 2,000 marks for relief and quittance of his family’s debts to the Jews. All in all there seems to be no doubt whatever that John charged exorbitant reliefs throughout his reign and that some of those imposed in 1213 and 1214 can only be described as fantastic.

When fines offered for something within the king’s gift were truly voluntary, there could be little objection to them even when they were heavy. Thus while the fine of 5,000 marks offered by William de Briouse for Limerick without its chief town seems exorbitant, there is no reason to believe that it was not the result of a free bargain. The same can be said of the 5,000 marks offered by Thomas de Eardington for the custody of the fitz Alan barony. Payments for ladies fall in the same class. Gerard de Canville and William de Briouse each offered £1,000 for heiresses for their sons. Roger de Clifford paid the same price to marry the heiress to the barony of Ewyas. By far the largest fine of this sort was the 20,000 marks offered by Geoffrey de Mandeville for Isabella, countess of Gloucester. But some of the fines offered John were clearly not entirely voluntary and others can hardly be distinguished from amercements. An ancestor of Peter de Bruce had made an exchange of lands with the crown. In 1200 Peter offered £1,000 to have the original lands again. The fact that Peter issued a charter stating that John accepted this arrangement because of Peter’s extreme desire for it makes me suspect that it was not voluntary. Certainly it would take many years’ revenue

66 Pipe roll 16 John, Public Record Office.
67 Rot. claus., I, 45.
68 Rot. oblatis, p. 514.
69 Ibid., p. 94.
70 Ibid., p. 531.
71 Pipe roll 2 John, p. 87; Pipe roll 5 John, p. 197.
72 Rot. oblatis, p. 528.
73 Ibid., p. 520.
74 Ibid., pp. 109-110; Rot. chart., p. 86.
from the lands involved to equal £1,000. In that same year William de Mowbray offered 2,000 marks to receive justice in the suit made against him by William de Stutville. While the offer may have been voluntary, its acceptance by John seems rather unethical—especially as he collected the fine after William de Mowbray lost the case or at least had to make an expensive compromise. In 1207 Gerard de Furnival paid £1,000 to have a suit against him suppressed.  

Even less voluntary in their nature were fines offered by officials to avoid unpleasant investigations. When Philip de Lucy retired from office as clerk of the chamber, he offered 1,000 marks to be relieved from giving a full accounting. When Reginald de Cornhill who had been sheriff of Kent since the beginning of the reign and chamberlain of London for considerable periods died in 1210, his son gave 10,000 marks to avoid rendering and clearing up his father’s accounts. It is, of course, impossible for us to judge whether or not these large fines were justified—we cannot guess how much Philip and Reginald may have been in arrears, but they certainly were not purely voluntary. Finally there were the fines for “benevolence” or “grace.” In 1205 Hugh Malebisse offered 200 marks and 2 palfreys for benevolence—everything was to be as it was before the king got angry with him. In 1207 Roger de Cressi married an heiress without John’s leave. His and her lands were seized. Roger paid 1,200 marks and 12 palfreys for the king’s benevolence and possession of their lands. In 1210 Robert de Vaux offered 750 marks for benevolence for some unspecified offense. Then in 1212 he was suspected of being involved in the Fitz Walter conspiracy. He offered 2,000 marks for grace of which 500 marks was to be paid before he was released from prison. As the Vaux barony was comparatively poor it is extremely difficult to guess how he could ever hope to pay these large sums.

75 Rot. claus., I, 78.
76 Rot. pat., p. 74.
77 Pipe roll 12 John, Public Record Office.
78 Rot. oblatis, p. 334.
79 Rot. claus., I, 84; Rot. oblatis, p. 398.
80 Pipe rolls 12 and 14 John, Public Record Office.
Straight amercements were rarely imposed on men of importance except for such offenses as novel disseisin that were handled by the ordinary courts. When a man of rank committed a serious offense, the king preferred to seize his property and perhaps imprison him. Then he could offer a fine for the king’s benevolence. It is quite possible that this was a device to avoid a limitation placed by feudal custom on the king’s power. It was generally recognized that a baron could only be amerced by his peers of the curia regis. Fines for the king’s benevolence may well have been higher than amercements set by the curia. But lesser men were amerced severely. When Reginald de Cornhill died a number of his men received penalties ranging from 700 marks to £1,000. In 1211 the men of York paid 2,727 marks—presumably part of a higher penalty. The citizens of Lincoln in the same year were amerced 2,000 marks “for their excess.”

