Studies in the History of the English Feudal Barony

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CHAPTER II

FEUDAL OBLIGATIONS

The most important obligation owed by a vassal to his lord was military service. This was particularly true in eleventh-century England. King William and his barons found themselves ruling a conquered country which had long lain under the threat of Scandinavian invasion. Hence their first care was to establish an effective military system. This system was bound to be feudal in nature. While it would be extremely difficult to prove that the economic condition of England in the eleventh century would not have been able to support a mercenary standing army, it seems unlikely that there was sufficient money in circulation to make it feasible. But even if there had been sufficient resources to maintain an adequate hired army, the fact that William and his men were deeply steeped in feudal tradition would have made the adoption of such a military system out of the question. When the Conqueror granted the barons their fiefs, he imposed on each a quota of knights for his host.

Both royal and baronial interests demanded that this public obligation be provided for quickly and effectively. There were obviously two methods by which a baron could furnish the knights he owed the crown. He could collect the requisite number of knights and feed and clothe them from the produce of his estates. In short he could travel from manor to manor with as many knights as his quota called for, consuming the produce of the estates. This would not necessarily mean a period of residence on every manor. Produce could be carried short distances, and the estates of most barons fell into geographical groups. Hence supplies could be gathered at one manor of each group and there consumed by the baron and his knights. Nevertheless this method involved a large amount of transportation at a high cost in labor of man and beast. It made small isolated estates almost useless. It required the baron to have rather large residences on a number of manors. The effective supervision of so many estates would be a very serious administrative problem. But I suspect that the most important
argument against such a system was the difficulty in getting knights. Feudal tradition urged a young knight to serve in a baron's household, but it was in the hope that he would eventually receive a fief. Social prestige and economic security demanded that a knight have a fief. No doubt some knights never attained this end and spent their lives serving as household knights, but it is hard to believe that many would enter a service where there seemed no hope of acquiring a fief. In all probability it was not difficult for a baron to keep four or five knights in his household. For a minor baron this might be an important part of the quota owed the crown. But the great lords could hardly hope to maintain indefinitely household forces large enough to furnish any great proportion of their obligations.

The other method of providing a contingent of knights for the royal army was the one favored by feudal custom—the granting of fiefs in return for service. If a baron owed twenty-five knights, he could grant twenty-five fiefs large enough to support a knight or he could give five knights fiefs able to support five knights and let each of these vassals find his quota as he saw fit. Then the mesne tenant was faced with the same problem his lord had had and in general solved it by granting sub-fiefs. By the time of the Domesday survey most barons of any importance had granted out part of their lands in fiefs. Using once more Domesday values Baldwin of Exeter had granted £195 of his total of £321, Walter Giffard £226 from £375, Walscin de Douay £110 out of £210, and Roger de Ivry £100 from £259. But Ernulf de Hesding had given in fiefs only £45 from his total of £268.1 In general these baronies I have used as samples lay in the region where sub-enfeoffment had progressed farthest. In the North and the Midlands the baronies would probably show a smaller proportion in the hands of mesne tenants. Unfortunately Domesday Book says nothing about knights' fees, and hence it is impossible to say what portion of his quota a baron had provided for by means of the fiefs granted.

Obviously any generalizations that can be made about sub-enfeoffment as shown in Domesday Book would be of great

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1 All these figures are mine.
value as indicative of the ideas that governed the barons in granting fiefs. Unfortunately very few such general statements can be made. The only principle that seems to have been applied in almost every barony was to keep in demesne the more valuable estates while granting the smaller ones as fiefs. Thus the demesnes of Walter Giffard included three manors valued at £20, one at £14, two at £12, one at £8, two at £7, and two at £5. On the other hand out of fifty-one estates granted as fiefs only sixteen were valued at £5 or above and six of these belonged to his fellow baron and chief mesne tenant, Hugh de Bolbec, who held in fee about a quarter of the Giffard barony. Nine of the twenty demesne estates of Baldwin of Exeter were valued at over £5 while only seven of the 146 estates granted by him to his men reached that valuation. The reasons for this practice seem obvious. A large estate was little more trouble to administer than a small one. Moreover it could supply the produce required for a period of residence by the baron and his household without the cost and trouble of transportation. From the baron's point of view one manor yielding £20 was far more useful than ten worth £2 each.

One might expect that such considerations of convenience in utilizing the produce of his demesnes would move a baron to concentrate them geographically. A tendency in this direction can be noticed in *Domesday Book*. When the estates of a baron in a shire were few and small, he was inclined to grant them all as fiefs. When he kept a small estate in demesne, it was usually near a larger one. This policy was continued as sub-infeudation progressed. By the twelfth century baronial demesnes were in general as well concentrated as other considerations would permit. The considerations that prevented complete geographical consolidation of demesnes were both administrative and military. If a baron had fairly important properties in a region, he wanted an administrative seat there and a fortress to watch over his interests. Thus the great post-Domesday barony of the Mowbrays had large groups of estates—in the Vale of York, in the West Riding, in the Isle of Axholme in Lincolnshire, and in the Midlands. Each of these groups centered in a demesne manor adorned with a motte and bailley castle. It seems probable that strategic con-
siderations dealing with desirable locations for castles had much to do with a baron’s decision as to which estates should be held in demesne.\(^2\)

The next extensive mass of information about the English baronies and their sub-infeudation is found in the returns to the inquest of knights’ fees of 1166.\(^3\) While the returns are not complete, the documents available give the names of the vassals of the majority of the barons of England and the number of knights each owed his lord. Unfortunately the names of the estates held are rarely mentioned. Thus only the names of the barons and their vassals enable us to connect the information found in *Domesday* with that supplied by the returns of 1166. If the baronies of England had remained stable during the interval between these two inquests, it would not be difficult to fit the two sources together, but such was not the case. The vast baronies of the count of Mortain, Earl Roger de Montgomery, and the bishops of Bayeux and Coutance had been forfeited or escheated to the crown and had lost their identities. Some of their estates and fees had gone into new baronies created for the favorites and illegitimate sons of King Henry I, and many of their vassals had become tenants-in-chief and were rated as barons in 1166.\(^4\) Smaller baronies such as those of Walscin de Douay and Ernulf de Hesding had been split into parcels.\(^5\)

While many of the Domesday baronies were being split up, new ones were being formed out of the debris and from the royal demesne. Two of King Henry I’s illegitimate sons were cared for in this way. Reginald de Dunstanville received the count of Mortain’s Cornish lands and most of his Devonshire estates. Robert of Caen was provided with an heiress, daughter

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\(^2\) Sidney Painter “English castles in the middle ages,” *Speculum*, X (1935), 324-327.


\(^4\) Thus the baronies held by Richard fitz William, Drogo de Montaigu, and William Fossard had been mesne fiefs of the count of Mortain. *Ibid.*, pp. 220, 228, 407.

of Robert fitz Hamon, lord of Glamorgan, and in addition was richly endowed with manors from the royal demesne and the lands of the bishop of Coutance. He was also given the services of several of the bishop's vassals and of some minor tenants-in-chief. One of King Henry's favorite knights, Baldwin de Redvers, received large blocks of royal manors in Devonshire and Hampshire, Earl Roger de Montgomery's lands in the Isle of Wight, and the services of at least one tenant-in-chief of some importance, Robert d'Aumale. Another of Henry's favorites, Alan fitz Flaad, was given a fief in Norfolk, a part of the lands of Ernulf de Hesding, and a slice of Earl Roger's Shropshire estates. There is no point in multiplying examples. It is clear that a fair percentage of the baronies of 1166 bore little or no relation to those described in Domesday Book.

In the inquest of 1166 King Henry II asked each baron three questions. How many knights' fees had been created on the barony before the death of King Henry I and who held them? How many had been granted since then and to whom? How many knights did the baron have to support on his demesne in order to fill his quota for the royal host? It is important to notice that the barons were not asked to state what their quotas were. Those who were obliged to answer the third question—that is those who had enfeoffed fewer knights than they owed—gave this information indirectly. A few barons voluntarily mentioned the size of their traditional quotas. Henry's purpose in making this investigation will be discussed later. Here we are concerned only with the information furnished about the means used by the barons to furnish their contingents to the host.

As we are primarily trying to discover how the barons made provision for the service they owed the crown, we must confine ourselves to baronies for which the old servitium debitum can be established. Information on this subject can be ob-
tained in several ways. As I have shown above, the old quota can be calculated from the *carta* of barons who had enfeoffed fewer knights than they owed. Then there are the barons who voluntarily mentioned the size of their quotas. Finally we have the pipe roll accounts for the scutages levied on the basis of the old *servitium debitum*. 10

Using these sources Mr. Round compiled a list of baronies for which he felt able to establish the quotas of knights due the crown. 11 I have been obliged to amend this list. Baronies for which no *carta* supplying information about sub-infeudation have survived are of no use for my purpose. 12 Then I dropped a few baronies where the evidence as to the *servitium debitum* failed to convince me and added a few where such evidence seemed sufficient. 13 Finally Mr. Round and I differ slightly as to the quotas of three baronies. 14 Essentially, however, I have used Round’s list.

There are 65 lay and 22 ecclesiastical baronies for which the *servitium debitum* and the details about sub-infeudation are known. Let us glance first at the lay baronies. By the death of Henry I in the year 1135 the lords of 17 of these baronies had enfeoffed more knights than they owed the crown. Eight barons had created exactly enough fees. Forty baronies had fewer knights enfeoffed than they were obliged to supply to the host. By 1166 the number of baronies with more knights than necessary had risen to 24 reducing the number with too few to 33. The ecclesiastical fiefs furnish a different picture. Eighteen of the 22 baronies had more knights than their quotas demanded before the death of Henry I. One had just enough

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12 This excluded seven baronies on Round’s list—Tickhill, the Earl Warren, St. Valery, Balliol, Limesi, Holderness, and Bruce.

13 On this ground I omitted eight fiefs—Totness, Mowbray, Richmond, Mont-doubléau, Roumar, Fitz Robert, Traci, and Waleran. I added Bigod, Chandos, Robert de Ghent, Ely Giffard, Kington, Percy, Ros (Kent), and Wormsgay.

14 The baronies of Arsic, Dover, and Fitz Alan. In the first case Round clearly was in error. The Arsic barony certainly owed twenty knights, not ten. It paid twenty marcs in 1161, but Round himself admits that a number of baronies paid at one marc per fee that year. ("Pipe roll 7 Henry II," *Pipe roll society*, IV, 26; *Feudal England*, p. 281.) The other two are debatable.
while only 3 had too few. By 1166 one of the 3 with too few had exactly enough.

The statistics given above for the lay baronies require some explanation. Numerically the sample seems sufficient. Counting as a barony any tenure in chief of 5 or more knights' fees there were some 133 baronies in 1166. Although the list of 65 used lacks a fair proportion of the large fiefs, this was counterbalanced by the omission of a number of very small ones. But one of the methods used to obtain the old servitium debitum seems to warp the results. The presence on the list of 10 or 12 baronies was made possible by the fact that they had enfeoffed too few knights and hence it was possible to calculate their old quotas from the returns to the inquest. The omission of these fiefs would leave 17 baronies with too many fees against about 30 with too few. When one considers that Miss Chew who has done important work on this subject states that "the majority (of tenants-in-chief) enfeoffed more than the number of milites for which they were responsible" even this reduced proportion seems interesting.

The contrast between baronies in respect to sub-enfeoffment becomes more striking when one examines the percentages by which they exceeded or failed to fill their quotas. Of the 17 lay baronies which had more knights than were needed 9 exceeded their quotas by less than 20 per cent, 2 by 20-50 per cent, 2 by 50-100 per cent, and 4 had over twice as many knights as they owed. Of the 40 baronies containing too few fees 15 had a deficiency of less than 20 per cent, 19 of 20-50 per cent, and 6 had less than half the necessary knights. William de Beauchamp of Worcestershire owed 7 knights to the royal host and had enfeoffed 16. Hugh Bigod owed 60 and had enfeoffed 125. At the other extreme Roger de Buron owed 10 and had enfeoffed only 5. Ralph Halselin owed 25 and had enfeoffed 12½.

These variations in the extent of sub-infeudation can be in

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1 I omitted about a score of baronies of ten fees or less.

15 Ecclesiastical tenants-in-chief, p. 17. It is only fair to add that as the over-enfeoffment on some baronies was enormous, Miss Chew's statement that the total of knights enfeoffed was greater than the total service due the crown is probably correct.
large measure explained by inequalities in the assessment of the *servitium debitum*. As Mr. Corbett has pointed out that there was little relation between the comparative values of baronies and their comparative quotas of knights, a few examples will suffice. The Domesday valuation of the Aincurt barony was some three times as great as that of the Arcy fief, yet the former owed forty knights to the latter's twenty. The barony of Cainhoe had a total value of £86, that of Odell of £98, and the Mandeville fee was worth over £700, but their respective quotas were fifteen, thirty, and sixty. The Conqueror could have had little accurate information about the lands he was granting, and the quotas must have been assigned in a most casual manner. Undoubtedly royal favor also played a part especially in the case of great lords like the Mandevilles. Two at least of the grants made by Henry I seem to be cases of favoritism. Baldwin de Redvers owed only fifteen knights for his vast barony of Plympton which contained in the twelfth century eighty-nine knights' fees. He appears to have owed no service for the baronies of Christchurch and the Isle of Wight. Alan fitz Flaad owed six knights although there were twenty-seven enfeoffed on his lands.

It is extremely difficult to illustrate the practical results of these discrepancies in assessment. We know how many knights had been enfeoffed on a barony before the death of Henry I, but we have no information as to what proportion of the barony had been used to endow them. I have, however, been able to obtain very rough figures for eight baronies. To do this I have taken the manors known to have been held in demesne in the twelfth and early thirteenth centuries, found their total Domesday values, and subtracted the result from the total Domesday valuation of the barony. Waving aside the

17 *Cambridge medieval history*, V, 512.
18 Aincurt, Arcy, Bolbec, Chokes, Fitz Hamon, Odell, Mandeville (Essex), and Beauchamp (Somerset).
innumerable possibilities of error, this gives us the proportion of the barony granted out in fiefs. On this basis five of the eight baronies had about 70 per cent of their resources in the hands of mesne lords. The proportion of the servitium debitum provided for by these sub-enfeoffments varied from 80 per cent to 100 per cent. Thus the Arcy barony produced 100 per cent of its quota from 68 per cent of its resources while the barony held in capite by Hugh de Bolbec used 72 per cent of its revenues to support 80 per cent of its quota. The results of low assessments are shown in the barony of Cainhoe and the Mandeville fee. The lord of Cainhoe used 35 per cent of his barony to supply 95 per cent of his quota. The Mandevilles had granted about half their barony in fiefs, but this supplied 173 per cent of their servitium debitum. If these figures are valid, the Mandevilles could have filled their quota by granting out 29 per cent of their barony, the lord of Cainhoe by granting 37 per cent, while the Bolbecs would have had to grant 90 per cent of their revenues.

In general then it seems probable that the barons who had not enfeoffed enough knights to fill their quotas were hindered by a lack of resources. Hugh de Bolbec apparently kept but one manor of his barony in demesne. Even a petty baron needed a manor as his seat and as a support for his family and household. A greater one required, as I have suggested above, demesne manors to use as administrative centers and as sites for his residential or strategic castles. In short a baron was obliged to keep a reasonable portion of his fief in demesne. If the remainder would not support enough fees to fill his quota, he had to supply the deficiency with household knights. But there is evidence that policy as well as economic capacity entered into the question. On the basis of the figures used above the Aincurt and Chokes baronies were equally assessed —each could fill its quota by granting about 77 per cent of its


20 In speaking of the Bolbec barony I am considering only the lands held in capite of the crown, not the fief held from the Earls Giffard.
resources in knights' fees. Yet on the Aincurt barony 50 per cent of the revenue had been used to provide 72 per cent of the quota while on the Chokes fee 73 per cent of the revenues had been granted to enough knights to supply 95 per cent of the servitium debitum. In short the Aincurts had apparently deliberately conserved their demesne and continued to fill their quota with household knights.

It would be idle to speculate about the motives that might have moved barons like the Aincurts to preserve a large portion of their demesne. The question is interesting chiefly because of later developments. In the Angevin period when it became possible to turn the produce of demesnes into money income and the possession of knightly vassals grew less important, these barons had a decided advantage over their fellows. But it would be reckless to suggest that they foresaw this. One can merely state that some barons used restraint in granting knights' fees during the Norman period and that their successors profited from this policy.

The reasons which persuaded barons to enfeoff more knights than they owed the crown can be surmised with little difficulty. Traditional feudal ideas tended to measure a man's importance by the number of his vassals. In contemporary literature one of the most common methods of indicating a lord's position was to mention the number and quality of the noblemen who attended his court or rode in his train. Long after knightly vassals had lost much of their practical value to their lord they continued to serve as supports to his prestige. But in the Norman period there were more mundane reasons for extensive granting of fiefs. The barons wanted soldiers, and they had relatives and servants to furnish with the means of livelihood.

The pressure continually exerted on a baron to grant fiefs to his relatives and household knights needs no extensive discussion. Obviously a younger brother preferred a fief of his own to being supported in his brother's household. All household knights looked forward to the day when they would be rewarded with fiefs. Some of these demands could be met by the grant of heiresses, but they were not always available when needed. An examination of the returns of 1166 shows clearly
the importance of fiefs granted to relatives. Hugh de Bolbec had about a quarter of all the fees granted by the Giffards, earls of Buckingham. \(^{21}\) Robert de Albini held half the fees of his brother's barony of Belvoir. \(^{22}\) These were unusual. More common were fiefs of one or two fees. Thus in the Arcy barony one relative had five fees, another three, and another one-quarter of a fee. \(^{23}\) As the names give no clue to the fiefs granted to household knights, they cannot be distinguished in the inquest returns, but numerous charters attest the practice. Sometimes barons went to exceptional lengths to reward their men. Edward of Salisbury wished to reward a knight, but had no fief he was willing to bestow on him. He asked the bishop of Salisbury to grant the knight a fief. The bishop refused, but said he was willing to grant it to the baron so he could bestow it on the knight. \(^{24}\) This whole matter was neatly stated by the archbishop of York in his return to the inquest of 1166—he owed twenty knights but had enfeoffed many more to care for relatives and men. \(^{25}\)

In summary one can say that feudal tradition and his own needs tended to make a baron enfeoff as many knights as his resources would permit. The amazing fact is that so many lords enfeoffed fewer knights than they owed the crown. In most cases this was probably the result of a lack of sufficient resources to supply the necessary fiefs without reducing the demesne too greatly. But in some cases at least it seems to have sprung from a definite policy of preserving the baronial demesne and filling the quota by using household knights.

So far in this discussion of the military service owed by the baronies to the royal host we have assumed that each baron sent his quota of knights and that each of his mesne tenants contributed his proportionate share. But by the time of King Henry I this was not always the case. There is clear evidence that Henry sometimes permitted ecclesiastical barons to commute their service for a money payment. \(^{26}\) Mr. Stenton asserts

\(^{24}\) *Bracton's note book*, III, 542.  
that the same practice was followed in respect to lay baronies, but here the evidence is not quite conclusive. He cites a number of charters issued by lay barons which mention scutage as an obligation owed them by their tenants. The most definite of these is a charter by which Gilbert, earl of Pembroke, confirmed certain lands to Southwark Priory "free from all service except scutage, so that when it shall happen that a knight gives twenty shillings, that land shall give two shillings, and if a knight gives one marc, it shall give sixteen pence." This certainly suggests that an authority superior to Earl Gilbert was fixing the rate, but it does not prove it conclusively. Mr. Stenton also points out that the returns to the inquest of 1166 show that by the death of Henry I a fair number of mesne fiefs had been created which owed the service of small fractions of a knight. He argues, and one can only agree with him, that the service of a twentieth part of a knight's fee must have been performed through a money payment. In short the evidence presented by Mr. Stenton shows beyond a doubt that lay barons were accustomed to permit their tenants to commute their service by paying scutage. It does not, however, absolutely prove that the king granted this privilege to the barons themselves.

While I cannot find any conclusive evidence that Henry I took scutage in lieu of service from his lay barons, he may well have done so. The forces that eventually moved the crown to allow extensive commutation of the knight service owed it were already at work in his reign. The military problems facing the English king had changed greatly since the days of the Conqueror. William had organized the English military system to protect his new realm from Saxon revolt and invasions by Welsh, Scots, and Vikings. The latter were a particularly serious menace, and William doubted the ability of England to withstand them. Several times when he feared Viking invasion he reinforced his English levies with continental troops. The deaths of several English earls in Viking raids show that his fears were not groundless. On the other hand William felt no need for English military assistance on

27 Ibid., pp. 182-183. A marc was worth 13s 4d.
28 Ibid., pp. 185-187.
the continent. The Capetian monarchy was weak and its great vassals disunited. If the Norman duke had sufficient skill in feudal politics to keep his neighbors from combining against him, the military resources of his duchy were adequate for his needs. As the counts of Flanders and Blois were his firm allies, William never faced very serious military problems.

By the time of Henry I the situation had begun to change. There was no longer any danger of a Saxon rising. The Viking raids had ceased, and no invasion by them had materialized. The king of Scotland was Henry's relative by marriage and close ally. While the Welsh were troublesome at times, they could usually be controlled by the marcher lords. In short except in the case of baronial revolts Henry had no need for large forces of knights in England. But in France the Capetian monarchy was growing stronger under the vigorous hand of Louis VI, and the counts of Flanders and Anjou were usually Henry's foes. Hence it was on the continent that Henry I had the greatest need for military might.

This was even more true of his grandson Henry II. As the lord of a large continental empire his responsibilities were much greater than those of Henry I. He was duke of Normandy and count of Anjou and Maine in his own right. By his marriage to Eleanor of Aquitaine he was lord of that vast duchy. This great fief was a serious military liability. Its barons were strong, turbulent, and given to revolt. Moreover its traditional enemy was the powerful count of Toulouse. Then in the north the Capetian kings had grown far more dangerous. They had established their authority firmly in their duchy of France and had extended its borders. The marriage of Louis VII to Adele of Champagne secured for him the support of her potent brothers, Henry the Liberal, count of Champagne, Thibaut, count of Blois and Chartres, and Stephen, count of Sens. No longer was the Capetian domain surrounded by allies of the Norman duke. Thus Henry faced a dangerous foe along long frontiers and needed all the military resources he could muster. When he thought of the English military system, it was to consider how he could use it to further his aims on the continent.

The English feudal levy can have been of little value for
campaigns in France. It was difficult to transport it over the
channel and get it to the scene of action before its term of ser­
vice expired. Moreover it was too large for effective use. The
baronies that owed service to the crown contained over
6,500 knights’ fees. While the servitium debitum was lower,
Round’s figure of 5,000 is probably about right, the English
feudal host would have formed an immense army by the stand­
ards of the twelfth century. Then too it would have been
unwise to denude England of knights by taking the entire levy
to the continent. Moreover it seems likely that tactical con­
siderations affected Henry’s policy. Heavily armed knights
were necessary to meet other knights in pitched battle in the
open field, but such contests were a small part of the soldier’s
work. Henry needed troops to garrison his castles, besiege
those of his foes, and ravage the enemy’s lands. For these
purposes knights were uneconomical—they cost too much in
relation to their value. This was especially true when the
introduction of the cross-bow gave the infantry an effective
missile weapon.

As I have suggested, Henry I may well have found the Eng­
lis h feudal levy unsatisfactory for continental service and turned
to scutage as a solution to the problem. It seems fairly certain
that this was the motive of Henry II. When he needed troops
for service in his continental lands, he could permit a large part
of the English baronage to pay scutage. With this money he
could hire the soldiers he wanted, knights, Welsh spearmen, or
Flemish cross-bowmen, for as long as he needed them and

I can find no direct evidence as to the length of the term of service in
England. Round points out that the ordinary pay of a knight in the twelfth
century was eight pence per day and that a scutage of two mares per fee would
hire a knight for forty days. This is suggestive, but hardly conclusive. (Feudal
England, pp. 271-272.) Professor Mitchell demonstrates that John and Henry
III did not recognize the forty-day limit, but as his evidence comes from the
period of reduced quotas, it seems dangerous to apply it to the earlier
era. (S. K. Mitchell, Studies in taxation under John and Henry III [New
Haven, 1914], pp. 309-311.) It would be perfectly conceivable that the forty­
day limit had been recognized under the old servitium debitum and was aban­
doned when the quotas were reduced in the thirteenth century.