A few general remarks seem necessary in connection with the subject of taxation, reliefs, fines, and amercements. Because of the nature of early English law it is very difficult to use the terms legal or illegal in connection with the crown's exactions. Let us take one of the clearest cases—the taking of fines for giving assent to the marriage of a daughter of a tenant-in-chief. Henry I had solemnly bound himself and his successors not to do this. Yet all of them had ignored the promise. Now according to the custom of the time usage was more important than legislation. When a man claimed a privilege, it was best to have both a charter granting it and proof of usage. Strictly speaking neither was valid without the other. But there was far more inclination to accept usage without a grant than a grant without usage. Hence there is grave doubt that John's actions could be called illegal while he followed the practices of his ancestors. I am inclined to think that John charged heavier reliefs than his predecessors and was more greedy in setting fines and amercements, but it is a question of degree not of nature. Some practices of his were probably innovations and

81 This was stated in chapter 21 of Magna Carta and it seems to have been the usual practice under John.
82 Pipe roll 12 John, Public Record Office.
83 Pipe roll 13 John, Public Record Office.
hence legally dubious. Collection of scutage without actually making a campaign seems to fall in this class as does the attempt to extend the privileges of prerogative wardship and marriage to serjeanties. But in general John seems to have been careful to stay within the framework of custom set by his predecessors even though he strained it at the edges. When he planned a real innovation such as the thirteenth of 1207, he was careful to obtain in one way or another the consent of his vassals.

Furthermore, it is important to realize that the total amount of a relief or fine may not mean much. To understand this it is necessary to glance at the procedure followed in arranging them. The original figure was set in negotiations between the individual concerned and the king or one of his officials. While John probably arranged in person the relief for important baronies and the larger fines and had the right to approve or disapprove those arranged by the justiciar and other officers, the majority were clearly negotiated in the first place with the king's agents. In special matters, such as making clearings in the royal forests, the king delegated full authority to some official—in this case to Hugh de Neville. Once the fine was negotiated it was entered on the oblate roll and in due time copied on an originalia roll and sent to the exchequer. Sometimes the original negotiations simply set a lump sum, but occasionally they also arranged the rate of payment. When the rate was not set in the first place, it was arranged when the man who offered the fine or his agent appeared at the exchequer to answer for the debt. In short while the theory may have been that such fines were due at once, no one really expected them to be paid in one installment. Now the barons of England were highly practical men. It seems unlikely that the theoretical sum of their obligations to the crown worried them greatly—it was the size of the annual installments that mattered. To take an extreme example we have seen that Thomas de Eardington offered 5,000 marks for the custody of the Fitz Alan barony. As the revolt and civil war came shortly afterwards, it is unlikely that he made much out of the custody. In the reign of Henry III his son Giles still owed this very large sum, but his annual installments were so small that if his descendants had kept up their payments, the debt would have
been liquidated in 1917.\textsuperscript{84} Then the king often forgave a large part of a fine. Thus while John de Lacy was originally charged with the very heavy relief of 7,000 marks, he paid less than 2,000 marks. A thousand marks was forgiven at once. Then a year later in 1214 when John needed friends and hoped the powerful Constable of Chester might be one of them, the remaining obligation of 4,200 marks was forgiven.\textsuperscript{85} Hence John did not actually pay more than 1,800 marks and may well have paid less—it is difficult to be certain that one has noticed every item in an account of this sort. The circumstances made this case unusual, but one can say that in general it was extremely rare for the full amount of a fine to be demanded at the exchequer.

One can only speculate as to the advantages King John hoped to gain by arranging fines that were beyond the debtors' ability to pay. But one obvious possibility comes to mind. According to feudal custom a lord could take no action against one of his vassals without a judgment by the latter's peers in the lord's feudal court. But English practice permitted the king to take strong measures to collect the debts owed him. Apparently if a baron swore at the exchequer that he would make certain definite payments and failed to keep the agreement, he could be imprisoned. John's excuse for his first armed attack on William de Briouse was that William had failed to keep his terms at the exchequer and Thomas de Moulton was imprisoned for unpaid debts.\textsuperscript{86} If John could persuade a baron to promise definite payments at the exchequer that were too high for him to pay, he had that baron at his mercy. It was not unlike our custom of convicting gangsters of evading their income taxes.

\textsuperscript{84} Painter, \textit{Feudal barony}, pp. 187-188.
\textsuperscript{85} Rot. oblatis, p. 494; Rot. pat., p. 129; Pipe roll 16 John, Public Record Office.
\textsuperscript{86} Painter, \textit{Feudal barony}, p. 60.