This is my estimate based on the aid to marry the king’s daughter of 1168.
(”Pipe roll 14 Henry II,” Pipe roll society, XII.) I have added the most
nearly contemporary figures I can find for baronies missing in these accounts.

could pay them. If for any reason he wished a large body of
knights for a short time, he could demand the service owed
him. The payment of scutage in place of serving in the host
was a favor granted by the crown, not a baronial privilege.

During the first eleven years of his reign Henry II took five
scutages. The first of these levies was confined to the ecclesias­
tical baronies, but the others covered the lay fiefs as well.32
Hence one can say that from the very beginning of his reign
Henry adopted the policy of allowing commutation of the ser­
vice owed him. This practice was bound to change the king's
attitude toward the quotas established by his predecessors. As
long as the crown sought actual knights from the barons, it
mattered little how many knights the barons had enfeoffed.
The traditional quotas supplied more knights than the king
could use. But he could use any amount of money. It must
have annoyed Henry to be able to collect scutage on only sixty
knights from the Mandeville barony when he felt certain that
the Mandevilles had granted many more knights' fees. There
is some evidence that this had occurred to Henry I when he
took scutage from his ecclesiastical barons. The bishop of Ely
paid a heavy fine to be freed from paying scutage on the fees
he held in excess of his quota.33 As Henry II was collecting
from lay fiefs as well, the question interested him still more
deeply. Moreover it is important to note that not only scutage
was involved. The feudal aids were also levied on the basis of
the number of knights owed to the crown. In short Henry
had sound reasons for being dissatisfied with the old servitium
debitum.

This dissatisfaction was probably Henry's chief motive in
making the inquest of 1166. Let me repeat his questions. How
many knights were enfeoffed on your barony before Henry I
died? How many have been granted fiefs since? How many
knights do you owe from your demesne? In the assessments for
the aid to marry the king's daughter in 1168 the first and third
items were added together as so many knights held de veteri.
Then the second appeared as knights held de novo. Thus
Walter de Aincurt had 24 knights enfeoffed before the death

32 For a detailed discussion of these levies see ibid., pp. 273-285.
33 Ibid., p. 268; Pipe roll 31 Henry I (Record commission), p. 44.
of Henry I, had enfeoffed 5 since, and owed 11 from his
demesne. His assessment appeared as 35 de veteri and 5 de
novo or exactly the same as his old servitium debitum of 40. Hugh
Bigod, earl of Norfolk, had enfeoffed 125 knights be-
fore the death of Henry I and 37½ since although he owed
but 60. His assessment appeared as 125 de veteri and 37½
de novo. In short a baron who had enfeoffed more knights
than he owed was asked to pay scutage on the whole number.
The baron who had enfeoffed too few to fill his quota paid on
the old servitium debitum.

I have never been able to formulate a satisfactory explana-
tion for the distinction between old and new fees. The his-
torian is always tempted to notice how an innovation worked
out eventually and accept the result as the intention of the
innovator. The use of this very dubious method furnishes the
following explanation. Henry never really expected to get all
he demanded and realized that he would have to come to a
compromise with his barons. Hence he arranged the assess-
ments so that the natural compromise would be reasonably
satisfactory to the crown. This seems possible but not prob-
able. It is more likely that the distinction grew out of the
feeling that Stephen's reign had been a sort of interregnum.
It had been a "time of war." Under Henry II's possessory
assize of ultima praesentatione appointments to benefices made
in Stephen's time could not be used as evidence of the posses-
sion of the right of presentation. It is quite possible that in
the stress of civil war enfeoffments had been made under
duress. At any rate it is clear that in the early years of
Henry II's reign both king and barons considered the time of
King Henry I as the most recent normal period. I suspect that
the barons objected to paying scutage on fees granted during
Stephen's reign, and that while Henry refused to accept the
protest, he recognized it by making the distinction between old
and new fees.

Whatever the reasons may have been for the form of assess-
ment, the crown soon accepted a compromise. The aid to

34 Red book of the exchequer, I, 380-381; "Pipe roll 14 Henry II," Pipe roll
society, XII, 64.
marry the king’s daughter of 1168 and the scutage of Ireland of 1172 were assessed on the full numbers of fees established by the inquest of 1166, but the barons showed a strong disinclination to pay on their new fees. 36 By 1175 the sums owed on the old fees under these two levies were in general paid up, but many barons were still in arrears in respect to the fees held de novo. 37 I am inclined to believe that about this time a formal compromise was reached. The crown offered to relax its demands for scutage from the new fees if the barons would clear up the arrears. Certainly most of these were paid off during 1176, and when the scutage of Wales was assessed in 1187, nothing was said about new fees except when a barony was in the king’s hands. 38 In short by 1187 a compromise servitium debitum had been established—the number of fees held de veteri.

On the whole this was a most equitable arrangement. As the fees granted de novo were comparatively few in number, the crown obtained scutage payments from a large proportion of the knights enfeoffed in excess of the old servitium debitum. At the same time the inequalities of assessment among the baronies were reduced. Let us look first at the effect on two fiefs which had been under-assessed. The Bigod earls of Norfolk who had owed 60 knights were assessed in 1167 for 125 fees de veteri and 37½ de novo. By the compromise their quota was doubled, but they retained the profits from their 37½ new fees. 39 The Mandeville earls of Essex had also owed 60 knights. They had enfeoffed 98 de veteri and 7 de novo. 40 A number of over-assessed fiefs gained by the new system. The Aincurts had owed 40 knights. They had created 24 fees before the death of Henry I, owed 11 knights from their demesne, and had granted 5 new fees. Thus their compromise quota was 35. 41 The Bayeux barony had owed 20 knights. In 1167 it was assessed for 16½ fees de veteri and 4 de novo giving it a

36 “Pipe rolls 14 and 18 Henry II,” *Pipe roll society*, XII, XVIII.
37 “Pipe roll 21 Henry II,” *ibid.*, XXII.
38 “Pipe rolls 22 and 33 Henry II,” *ibid.*, XXV, XXXVII.
39 “Pipe roll 2 Richard I,” *ibid.*, XXXIX, 103.
41 “Pipe roll 33 Henry II,” *ibid.*, XXXVII, 75.
new quota of $16\frac{1}{2}$.

Let me illustrate this change further by using the figures with which I have previously illustrated the inequality of the old assessments. The Aincurts had used 56 per cent of their Domesday barony to provide 72 per cent of their old quota. Under the compromise their fees furnished 83 per cent of the quota. The Mandevilles had used 51 per cent of their fief to supply 173 per cent of their old servitium debitum. Their fees under the new system came to 106 per cent of their quota. In short the new basis of assessment did not remove the inequalities among the baronies, but it lessened them considerably. The broad results of this change can best be seen by examining its effect on the quotas of the sixty-five baronies used as illustrations in a previous chapter. Sixteen of these baronies had their quotas increased, fourteen had them decreased, while thirty-five continued to pay on the same number of knights.

This is not the place to attempt a history of scutage. For our purpose it is sufficient to state that in general the compromise assessments established in 1187 remained in force as long as scutage continued to be collected. There were a number of reasons for this stability. As we shall see below, the crown soon devised a new method of extracting money from barons who were unwilling to serve in the host—a method that did not supplant scutage but supplemented it. Moreover while I cannot prove it statistically, I am inclined to doubt that the barons of England granted many knights' fees out of their demesne after 1166. Feudalism continued to develop, but the process was vertical rather than horizontal—an increase in the complexity of the feudal hierarchy rather than an actual increase in the lands held by mesne tenants. Finally by the end of John's reign the quotas on which scutage was based had become, as we shall see, purely fiscal figures with little or no

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42 "Pipe roll 2 Richard I," ibid., XXXIX, 90.
43 There were, of course, variations in a few individual cases, but a comparison between the assessments for the scutage of Wales in 1190 and those for the scutage of Brittany in 1230 will demonstrate the general stability of the quotas. ("Pipe rolls 2 Richard I and 14 Henry III," Pipe roll society, XXXIX, XLII.) Mr. John E. Morris has pointed out that the assessments under Edward I were the same as under Henry III. (The Welsh wars of Edward I [Oxford, 1901], p. 38.)
connection with the size of the contingent the king expected the
baron to lead to the host.

It is impossible to determine exactly when a baron’s quota of
knights for actual service in the host began to differ radically
from that on which he paid scutage. Presumably the Con­
queror expected his barons to produce the knights called for by
their servititia debita. By the middle of the thirteenth century
it is clear that the crown recognized new service quotas much
smaller than the old ones. But the transition between these
two sets of quotas is extremely difficult to trace. As I have
suggested above, I doubt that the full feudal levy of England
on the basis of the old servitium debitum was ever summoned
for a campaign on the continent. It was too large, its term of
service was too short, and its absence would have left England
at the mercy of the Scots and Welsh. There were several
courses open to the king. He could accept scutage and hire
soldiers. He could summon a part of the levy for a longer
period. He could accept a reduced contingent as the full ser­
vice owed by the baron, allow it to serve its term at the
baron’s cost, and then keep it longer at the expense of the
crown. Henry I accepted scutage. Henry II took scutage
regularly, and at least once called for a fraction of the feudal
levy. But there is no evidence that either of these kings
permitted a baron to perform his service by serving the proper
period with a reduced contingent.

The history of the relations between crown and barons in
respect to military service during the reigns of Richard I, John,
and Henry III has been dealt with in detail by Mr. Mitchell. I
shall simply summarize his conclusions. Both Richard and
John followed the practice of calling parts of the feudal levy.
Both took scutage frequently. But they also developed new
devices. As a rule they were unwilling to permit a tenant-in­
chief to avoid service by simply paying scutage—they de­
manded a fine in addition to or in place of scutage. Finally it
seems clear that when a baron chose to perform his obligations
by serving in the host, these two kings frequently permitted

46 Ibid. See entries in index under knights’ service.
him to lead a contingent far smaller than his *servitium debitum*. While the total amount of evidence on this practice is impressive, it is difficult to find clear cases. To be certain one must know how many knights a baron led on an expedition and that the king recognized that this contingent was satisfactory by releasing the baron from any obligation to pay scutage or a fine. Both of these facts can be ascertained in very few cases, but they seem numerous enough to prove the existence of the practice. On the other hand there is no evidence that new service quotas had been established. In all probability a baron who wished to serve made a bargain with the crown in regard to the size of the contingent to be required from him.

In the Middle Ages when man's memory was not extensively aided by written documents the transition between practice and custom was usually brief. The fact that Richard and John had accepted the service of reduced contingents made it almost certain that before long the crown would be obliged to recognize new and smaller service quotas. While it is impossible to say precisely when this change began, it seems to have taken place between 1230 and 1250. In 1231 King Henry III made generous grants to his younger brother, Richard. He gave him the earldom of Cornwall for the service of 5 knights and the honor of Wallingford for the service of 3.\(^47\) The earldom of Cornwall was assessed for scutage at 215 knights' fees and the honor of Wallingford at about 100. Hence it is clear that the royal government was thinking in terms of greatly reduced service quotas. Mr. Mitchell shows that by 1246 many barons considered that new *servitia debita* had been established for their fiefs, but it is not quite certain that the crown recognized them.\(^48\) It is only in 1277 that it becomes apparent that both crown and barons have fully accepted the new quotas.\(^49\)

One can only speculate as to why the crown was willing to accept the service of reduced contingents. Mr. Mitchell has shown conclusively that King John wanted more knights than his levy yielded, yet he allowed his barons to perform their service with small, sometimes very small, parts of their quotas.\(^50\)

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\(^{47}\) *Calendar of charter rolls (Rolls series)*, I, 139.

\(^{48}\) *Studies in taxation*, pp. 244-248.


\(^{50}\) *Studies in taxation*, pp. 308-312.
Mr. Mitchell points out that prices were rising during this period and that the equipment of a knight was growing more elaborate. Early in the reign of Henry II a knight could be hired for eight pence a day, but by John's time a knight's daily wage was about two shillings. While this rise in the cost of knights fully explains the crown's insistence on larger payments from barons who wished to commute their service, it does not demonstrate the necessity for a reduction in the quotas. Theoretically, rising prices should have meant larger money incomes for the feudal class, and as we shall see in a later chapter, such was the actual result. Only if the cost of knightly equipment rose faster than the general price level would the ability of the barons to produce their full quotas have been impaired. As a matter of fact I suspect this took place and is part of the explanation for the reduction in the quotas.

It seems probable, however, that another reason for the change in quotas was the difficulty of extracting heavier service from the mesne tenants. When the cost of knights rose, the barons were caught in a trap. In the early twelfth century a summons to the host was no serious problem for a baron. If he chose to serve, he led his contingent of vassals to the army. If he had enfeoffed more knights than he owed, he could collect scutage from the extra ones. In case a knight was unwilling to follow him, the knight's scutage would pay for a substitute. If the king permitted the baron to avoid service by paying scutage, he collected it at the same rate from his tenants. If he had more fees than he owed, he made a profit. The establishment of the new quotas after the inquest of 1166 reduced the profit the baron could make from the knights enfeoffed in excess of his old servitium debitum, but it did not alter the essential fact that the scutage he received equalled his own costs. As a result it made little difference to a baron whether a tenant served or paid scutage, and bit by bit the mesne tenants began to feel that paying scutage fulfilled their obligations to the baron. Then came the rise in the cost of knights. The crown demanded service or a fine far in excess of the scutage due from the barony. The only solution for the baron was to insist on having his tenants serve in the more costly equipment of the day or pay higher commutation. While
we have no information about the details of the contest, it is clear that the barons were unable to do either. They could collect the customary scutage and nothing more. Hence any additional cost involved in satisfying the crown had to come from the revenues of their demesnes.

The inability of the barons to force their tenants to serve with adequate equipment or to pay commutation at a rate high enough to enable them to hire substitutes was in part at least the result of the crown’s policy. By the time of King John and probably before, the king was limiting the power of the barons to distrain their tenants. The establishment of withername as a plea of the crown gave the sheriff control over feudal discipline. But I doubt that this royal policy was the basic difficulty. The growth of feudalism vertically, the extension of sub-infeudation, was of great importance. While the feudal hierarchy consisted of king, barons, and mesne tenants, it was comparatively easy for the baron to distrain his vassals by seizing their chattels. But when one or two lords stood between the baron and the actual holder of the land it was far more difficult—each lord had to be able to distrain his vassal effectively. Finally I suspect that the fundamental barrier to any increase in the service due from the baron’s vassals was the inequality in value of the knights’ fees. It is clear that even when the original grants were made there was little uniformity. Then as time went on some estates rose in value far more than others and hence exaggerated the inequalities. Presumably the scutage of the twelfth century, ten shillings, one marc, twenty shillings, or two mares per fee, was light enough so that all the fees except the recognized small fees of Mortain could pay it. But as we have seen the daily wage of a knight rose from eight pence to two shillings between the middle of the twelfth century and the time of John. If the scutage payments were to be sufficient, they would have had to be tripled. I am sure that it would have been impossible to collect scutages of three pounds or six mares. Some rich fees could have borne the burden, but others would have found it ruinous.

To summarize the situation one can say that the cost of

\[81\] A case of 1214 illustrates this situation very well. *Curia regis rolls*, VII, 184.
knightly equipment had risen faster than the income from land. This in itself would probably have forced the crown to make some reduction in service quotas. But the situation was aggravated by other circumstances. Royal policy and the development of sub-enfeoffment made it difficult for the barons to exert effective pressure on their tenants. Moreover the basic unit of the feudal system, the knight’s fee, had lost all economic reality. Once it had been some lord’s estimate of the income required to support a knight, but it had become a mere unit of assessment. The crown had no choice but to collect what service or commutation it could from its direct vassals, the barons, and raise in other ways the money required to hire additional troops. Hidages, carucages, and income and property taxes could be used to avoid the obsolete assessment by knights’ fees.

Unfortunately these reasons for reducing the baronial service quotas are entirely inadequate to explain the extent to which the process was carried. The total service owed the crown was reduced from some 6,500 knights to about 375. Under the new system most baronies had quotas of two or three knights. Only a few very great lords were expected to furnish larger contingents. The bishop of Durham appears to have been the only baron who had a quota of ten knights for a single barony. Gilbert de Clare owed ten knights but he held a number of fiefs, the honors of Gloucester and Clare, one-half the honor of Giffard, and a share of the Marshal estates. The Earl Warren owed seven knights for his ancient barony, Lewes, Reigate, Castle Acre, and Connisborough, and four more for Stamford and Graham. But these were rare exceptions. The earldom of Warwick had a quota of three and one-half—the half knight being provided by furnishing a light-armed horseman. The baronies of Okehampton and Mandeville of Essex owed three knights each. Even the earldom of Cornwall had been reduced from the quota of five knights provided in the grant of 1231 to one of two.

A few examples will suffice to show the essential absence of any connection between the old quotas and the new. The lands of Gilbert de Clare must have had a scutage assessment of well

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52 Morris, Welsh wars of Edward I, p. 45.
53 Parliamentary writs, I, 197-213.
over 450 knights. Thus he owed one knight for forty-five. The earl of Cornwall owed one for over a hundred. On the other hand the Balon barony and Peter de la Mare each owed one knight for fiefs assessed at one fee. The Berkeley barony which paid scutage on five fees, the barony of Dunster paying on forty-one, and the honor of Okehampton paying on ninety-two each had a quota of three knights.

In short the crown abandoned entirely the feudal military system set up by the Conqueror and established a new one. In doing so it seems to have gone back to the most elemental feature of feudalism—the personal service owed by a vassal to his lord. The king demanded the personal service of all who held lands from him directly whether as barons, as minor tenants-in-chief, or as mesne tenants of escheated baronies. The richer barons were expected to bring additional knights. Hence the minor tenants-in-chief and tenants de honore whose scutage assessments had been one or two fees received little reduction in their service. The great lords were granted very large ones. The new quotas were essentially as arbitrary and unequal as the old, but as far as the barons were concerned they were so small that it made little difference. Thus the baronies of Pleshy and Odell which had been assessed at 98 and 27 fees respectively each owed 3 knights. But the lord of Odell could collect £27 from his tenants when the scutage rate was twenty shillings and hence had £9 to support each of his knights. This was more than twice the amount required to hire a knight at four shillings a day for forty days. Even if the baron found it difficult to collect his scutage, if he were reasonably prosperous he could support his quota from his demesne. Only very poverty-stricken barons who could not collect from their tenants were unable to meet their obligations.

In connection with this question of the ability of the barons to furnish their contingents to the host it is interesting to notice that an examination of the annual value of the baronies seems to explain some of the apparent inequalities in the new quotas. I have pointed out that the baronies of Berkeley and Okehampton, which had been assessed at five and ninety-two fees respectively, each had quotas of three knights. The lords of these
fiefs each enjoyed an annual income of about £500. The earl of Cornwall held the honor of Wallingford for the service of three knights and the honor of Knaresborough for that of two. Wallingford had been assessed at one hundred fees and Knaresborough at three, but the latter was worth about £500 while Wallingford yielded less than £300. I do not wish to suggest that the new quotas bore a direct relation to the annual revenues of the baronies. The barony of Odell, which was worth about £100, also owed three knights. I simply believe that annual value may have been one of the things taken into account in setting the quotas.

Let us attempt to sum up the results of our discussion of this highly intriguing subject. Political and economic conditions obliged the English kings to make some reduction in the number of knights they demanded from their barons. The cost of a knight had increased threefold. While the returns from land had been rising as well, the barons benefited only in respect to their demesne as they were unable to exact heavier service from their tenants. Thus a reduction of service quotas by two-thirds may have been necessary. But as Morris points out the service owed in Edward I's day was only one-eighteenth of that due to his great-grandfather Henry II. The only explanation that I can offer for this is that it represented a magnificent baronial victory in a struggle the details of which have been lost to us. The barons obtained the reduction of their military obligations to the crown to a point where they entailed some personal inconvenience but no financial burden. As the king still obtained his heavy cavalry through the feudal levy, the barons retained their control over his military policy. The money which would supply him with an adequate army had to be raised through other means. The fact that types of soldiers other than heavy cavalry were becoming increasingly important does not lessen the triumph of the barons in sliding

54 Calendar of inquisitions post mortem (Rolls series), XII, 195; Calendar of close rolls, 1288-1296 (Rolls series), p. 236.
55 Calendar of patent rolls, 1317-1321 (Rolls series), p. 115; ibid., 1327-1330, p. 68.
57 Welsh wars of Edward I, p. 45.
out of their obligations. It may, however, be part of the explanation of their success.

It is important to notice the effect of these developments on fundamental feudal relationships. In the eleventh century the baron as the king's vassal was bound to follow his lord to war, and the resources of his fief were primarily devoted to furnishing the contingent of knights that he led to the host. As long as the feudal levy was used, that is until 1327, the personal obligation of the baron remained intact, but the reduction in service quotas that marked the late twelfth and early thirteenth century meant that the cost of furnishing his contingent would be a comparatively light tax on his barony. Once the feudal levy had lapsed, the obligation of the barons to perform feudal military service to the crown was at an end. As military service was the fundamental element of feudalism, it seems to me that after its disappearance the relationship between king and barons cannot be called feudal.

Before leaving the subject of the military obligations of the barons toward the crown, something must be said about the guard duty owed at the king's castles. The system of castle-guard established at the time of the Conquest became obsolete even sooner than did the feudal host. Once the danger of Viking invasions and Anglo-Saxon revolts had passed, the strong permanent garrisons provided for such fortresses as Norwich, Windsor, Rockingham, and Northampton became unnecessary. Henry I released the bishop of Ely from the castle-guard duty owed to Norwich. Stephen granted a similar favor to Bury St. Edmunds, but this was apparently revoked by his successor. If the crown could collect money in place of the service for which it had no real need, it was only too glad to do so. A charter of Richard I for the abbey of Peterborough suggests that Henry I had allowed the abbey's knights

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to commute their castle-guard service in time of peace.\textsuperscript{61} Certainly by the time of Henry II such commutation was common. Apparently for a time the crown accepted money in time of peace, but demanded service in time of war. But with the appearance of mercenary soldiers, especially cross-bowmen, the need for knights even in time of war grew less. The cross-bowman was far more effective for garrison duty than the knight. Then too the need for garrisons in English castles outside the Welsh and Scots marches usually resulted from civil war, and in such a contest the loyalty of the feudal garrisons was often dubious. King John entrusted his castles to mercenary troops led by such captains as Faulkes de Bréauté, Philip Marc, and Peter de Maulay. A passage in \textit{Magna Carta} suggests that he tried to force the commutation of castle-guard service—"no constable shall distrain any knight to give money for castle-guard if he wishes to perform his tour of duty."\textsuperscript{62}

It is easy to understand why the barons and their tenants often preferred to perform their castle-guard service. In time of peace a tour of duty in a royal castle must have been a sociable and pleasant affair. Unless the commutation rate was extremely low, it was cheaper to serve. The rates were apparently set by individual bargains between the barons and the crown. They varied from castle to castle and even between different baronies serving at the same castle. The rate at Dover and Windsor was twenty shillings a year per fee. At Rochester it was twelve shillings. At Rockingham the barony of Wardon paid at five shillings a fee, that of Odell at six shillings, and the tenants of the abbey of Peterborough at four shillings. The rates at Norwich are obscure, but they apparently varied between six and seven shillings per fee.\textsuperscript{63} If one takes the very high figure of £20 a year as the value of a fee, the Dover and Windsor commutation rates would be a 5 per cent tax. As the average value of a fee was probably closer to £10, it is easy to see why the knights preferred to serve. Nevertheless while there is evidence that castle-guard service in these royal castles was occasionally performed during the reign of Henry

\textsuperscript{61} \textit{Calendar of charter rolls}, IV, 277.
\textsuperscript{62} \textit{Magna carta}, c. 29.
\textsuperscript{63} Painter, "Castle-guard," pp. 455-457.
III, it is clear that it soon became unusual. By the second half of the thirteenth century the services seem to have been generally commuted, and the castle-guard payments were considered as a rent pertaining to the castle. They continued as a burden on the manors which had owed service long after scutage had passed into oblivion.

Although military service was the basic element of feudalism, it was not the only obligation owed by a vassal to his lord. Court service, relief, aids, and the lord's rights of custody and marriage were important in every feudal state. Court service is peculiarly important to our study. It provides the temporal bridge which connects the tenurial barons of the early Middle Ages with the Parliamentary barons of later days. Unfortunately little or nothing is known about the court service owed to the English kings by their vassals during the eleventh and twelfth centuries. The Norman and early Angevin monarchs held meetings of the full curia regis, but we know little about the composition of this body. It was always described in vague terms. Thus the Constitutions of Clarendon are stated to have been published before "archbishops, bishops, clerks, earls, barons, and magnates." Further on in the same document reference is made to "archbishops, bishops, earls, barons, and the more noble and ancient men of the realm." In short the full curia regis or great council clearly included the ecclesiastical and lay potentates, archbishops, bishops, earls, and barons. Then some vague phrase left the king a free hand in choosing the rest of the assembly. The names given in the Constitutions

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64 For instance the abbot of Abingdon forced his knights to perform their service in Windsor under the Montfortian captain John fitz John. E. F. Jacob, Studies in the period of baronial reform and rebellion, 1258-1267 (Oxford, 1925), pp. 295-296.

65 As early as 1230 it seems to have been assumed that the service due at Windsor would be in the form of money. "Pipe roll 14 Henry III," Pipe roll society, XLII, 5.

66 In 1347 the chief manor of the Louvain fief owed £10 a year to Windsor—castle-guard originally due from the whole barony. (Calendar of inquisitions post mortem, IX, 10.) There are many similar entries in the Calendar of inquisitions post mortem. Round mentions a late seventeenth-century list of ward rents due at Windsor. ("Castle-guard," pp. 157-158.)

of Clarendon indicate that the additions were royal officials like Alan de Neville and John Marshal.

The fourteenth chapter of Magna Carta provides for an assembly that was to be consulted before a scutage or extraordinary aid could be levied. Two distinct methods were to be used to summon this body. Archbishops, bishops, abbots, earls, and “major barons” were to receive individual writs of summons. Then the sheriffs were to summon, presumably by reading the writs in the shire courts, “all those who hold of us in chief.” Apparently this would include tenants by serjeantry and cornage. The status of tenants-in-chief de honore is left in doubt. Although this chapter makes no distinction between them and those holding de corone, the forty-third chapter of the charter seems to exempt the former from court service to the crown.

It is extremely difficult to estimate the number of tenants-in-chief of the crown. The index of tenants in capite in the Record Commission’s edition of Domesday Book contains some seven hundred. But this does not include the king’s thanes and ministers. The index compiled by Ellis has about thirteen hundred names. Unfortunately for my purpose it includes men holding in the boroughs. Perhaps one thousand would be about right for the number of tenants-in-chief in 1086. The inquests of John’s reign show about five hundred tenants by knight service and about three hundred by serjeantry and cornage. In 1215 the king’s tenants de honore numbered about four hundred.68 In short it appears that the assembly provided for by this charter would have numbered about eight hundred if tenants de honore were excluded and about twelve hundred if they were included. Either figure would make a body too large and unwieldy for great usefulness. Moreover it would be based on an essentially artificial foundation—tenure in chief of the king. Many tenants-in-chief were insignificant persons, far inferior in social and political status to the great mesne lords who had no place in this assembly.

It is extremely difficult to determine what this conception of

an assembly represented. Was it the traditional full *curia regis* or Great Council of the Norman and early Angevin kings or an innovation invented by the rebellious barons? The fact that it was based on a sound feudal principle, the right and duty of a vassal to attend his lord's court, tempts one to believe that this was a traditional assembly. But in general feudal theory began to grow logical and orderly in the late twelfth and early thirteenth centuries. The Norman and early Angevin kings were far more likely to consider political reality than feudal theory. To call an important mesne tenant to their councils under some such vague term as "one of the more noble men of the realm" was far more to the point than summoning a crowd of petty tenants-in-chief. As there is no evidence that an assembly like the one described in *Magna Carta* was ever summoned either before or after 1215 and the chapter providing for it did not appear in later issues of the charter, I am forced to the conclusion that this body was an abortive innovation.

One can only speculate as to the reasons for this attempt at innovation. The rebel barons may have wished to deprive the king of all discretion as to who should be summoned by establishing a clear tenurial basis for membership. An obvious solution would have been to make it an assembly of tenants by barony, but this would have ruled out some important royal officials and many of the barons' most ardent supporters. At least two of the twenty-five "barons" chosen to enforce *Magna Carta* were not tenants by barony. But it was difficult to find a middle ground between tenants by barony and all tenants-in-chief. Hence the barons, who probably had little idea how many there were, included all tenants-in-chief. The result was an assembly of all the direct vassals of the king—an enlarged replica of a baronial *curia*.

Although the assembly provided for by the fourteenth chapter of *Magna Carta* fell into the oblivion it deserved, the basic idea that the king should consult a Great Council on certain matters grew stronger as time went on. John promised not to

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69 Roger de Montbegon's only tenure in chief *de corone* was some land in Cumberland held by coronage. William de Huntingfield was not a tenant-in-chief *de corone*.
levy scutages or extraordinary aids without the consent of this body. While the twelfth chapter which contains this promise was excluded from the reissues of the charter, the crown in general seems to have adhered to it in practice. This is not the place to examine the origins of Parliamentary authority. We are interested in the assembly rather than in its powers. Henry III and the first three Edwards held assemblies of their vassals either as Great Councils or as part of Parliaments. Our concern is to attempt to discover the relationship in respect to composition between these bodies and the one described in Magna Carta.

Our knowledge of the composition of Great Councils and Parliaments is obtained from the lists of men summoned to the meetings. A few such lists have been preserved from the reign of Henry III, but they become numerous only after the accession of Edward I. Many scholars have studied these lists and compared them with the system mentioned in Magna Carta. The accepted view seems to be that if the general summons of all tenants-in-chief by the sheriffs was ever practiced, it ceased before our series of lists begins. The non-baronial tenants-in-chief eventually formed part of the electorate that chose the knights of the shire. Those who held by barony, that is the "major barons" of Magna Carta, were liable to be summoned. From their ranks the crown selected the men to be called to a particular meeting.

The belief that the "major barons" of Magna Carta can be identified with tenants by barony rests on a passage in the Dialogue of the exchequer. There all tenants holding in chief de corone are described as major and minor barons. As we know that many tenants-in-chief de corone did not hold by barony, one might argue that they must be the minor barons. But it seems difficult to understand why the Dialogue should describe as "minor barons" men who were not barons at all. I can find no other text that calls all tenants-in-chief barons.

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70 Reports from the lords' committee touching the dignity of a peer of the realm, III, IV.
72 Dialogus de scaccario, p. 134.
Henry I in his charter of liberties speaks of "anyone of my earls, barons, or others who hold of me." I suspect that the author of the Dialogue was simply trying to justify the demanding of arbitrary relief from all tenants-in-chief de corone and to confine the privilege of paying relief at 100s a fee to tenants de honore. Certainly I can see no justification for using this passage to prove that the "major barons" of Magna Carta meant all tenants by barony.

There seems to be no sound reason for refusing to give the term "major barons" as used in Magna Carta its natural meaning—the more important barons. Men of comparatively modest position held by baronial tenure. The Kilpeks had only one knight's fee in capite while the Sudleys had but three. Presumably men like this would not receive individual summonses but would be included in the general summons by the sheriffs. In short the term "major barons" had no tenurial meaning. This leads to the conclusion that under the system provided for by Magna Carta tenure by barony had no connection with the obligation or right to attend the Great Council except in so far as all tenants by barony were tenants-in-chief of the king.

Let us now turn to the lists of men summoned during the reigns of Henry III and the three Edwards. If the accepted theory is correct, all of these men should be tenants by barony. Hence it is necessary to obtain a list of tenurial barons and compare it with the lists of men summoned. For the reign of Henry III a fairly good list of tenurial barons can be made by taking those entered on the rolls as paying baronial relief. For the later reigns I have used the Inquisitions post mortem to learn whether or not a man held a barony or a fragment of one divided among heiresses. The resulting list cannot be entirely accurate. As we shall see in detail when considering relief, the crown itself was none too certain as to who were its barons by tenure. In 1166 there were two Scalariis baronies each representing half of the family's Domesday fief. Under Henry III we find the lord of one of these paying relief as a baron while the other paid as a tenant by knight service.73 Again we find

the Kimes, insignificant tenants-in-chief but very great mesne lords, paying relief as barons while some of the holders of impoverished small baronies were treated as tenants by knight service. In short there was a wide border where the nature of tenure is hard to determine. But beyond this border region were many tenants-in-chief who could not by any stretch of the imagination be called tenurial barons. If men of this sort were summoned, the accepted theory must fall.

The first list that I wish to examine is that of the men summoned to the Montfortian Parliament of 1265. There we find the names of Ralph Basset of Drayton, Geoffrey de Lucy, and Walter de Coleville. Ralph Basset held a small estate from the crown by serjeantry, another by a money rent, and perhaps a manor by knight service as of the honor of Chokes. The rest of his extensive lands were held of various baronies. Ralph Basset was a man of importance, but he was certainly not a baron by tenure. Geoffrey de Lucy held a Kentish manor of the crown by gavelkind. The rest of his lands were mesne tenancies. It would be most difficult to argue that he was a baron by tenure. Walter de Coleville does not seem to have been a tenant-in-chief. His most important estate, Castle Bytham, was held of the count of Aumale.

Let us turn to those summoned to the Model Parliament of 1295. We find the names of Brian Fitz Alan, Nicholas de Meynil, Ely de Albini, and Henry Hose. Brian Fitz Alan was an important tenant of the honor of Richmond. Nicholas de Meynil held a fief of the archbishop of Canterbury. Ely de

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74 The Kimes held some 15 fees of the earls of Chester and about 13 from other barons. They held 1½ or 2 fees in chief of the crown. Under Henry III they paid relief as barons. (Ibid., pp. 43, 382. For the family fees see William Farrer, *Honors and knights' fees*, [London, 1924], II, 118-126.) The baronies of Roger de Beauchamp of Eaton, Mathew de Louvain, and the two Chauncy lines paid relief as ordinary tenures by knight service. (Excerpta ex rotulis finium, I, 76, 141, 173, 182, 207, 321.)

75 Reports touching the dignity of a peer, III, 33-34.

76 Calendar of inquisitions post mortem, VIII, 326-330.

77 Ibid., II, 312-315.

78 Ibid., II, 136-137.

79 Reports touching the dignity of a peer, III, 64-66.

80 The inquisitions covering his lands are incomplete, but they contain no indication that he held lands outside Richmondshire.

81 Calendar of inquisitions post mortem, III, 427-430.
Albini held about two fees in chief and some lands of the barony of Belvoir. Henry Hose had one-half fee held in capite. While he possessed several mesne tenancies, he owed his position to his fief of Herting held of the honor of Arundel. It seems to me completely fantastic to argue that any of these men were barons by tenure.

In addition to these men who were called to the parliaments of 1265 and 1295 let me cite a few more who were summoned fairly regularly during the reigns of Edward I and Edward II. Henry Tyeis was not even a tenant-in-chief except through the fee he held of the escheated honor of Aumale. William de Cantilupe does not seem to have been even a tenant in capite de honore. John de Thorp held an estate in chief by socage, but the rest of his lands were mesne fiefs. Ralph Pipard, John Lovel of Tichmersh, and John ap Adam each held about one knight's fee in chief, but they cannot by any stretch of the imagination be called barons by tenure.

In his A constitutional history of the house of Lords Mr. Pike states: "It would be very difficult to show that any of the laymen beneath the rank of Earl who were called to advise the King in the reign either of Henry III or of Edward I did not hold a barony or part of a barony." Now Inquisitions post mortem are often not complete. It is possible that some of the men mentioned above may have held a fraction of a barony, but I am certain that most of them did not. In short the accepted theory as advanced by Mr. Pike seems to me untenable.

I am convinced that there was no connection between tenure by barony and being summoned to the Great Council or to Parliament. There is some additional evidence to support this view. In the year 1300 the magnates of a Parliament held by Edward I at Lincoln sent a letter to the pope. In this letter each man's name is given in a formal style with the name of his chief seat. Thus we have Henry of Lancaster, lord of Monmouth, and Edmund de Mortimer, lord of Wigmore. It is

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82 Ibid., IV, 221-222.  
83 Ibid., VII, 332-333.  
84 Ibid., V, 26-27.  
85 Ibid., V, 52-54.  
86 Ibid., VI, 295-297.  
87 Ibid., V, 97-98, 141-142, 208-209.  
88 Pike, A constitutional history of the house of lords, p. 94.  
89 Reports touching the dignity of a peer, III, 125-127.
interesting to notice that many of these men took their designations from estates that were not held *in capite*. Let me cite William de Cantilupe, lord of Ravensthorpe, Brian fitz Alan, lord of Bedale, Henry Tyeis, lord of Chilton, Henry Tresgoz, lord of Goring, and Ralph Pipard, lord of Linford. All these estates were mesne fiefs and, with the possible exception of Bedale, were not even held of baronies in the hands of the crown. This seems to me to indicate a complete lack of any pretense that these men were tenurial barons.

Finally Mr. Pike himself cites evidence to show that as late as the reign of Edward III the fact that a man was summoned to Parliament did not prove his right to the legal privileges of a baron. To obtain these he had to demonstrate that he was a baron *by tenure*. The famous Furnival case supports this point. Thomas de Furnival, who was regularly summoned to Parliament, denied that he was a baron *by tenure*, and an inquisition found his contention correct. Both Thomas and the inquisition were wrong—as the heir of one of the Lovetot lines he was a tenurial baron even though his chief seat, Sheffield, may not have been held by barony. Still the fact that he could make such a claim and have an inquisition support it seems to show that there was no connection between barony *by tenure* and summons to Parliament.

The only testimony I can find that seems to contradict this view is in the *Modus tenendi parliamenti*. It states that those who hold *per comitatum vel baroniam* should be summoned *ratione huiusmodi tenurae*. Later it says, "All earls and barons and their peers ought to be summoned and ought to attend, that is those who have lands and revenues to the value of an earldom or a whole barony, that is (for the value of an earldom) twenty knights' fees, each one computed at £20, that makes £400 in all, or for the value of a whole barony thirteen and one-third knights' fees, each one computed at £20, that

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90 Ravensthorp was held of the Wakes as of the old Stutville barony. Bedale was a fief of the honor of Richmond. Chilton was held of the honor of Wallingford and Goring of the honor of Arundel. Linford was held of the De Vere earls of Oxford as of the barony of Bolebec.

91 *Constitutional history of the house of lords*, p. 95.

92 *Reports touching the dignity of a peer*, II, 235.

makes in all 400 marcs; and no lesser laymen ought to be
summoned nor come to parliament *ratione tenurae suae..."

This passage is, of course, completely unrealistic. Tenure by
barony was not based on the possession of a certain number of
knights' fees nor yet on yearly income. A man could have
twenty fees held of him and derive little income from them.
Few indeed were the earls who had twenty fees in demesne.
The author was an antiquarian and not a very able one. He
wished to connect tenure by barony with summons to Parlia­
ment, yet he knew that men who were not tenurial barons were
summoned. Hence the phrase "and their peers." He also
knew that tenurial barony had been connected in some way
with the possession of knights' fees. But in his day a man's
power depended largely on his money income. The result is
fascinating. He took the relief for a knight's fee and divided
it into those for earldoms and baronies. This gave him twenty
fees for an earl and thirteen and one-third for a baron. Then
he assigned each fee the £20 of annual revenue that made its
holder obliged to become a knight. In short the statements of
the author have no value as evidence, but his frame of refer­
ence does. Tenurial barony was to him ancient and vague. In
his world political position depended on money income.

Let me now advance my account of the transition from the
assembly of *Magna Carta* to those held by Henry III and the
three Edwards. The general summons of tenants-in-chief
through the sheriffs was never used. It would have produced
a hopelessly large and unwieldy body. The Great Council con­
sisted of men summoned by individual writs—the great men,
the prelates, earls, and *majores barones*. But in selecting these
men the crown was not limited by tenurial considerations.
Probably in theory the king could call only tenants-in-chief, but
even this restriction seems to have been little observed in prac­
tice. In theory he could summon individuals from all the
classes mentioned in *Magna Carta*, and in practice he called
whomever he pleased.

As we shall see when we examine the subject of baronial
resources, tenure by barony had lost much of its importance by
the time of *Magna Carta* and declined steadily in significance
thereafter. The baron had primarily owed his importance to
his knightly vassals, to the number of knights' fees held of him. But as the services owed by the mesne tenants became more and more a matter of fixed money payments and the comparative value of those payments became less as incomes and prices rose, the importance of holding knights' fees declined. A man who held in demesne five rich manors from five different lords was richer than the baron who had one manor in demesne and the service of a score of fees. The king chose his advisers among the rich and powerful. As barony by tenure had ceased to be closely connected with wealth and power, it was ignored.

To sum up, the weight of evidence shows that a baron owed no court service beyond that expected from any tenant-in-chief of the crown. Tenure by barony implied no special obligations or rights in this respect. This does not mean that tenurial barons did not throughout our period form the major part of the Great Council. They were the magnates, the lords of castles and knightly vassals, the men of political importance. When money income began to replace castles and vassals as the basis of power, the tenurial barons as a class held their place. Money came from franchises, towns, and manors, and they possessed these sources of wealth. As long as a tenurial barony of any importance remained intact, its lord was likely to be a Parliamentary baron. As time went on the old baronies escheated and were regranted in parcels, became minutely subdivided among heiresses, or were alienated by their lords. By the time the hereditary Parliamentary baronage was well established, few tenurial baronies remained intact or even in portions large enough to be of much significance. In fact barony by tenure seems to have been forgotten between the late fourteenth century and its revival by Tudor and Stuart antiquarians.

The obligation of a baron to pay relief to the crown when he inherited his fief has received far too little attention from historians. Military service as the basis of the feudal system has been of prime interest to the student of feudalism. The duty or right to attend Great Councils and Parliaments attracts the attention of the constitutional historian. But one who wishes to understand the political history of the early Angevin period must not neglect relief. It was, I believe, one of the chief instruments by which the crown controlled the barons.
Even when relief came at normal intervals it was a serious drain on the resources of a barony. When a rapid succession of deaths occurred, it could be ruinous. *Magna Carta* fixed the relief due from a barony at £100. I have made a list of forty-one baronies for which I can establish with some certainty the revenue during the late twelfth and early thirteenth centuries. Three of these gave their lords incomes of over £500, three between £300 and £400, five between £200 and £300, fourteen between £100 and £200, and sixteen less than £100. Thus thirty of these forty-one baronies would have required a whole year's income at least to pay relief on the scale established by *Magna Carta*.

The sum of £100 set by *Magna Carta* as the relief due from a barony represented simply a baronial attempt to define the "reasonable relief" required by feudal custom. It was an episode in a long struggle between the English kings and their vassals. The interests of the crown demanded that relief should be arbitrary. On the financial side this enabled the king to adjust the amount to the value of the barony—in short to charge all the traffic would bear. Moreover it permitted him to reward the loyal with low reliefs and punish the disaffected with high ones. The barons, on the other hand, naturally wanted fixed relief at the lowest possible rate.

The *Leis Willelmi* state the reliefs due from earls, barons, and rear-vassals in terms of horses and arms. In the case of the last it provides as an alternative the payment of 100 shillings in money. While the payment of relief in military equipment may have been the practice in the Conqueror's day, it seems more likely that this was an antiquarian relic of a distant feudal past. Certainly William II did not accept fixed relief in horses and arms. The second paragraph of the charter of liberties of Henry I states: "If any one of my earls, barons, or other tenants-in-chief die, his heir will not ransom his land as he did in the time of my brother but shall pay a just and legitimate relief." Clearly William Rufus had been collecting arbitrary reliefs which the barons considered too high. Un-

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84 *Magna Carta*, c. 2.
86 *Charter of liberties*, c. 2.
fortunately we do not know what either Henry I or his barons meant by "reasonable." The evidence we have as to Henry's practice indicates that the question worried him very little and that he continued to exact arbitrary reliefs. The pipe roll of 1135 shows Ralph Halselin paying 200 marcs, the two halves of the Reimes barony £50 each, and Ely Giffard and Odo de Damartin 100 marcs apiece.\(^97\) Geoffrey de Mandeville owed £866 13s 4d which may have been his actual relief or may have been what was left after some had been paid.\(^98\) At any rate it was a heavy charge.

The legal treatises of the late twelfth century insisted on this right of the king's to exact relief from his barons as he saw fit.\(^99\) In general Henry II and Richard I seem to have used the privilege with moderation. As a rule the sum demanded was between 100 and 200 marcs with £100 and 100 marcs the most common figures. But there were striking variations from this norm. In 1166 the constable of Chester paid 1,000 marcs for the lands his mother had held in the honor of Tickhill.\(^100\) In 1185 Robert de Ghent offered the same amount for his ancestral barony.\(^101\) The year 1190 saw some extremely high reliefs—Richard needed money for his crusade. Maurice de Berkeley promised 1,000 marcs, Eustace de Vesci 1,300 marcs, and the earl of Norfolk 1,000 marcs.\(^102\) At least two of these cases were unusual. The house of Berkeley had obtained its rich fief through the favor of Henry II, and Maurice's payment covered confirmation of this grant. The earl of Norfolk's father had been a rebel against Henry II, and while the king had restored his hereditary estates, he had kept a number of valuable manors which previous monarchs had granted the earls from the royal demesne. These manors were returned by Richard. The crown was also willing to use its arbitrary authority to avoid obvious hardship. In 1195 John de Kilpek was pardoned £77 10s of the £100 charged him for relief of

\(^97\) Pipe roll 31 Henry I, pp. 9, 54, 78, 98.
\(^98\) Ibid., p. 55.
\(^99\) Dialogus de scaccario, p. 135; Glanville, De legibus (ed. George E. Woodbine, 1932), p. 128.
\(^100\) " Pipe roll 12 Henry II," Pipe roll society, IX, 51.
\(^101\) " Pipe roll 31 Henry II," ibid., XXXIV, 90.
\(^102\) " Pipe roll 2 Richard I," ibid., XXXIX, 21, 58, 101.
his barony "because of the poverty of the tenement and because he has only one knight's fee." 103

The cases of Maurice de Berkeley and the earl of Norfolk show the extreme difficulty of comparing custom with practice in respect to relief. It seems clear that in Richard's reign there was a distinct belief that £100 was a normal reasonable relief for a barony. In 1198 William de Newmarket offered a fine of 100 marcfs if the king would accept a reasonable relief of £100. 104 During Richard's reign this sum was assessed against the tiny barony of John de Kilpek, the comparatively small fiefs of Richard Lovel and Gilbert de Tany, the moderate sized baronies of Ralph Musard, Robert de Albini, and Aubrey de Vere, and the great honors of William de Ferrars and William de Mowbray. 105 Perhaps the most instructive case is that of the earl of Arundel. In 1194 he was charged £100 for relief by the justiciar, Hubert Walter. Later in the same year he was forced, presumably by Richard himself, to promise 760 marcfs for the lands held by his father at his death—the barony of Castle Rising. 106 Here it seems obvious that the justiciar considered £100 the normal relief, but the king refused to accept it. In short the crown might agree in theory that £100 was the normal relief due from a barony and still find very few normal cases. A baron's right to his fief might not be quite clear, he might lack the protection accorded by tenure for several generations, or his father might have offended the crown. All such cases called for special bargains—a fine in place of or in addition to relief.

As long as the king had the right to demand arbitrary reliefs, he could use it as a political weapon. Both Henry II and Richard I rewarded their friends and punished their enemies by this means. John not only employed this weapon more freely than his predecessors but he also made it far more potent. His policy seems to have been to keep his barons

103 "Pipe roll 7 Richard I," ibid., XLIV, 111.
104 "Pipe roll 10 Richard I," ibid., XLVII, 222.
perpetually in debt to the crown. This enabled him to favor some by pardoning part of their debts and to harass those he distrusted. A strange quirk in the law of the day made the harassing particularly easy. The king could not legally seize the person or fief of a baron except in accordance with a judgment solemnly delivered by the baron’s peers. Feudal law protected a vassal from arbitrary punishment by his lord. But English law supplied a loophole. When a baron owed the crown more money than he could pay at once, he or his seneschal appeared before the exchequer, agreed on a system of installments, and swore to make the payments on time. The Dialogue of the exchequer makes clear that if these payments were not made, the seneschal who had taken the oath could be imprisoned. If the lord had taken the oath in person, he was to be confined on parole to the vicinity of the prison. Apparently the lord whose seneschal had sworn was safe, but his chattels were to be seized as soon as the payment was defaulted.\footnote{\textit{Dialogus de scaccario}, pp. 151-153.}

This feature of exchequer practice quickly attracted John’s attention. Early in his reign he issued a decree reaffirming and strengthening the rule.\footnote{Roger Hovedon, \textit{Chronica} (ed. W. Stubbs, \textit{Rolls series}), IV, 152.} To the provision that when a payment was in default, the lord’s chattels were to be seized, he made a significant addition—when the debt was for relief, the land for which it was due was to be seized. Then the Dialogue states that in the opinion of some people a lord whose seneschal had made default could not himself take oath to pay that debt. John made this provision positive. While the exact effect of this is not quite clear, it would seem to place the lord at the king’s mercy. Certainly John used this method against his enemies. With this weapon he crushed the De Briouses and disciplined Thomas de Multon.\footnote{Goddard Henry Orpen, \textit{Ireland under the Normans} (Oxford, 1911), II, 237-241; \textit{Rotuli litterarum patentium} (ed. T. D. Hardy, \textit{Record commission}), p. 85b.} It was a perpetual threat hanging over the heads of all barons who were deeply in debt to the crown. Now relief was not only a privileged debt under John’s decree, but it was also one that every baron
had to incur. Hence exorbitant reliefs suited John's policy. John de Lacy, constable of Chester, promised to pay 7,000 marcs for his father's lands. This represented about six years' income from the fief. Then in 1214, in the hope of weaning the young constable from the rebel party, the king forgave about half the sum and in the following year wiped the debt out entirely. In 1214 William fitz Alan promised 10,000 marcs for his fief. As this was equal to about thirty years' revenue of the barony, it was an utterly fantastic sum. One can easily see why the barons who dictated the terms of Magna Carta felt strongly about relief.

The provision of Magna Carta setting the relief for a barony at £100 was observed reasonably well in practice. The cases in which greater sums were demanded became few. In 1220 Richard de Harcourt paid £500, and in 1224 Nigel de Mowbray was charged the same amount. In the latter year John de Birkin paid 300 marcs relief for the barony of Matilda de Caus, but three years later his heir paid only 200 marcs. In 1227 Robert fitz Meldred paid 200 marcs for the barony of Henry de Neville of Raby. In 1244 John fitz Alan was charged £1,000. In 1247 Roger de Mortimer of Wigmore paid a relief of 2,000 marcs and John de Verdun one of 300 marcs. The small number of these cases inclines one to believe that each was governed by exceptional circumstances, but I can find no evidence as to what those circumstances may have been. Perhaps it is significant that the two who were charged very large sums were great marcher lords.

The question as to whether the government of Henry III accepted especially low reliefs from poor baronies is complicated by the fact that there was no clear rule as to what fiefs were baronies. On several occasions inquisitions were ordered

112 Excerpta ex rotulis finium, I, 58, 113.
113 Ibid., pp. 116, 162. 115 Ibid., p. 417.
114 Ibid., p. 156. 116 Ibid., II, 7, 11.
to determine whether or not a fief was held by barony.\textsuperscript{117} This confusion becomes obvious when one examines the reliefs demanded. I have already cited the case of the two Scalariis baronies one of which paid as a barony and the other as a tenure by knight service. Each consisted of fifteen fees, but one was charged £100 and the other £75.\textsuperscript{118} In 1226 Mathew de Louvain paid £50 for the ten fees he held. In 1261 his son was charged 100 marcs.\textsuperscript{119} In 1234 the heiresses of the barony of Cainhoe paid as tenants by knight service instead of as holders of a divided barony.\textsuperscript{120} Most peculiar of all is the case of John de Balliol. At first he was charged £150 for his thirty fees. Apparently he protested, for it was later reduced to the standard £100.\textsuperscript{121}

It seems clear that Henry III's government had no definite list of baronies. In the case of fiefs that were both small and poor, such as those held by the Beauchamps of Eaton Socon, the Scropes, and the two Chauncy families, reliefs were collected at the rate of 100 shillings per fee even though the Beauchamp fief at least was at times called a barony.\textsuperscript{122} Some what larger fiefs like that held by Mathew de Louvain could be given relief by either charging 100 shillings a fee or a lump sum smaller than the standard £100.\textsuperscript{123} In one case the holder of a very poor barony was charged a lump sum smaller than the total of his fees at 100 shillings each.\textsuperscript{124} But this practice of tempering the cost of relief for small, poor baronies was not always followed—the Sudley barony of three fees paid £100 in 1222.\textsuperscript{125} In short even though baronial relief had become fixed the crown could still use its rights for political purposes in the border region between tenure by barony and by simple knight service.

The last important development in the history of relief dur-

\textsuperscript{117} Ibid., I, 92; II, 266, 405.
\textsuperscript{118} Ibid., I, 69, 93. The roll reads £65, but this seems clearly an error.
\textsuperscript{119} Ibid., I, 141; II, 362-363.
\textsuperscript{120} Ibid., I, 259-260.
\textsuperscript{121} Ibid., pp. 183, 212.
\textsuperscript{122} Ibid., I, 76, 173, 182, 207, 321; Book of fees, II, 888.
\textsuperscript{123} Excerpta ex rotulis finium, I, 141; II, 362-363.
\textsuperscript{124} Ibid., I, 69.
\textsuperscript{125} Ibid., p. 82.
ing our period was the reduction of the sum due for a barony from £100 to 100 mares. As prices and money revenues were rising, this reduction of one-third in the standard relief represented at least a minor victory for the barons. It is difficult to fix exactly the date of this change. The fine rolls of Henry III show that £100 was charged the heirs of four baronies in 1263.\textsuperscript{126} In 1265 Geoffrey Luterel was assessed 100 mares.\textsuperscript{127} From then until the death of Henry III no definite sum was mentioned—the escheator was simply ordered to take security for the payment of "reasonable relief." This evidence seems to indicate that the change took place in 1264. The fact that Bracton writing before 1268 gives 100 mares as the relief due from a barony serves to support this date.\textsuperscript{128} Unfortunately Bémont cites evidence to show that Edward I collected relief at the £100 rate until his reissue of the charter in 1297. This document finally set the relief for a barony at 100 mares.\textsuperscript{129} On the basis of the evidence available one can merely suggest that the barons forced Henry III to grant the reduction, but that it was later repudiated by Edward. He in turn was forced to give way in 1297.\textsuperscript{130}

To summarize, the Norman and early Angevin kings found relief a valuable political and economic weapon in their relations with the barons. They could charge their friends less than their foes, the poor less than the rich. Theoretically any gain in the annual value of a barony could be drained off by the crown through high relief. John used relief peculiarly effectively as a political weapon, and it is very possible that he was also governed by economic motives. The barons, who had long contended that a fixed sum should be set as a "reasonable relief," succeeded in placing such a provision in \textit{Magna Carta}. This ended the use of relief as an instrument of policy except perhaps in the case of very poor baronies. But relief remained for some time a serious burden on all except the richest seifs

\begin{itemize}
\item \textsuperscript{126} \textit{Ibid.}, II, 390, 396, 398.
\item \textsuperscript{127} \textit{Ibid.}, p. 425.
\item \textsuperscript{128} \textit{De legibus}, II, 244. The date 1268 was supplied by Professor Woodbine.
\item \textsuperscript{129} Charles Bémont, \textit{Chartes des libertés anglaises (Collection de textes pour servir à l'étude et à l'enseignement de l'histoire}, Paris, 1892), p. 48, note 6.
\item \textsuperscript{130} This question could probably be settled by an examination of the pipe rolls. They are at present unavailable.
\end{itemize}
held by barony. This led to the long struggle, eventually successful, to reduce baronial relief from £100 to 100 marcs. During the same period the money return from most baronies was rising steadily. Hence by the early fourteenth century relief must have been a far less serious burden than in the early thirteenth.

Another financial obligation of the English tenants-in-chief to the crown was the feudal aid. It was assessed and collected in the same manner as a scutage. *Magna Carta* recognized three occasions on which the king had the right to demand an aid—the knighting of his eldest son, the marriage of his eldest daughter, and the raising of ransom if the king was captured. If he wished an aid for any other purpose, he must obtain the consent of the assembly provided for by the charter. In so far as feudal aids were concerned the practice of the early Angevin kings furnished no justification for this provision. John never made a levy of this sort. In all probability this clause was aimed at non-feudal taxes such as carucages and levies on movables. Feudal aids were taken by Henry III, Edward I, and Edward III on some seven occasions between 1217 and 1348. The first two were levied at a rate of two marcs per fee, the next at twenty shillings, and the others at £2. A statute of 1350 fixed the rate for the future at £1 per fee. The lateness of the date at which the rate became fixed seems to indicate that the feudal aid was of little concern to the barons. As this tax was based on the scutage assessments, it became obsolete with them. The crown raised the revenue it needed by non-feudal levies and simply used the feudal aid as a source of occasional small windfalls. After the twelfth century it cannot have been a serious burden on any barony.

From the point of view of the crown the most important of all feudal incidents were its rights of wardship and marriage. They were valuable both financially and politically. When a

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131 *Magna carta*, c. 12, 14.
132 Henry II levied an aid to marry his daughter in 1168. In 1194 an aid was taken to ransom King Richard. "Pipe rolls 14 Henry II and 6 Richard I," *Pipe roll society*, XII, XLIII.
134 *The statutes of the realm* (Record commission), I, 322.
Feudal Obligations

baron died leaving a minor heir, the crown could enjoy the revenues of the fief until the heir came of age, sell the custody, or use it to reward a faithful servant. As the custody of the lands of minors was a magnificent source of revenue and patronage, the king was inclined to press his rights as far as possible. Under the doctrine of prerogative wardship he had the custody of all the lands of a minor tenant-in-chief. This was often a serious hardship for a baron from whom the minor held a mesne fief. For instance the Fitz Johns of Harptree in Somerset held only one-half a fee in chief, but they held 10 fees of the earldom of Gloucester. If the Fitz John fief fell to a minor heir, the king had the custody of the lands held of the earl. A list of the fees held of the earl of Gloucester and Hertford in 1263 show that 96 out of a total of 243 were held by tenants-in-chief of the crown and hence were subject to prerogative wardship. About a quarter of the fees of the Mowbray barony were held by tenants-in-chief of the crown.

Naturally the barons were anxious to limit prerogative wardship as much as possible. They sought to do this by defining strictly the tenures which could give justification for its exercise. Magna Carta provided that the fact that a man held in capite by non-military tenure—socage, burgage, fee farm, or petty serjeantry—did not give the king the custody of lands he might hold from others by knight service. Chapter 43 of the charter suggests but does not actually state that the king could not claim prerogative wardship in the case of a tenant-in-chief de honore. The second reissue of the charter made this prohibition definite, and this was accepted by Bracton as the established law. Prerogative wardship remained as it was defined by Magna Carta. The petition of the barons at the Parliament of Oxford in 1257 seems to demand its abolition, but nothing came of this request. Edward I was inclined to press his rights up to if not slightly beyond their limits. At the death of Geoffrey de Lucy, a tenant of the earl of Gloucester, the

135 Close rolls, 1261-4 (Rolls series), pp. 284-293.
137 Magna carta, c. 37.
138 Charter of 1217, c. 38; Bracton, De legibus, II, 253.
139 Petition of the barons, c. 3, Stubbs, Select charters, pp. 382-387.
crown and the earl disputed the custody of his lands. Geoffrey's grandfather had held in re uxoris half of a royal serjeantry. As he had had no issue by the heiress to the serjeantry, it had passed to others, and neither Geoffrey nor his father had held it. Nevertheless the exchequer decided that because Geoffrey's grandfather had done homage to the king, his lands should be in the custody of the crown. To say the least this seems a strained interpretation of prerogative wardship even if it be granted that the serjeantry was grand rather than petty. A statute reaffirmed the king's right of prerogative wardship and listed the baronies that were exempt from it. The palatine lords, the bishop of Durham and the lords marchers, and the archbishop of Canterbury had custody of all fees held of them even when the tenant held elsewhere of the king de corone.

The barons disliked prerogative wardship because it deprived them of part of their feudal revenues from their vassals. They also objected to having the crown waste the lands of a minor, and Magna Carta forbade this abuse. The king was entitled to the income from the fief, but he was expected to leave the capital intact. For the rest there seems to have been little dispute over the crown's right of wardship. Not only was it a basic feudal privilege deeply imbedded in traditional custom, but it bothered the barons very little. A living baron was not likely to worry much about who enjoyed the revenue of his lands after his death, and the minor who was in custody was in no position to contest the crown's right. In short wardship was never a burden on an adult, active baron. At the same time it was the most valuable of the king's rights. Scutage, relief, and aid could not be increased as prices and the revenues from land rose, but wardship was inflation-proof. Its annual value was the value of the fief less the cost of supporting the heir. It remained an important part of the king's income until its abolition in the seventeenth century.

The king's right of marriage was important from both the political and financial point of view. Unfortunately its exact extent is not clear. No tenant-in-chief could marry his daughter

141 Statutes of the realm, I, 126.
142 Magna carta, c. 4.
without the king's consent. If a tenant-in-chief died leaving unmarried daughters, the king could marry them to whom he pleased. The widow of a tenant-in-chief could not remarry without the king's leave. This much was generally recognized. The question as to whether or not the king could force a widow to remarry was long an issue between crown and baronage. Henry I in his charter of liberties promised that he would not marry a widow against her will. 143 *Magna Carta* states, "No widow shall be forced to marry if she wishes to live unmarried." 144 Evidence as to the crown's practice is difficult to find. The pipe roll of 1135 shows Henry I obliging Lucy, countess of Chester, to pay 500 marcs for the privilege of staying unwed for five years. 145 Two other ladies paid fines to have their dowers, and this may have been a less direct way of collecting money for allowing them to stay single. 146 The rolls for most of the reign of Henry II contain very few entries relating to the king's right of marriage—in fact one is led to wonder if payments in connection with it were not made direct to his chamber without passing through the exchequer. But in 1180 a widow pays to be allowed to remain single, and there are a few similar cases in the rest of Henry's reign. 147 Under Richard and John such entries become very common. 148 In John's reign there are a few clear cases of widows forced to marry men chosen by the king. 149 The crown's inclination to insist that a widow marry or at least pay a round sum for the right to remain single is easily explained. A widow was entitled to one-third of her late husband's estate as a dowry, and she usually had a marriage portion as well. By forcing her to marry the king could use her lands for political patronage or sell her hand at a good price. Like most of the provisions of *Magna Carta* the prohibition against forcing widows to remarry was not entirely efficacious—the pipe roll of 1230 shows two ladies paying fines to remain single. 150

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143 *Charter of liberties*, c. 4. 144 *Magna carta*, c. 8. 145 " *Pipe roll 31 Henry I*, p. 110. 146 Ibid., pp. 67, 95. 147 " *Pipe roll 26 Henry II*, *Pipe roll society*, XXIX, 140; " *Pipe roll 28 Henry II*, ibid., XXXI, 100. 148 See indices to published pipe rolls under " *Fines et Oblata."

149 *Rot. claus.*, I, 12b; *Curia regis rolls*, III, 257. 150 " *Pipe roll 14 Henry III*, *Pipe roll society*, XLII, 255, 259.
The other doubtful question concerns the king's rights over the marriage of males in his custody. The charter of liberties of Henry I and Glanville's treatise speak only of the marriage of females.\textsuperscript{151} \textit{Magna Carta} uses the term \textit{haeredes} with no specification as to sex.\textsuperscript{152} Bracton states positively that a lord has the right to marry a minor male in his custody.\textsuperscript{153} Here again the practice is difficult to determine. The pipe roll of 1135 shows that Henry I received fines from males for leave to wed which seems to imply that he had the right to marry them.\textsuperscript{154} In 1188 Henry II sold the marriage of a male heir.\textsuperscript{155} The practice became common during the reigns of Richard and John.

Although the argument for it rests largely on the dubious ground of lack of evidence against it, there is an interesting possibility that should be mentioned. We have seen that in respect to taking fines from widows for leave to remain single and from male heirs for permission to marry the practice of Henry I resembles that of Richard and John. Only after 1180 do we find any examples of such payments in the reign of Henry II. In fact the pipe rolls of Henry II show astonishingly few cases of the sale of widows and female wards of the crown. As I have suggested above, this may mean that such payments were made into the chamber and so are not found on the pipe rolls. But there is another possible interpretation. The charter of Henry I and \textit{Magna Carta} show that the crown's right of marriage was a cause of friction between it and the barons. Perhaps Henry II in the early years of his reign refrained from raising this issue. Only after the suppression of the baronial revolt did he feel free to return to the practices of his grandfather's day.

The political aspects of the right of marriage were extremely significant. It enabled the crown to control the family alliances formed among the barons. Then every marriage involved the transfer of a marriage portion, and many governed the

\textsuperscript{151} \textit{Charter of liberties}, c. 3; Glanville, \textit{De legibus}, p. 109.
\textsuperscript{152} \textit{Magna carta}, c. 6.
\textsuperscript{153} Bracton, \textit{De legibus}, II, 256-257.
\textsuperscript{154} \textit{Pipe roll 31 Henry I}, pp. 8, 26.
\textsuperscript{155} \textit{Pipe roll 34 Henry II}, \textit{Pipe roll society}, XXXVIII, 100.
future possession of a barony or part of one. It was extremely important that the crown should control the passing of lands, castles, and fees from one family to another. Most vital of all was the king’s right to marry an heiress after her father’s death. This privilege enabled him to choose the next lord of the fief. There is some evidence that during the twelfth century the king claimed a special prerogative. If a baron who had several daughters married all but one before he died, the king could marry the one left and give her the entire fief.\footnote{156} The crown could make the fortune of a feudal house by permitting it to make good marriages. The Bohuns emerged from obscurity by marrying a daughter of Edward of Salisbury, rose another step by wedding a daughter of Miles of Gloucester, and reached the height of their power through a Mandeville heiress. On the other hand great baronies could be broken into insignificant fragments by marrying heiresses to men of little position. In short through its right of marriage the crown could to a great extent control the accumulation and dispersion of great feudal estates.

The right of marriage benefited the crown financially in two ways—a marriage was a marketable commodity which could be sold for cash, and a lady and her lands could be used to support someone for whom the king felt obliged to provide. It is extremely difficult to make any general statement about the value of the marriages in the king’s gift for the circumstances varied with each case. Presumably the basic consideration was the political and financial importance of the estates involved. A widow with her dowry was more valuable than her unmarried sister. A sole heiress was worth more than one of several. But obviously other considerations could be involved. The king in all probability shaded prices for his friends.\footnote{157} If the beauty and charm of the lady and his affection for her had moved a man to offer a high price, we should have no knowledge of the motive. The numerous couples who paid fines for wedding without the king’s consent would seem to indicate that love played its part. As far as the actual evidence goes,

\footnote{157} For a case in point see \textit{Rot. claus.}, I, 168
one can only say that there was clearly no fixed ratio between the value of a lady's hand and the annual income from her lands. The few cases in which the value of the lands involved can be ascertained suggest that a lady was worth from two to four times her annual income. In general the prices for the widows and heiresses of barons ranged from 200 to 500 marcs. The oft-cited 20,000 marcs which Geoffrey de Mandeville offered in 1214 for the person and estate of Isabel of Gloucester is clearly a case of King John's strange schemes like the 10,000 marcs charged William fitz Alan for relief. 158 As the honor of Gloucester was certainly not worth more than £600 and probably not more than £400, this sum of 20,000 marcs was obviously based on political not financial considerations. 159

Although at normal rates the king's right of marriage brought a considerable return to the exchequer, it was not as a rule a burden the barons could object to. It is true that occasionally a baron had to pay for the king's leave to marry his daughter, but this does not seem to have been usual. Ordinarily the king exercised his right over widows and children in his custody. For the buyer the purchase of one of the crown's wards was a pure speculation. A man considered the value of the lady's estates, guessed at the number of years he might hope to enjoy them, perhaps glanced at the charms of the lady herself, and then decided how much he was willing to pay for her. Often he could obtain terms of payment so favorable that he could take the money required out of the income of the estates and so required no initial capital for his speculation. His profits depended on the quality of the bargain he made with the crown and on pure chance. Suppose a man offered £500 for a lady whose lands were worth £150 a year. If she died childless in four years, he came out about even. If she lived longer, he gained. If she died after bearing him a child, he could enjoy her estates for life and make another similar speculation. In short while the right of marriage was a source of revenue to the king, it also offered exciting opportunities for profit to his vassals.

158 Rotuli de oblatis et finibus, p. 520.
159 In 1188 it yielded just under £600. "Pipe roll 34 Henry II," Pipe roll
The second aspect of the financial value of the right of marriage to the crown requires little discussion. A king felt obliged to provide for his children, both legitimate and illegitimate, and his loyal servants. Henry I gave the heiress of the Fitz Hamons to his eldest bastard, Robert. Later another of Henry's illegitimate sons, also named Robert, received the heiress of the great barony of Okehampton. Stephen gave the heiress of the vast Warren estates to his second son, William, and the same lady was used by Henry II to provide for his bastard brother, Hamelin. Henry II cared for his third and fourth sons, Geoffrey and John, by giving them respectively Constance, duchess of Brittany and countess of Richmond, and Isabel, daughter of Earl William of Gloucester. Richard I presented his bastard brother William Longsword with the heiress to the earldom of Salisbury. Thus ladies in the king's gift provided an economical means of providing for the royal progeny.

The practice of rewarding faithful royal servants with valuable ladies was common under the early Angevin kings. The most striking case was the gift by Henry II and Richard of Isabel de Clare, lady of Striguil, Pembroke, and Leinster to William Marshal. Geoffrey fitz Peter obtained a lady who soon became the heiress to the great Mandeville barony. Saber de Quency received one of the heiresses of Earl Robert of Leicester. Hubert de Burgh enjoyed at various times the lady of Wormgay and Isabel of Gloucester. Robert de Turnham, Robert de Tresgoz, and Geoffrey Luterel received heiresses of baronial rank. These favored ones were all Englishmen, but John at least had no objection to giving ladies in his care to foreigners. Faulkes de Bréauté was married to the widow of the earl of Devon. Peter de Maulay was given the heiress of the Fossards. Other foreign soldiers in John's pay received less valuable ladies.

The sixth chapter of Magna Carta provided that the king should marry heirs in his custody absque disparagacione. It is extremely difficult to determine exactly what the barons had in mind when they forced this promise from the king. The general idea is clear enough—an heir should be married to a society, XXXVIII, 13. In 1199 it brought in only £446. "Pipe roll 1 John," ibid., XLVIII, 35.
worthy partner. It was a generally accepted principle of feudal custom. There seems no doubt that it was considered disparagement to marry the heir of a baron to a villain or burgher though this rule was not definitely expressed until 1235.\textsuperscript{160} I suspect that in earlier times there was no need to state this—it was generally assumed. But did the barons mean more than this? Did they intend that the heir of a baron should be married to the child of a baron? As a class the barons of England might well have wished to keep the baronies of the realm in their own hands. There is no evidence that any such idea lay behind this provision. William Marshal was an almost landless knight when he married Isabel de Clare, yet we find no suggestion that the union disparaged the lady. As far as one can discover any English freeholder was a fit partner for the heir of a baron.

Are we then forced to conclude that the barons were simply repeating a traditional feudal formula or that John had been marrying noble heiresses to villains or burghers? Neither of these alternatives seems likely. It is more probable that the clause was aimed at John's foreign soldiers. This frame of mind appears clearly in the petition of the barons at the Parliament of Oxford. Chapter six of this petition reads: "Likewise they beg in regard to marriages in the king's gift that they be not married where they are disparaged, that is to men who are not of the nationality of the English realm."\textsuperscript{161} The barons of England were not trying to keep the fiefs within their own ranks, but they did want to limit the competition to Englishmen. Even though serious violence is done to the belief in the internationalism of the feudal class, it seems necessary to conclude that John's barons considered a foreigner unworthy of their children. In short disparagement of heirs by the king was essentially a political issue. There was little likelihood that its social implications would be involved through the king's attempting to give the heir of a tenant-in-chief to one of villain or burgher rank. The statute of Merton which definitely calls such a marriage disparagement seems aimed at mesne lords rather than at the king.

\textsuperscript{160} Statutes of the realm, I, 3.

\textsuperscript{161} Petition of the barons, c. 6.