Studies in the History of the English Feudal Barony

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CHAPTER III

NON-FEUDAL OBLIGATIONS

Having discussed at some length the feudal obligations owed by the barons to the crown let us turn to the non-feudal public burdens imposed on them. Here an important distinction must be made. We have seen that in regard to all feudal obligations the baron was responsible to the crown for the service owed by his entire barony. Although the king might assist him to force his vassals to perform their share of the service due from the barony, there was no direct relationship between the crown and the baron's men. But this was not the case in respect to non-feudal public burdens. There the king looked directly to each freeholder, and once a baron had granted land as a fief, it ceased to be his responsibility.\(^1\) Hence when the baron sought exemption from public burdens, his interest was usually confined to the lands he had retained in his own hands. There were, however, some advantages to be gained by the baron if he could obtain exemptions for his vassals. It added to one's prestige to have one's men enjoy a privileged position. Moreover when the vassals' lands were in the baron's custody, he was directly interested in the burdens borne by them. In short a baron liked to see his vassals freed from all obligations that did not benefit him, but his primary care was to obtain freedom for his own lands, for his demesne.

As this term "demesne" will be used very frequently in subsequent pages, it is extremely important that it be clearly defined. It had two distinct meanings in mediaeval English usage. In *Domesday Book* demesne means the land that a member of the feudal class cultivated himself with the labor services owed by his tenants. The charter of liberties of Henry I refers to this land as "demesne plowlands," and this became the ordinary usage whenever there seemed danger of confusion between the narrow and broad meanings of "demesne." When I wish to refer to this land, I shall use the term "manorial demesne." In its broader and more com-

\(^1\) Bracton, *De legibus*, II, 116-117.
mon meaning demesne covers both the manorial demesne and the land held by unfree tenants. This is the land held "in demesne as of fee" so prominent in Henry II’s possessory assizes and hence in English common law. The author of the Dialogue of the exchequer used demesne in this sense, but felt called on to defend himself against those who held to the narrower meaning of the word. When I speak of demesne without qualification, I intend to use the term in its broad sense. In fact I cannot usually be certain that I am staying within the limits I have marked. In strict theory the tenements of small free tenants did not form part of the demesne, but it is clear that contemporary usage often included them in it. In short the only positive statement one can make is that the demesne of a baron could not include lands held by knight service.

The most important public burden of the Norman period was the tax known as danegeld. Unfortunately comparatively little is known about how often it was taken and the rate at which it was levied. In the winter of 1083-4 the Conqueror collected danegeld at the rate of six shillings per hide. About 1096 William II levied it at four shillings on each hide. Mr. Round has shown conclusively that other danegelds were collected by the first two Norman kings, but we are ignorant of their number and the rate at which they were levied. Henry I seems to have turned danegeld into an annual tax of two shillings on every hide. His grandson Henry II took it twice at the same rate—in the second and eighth years of his reign. If one accepts Mr. Maitland’s conclusion that at the time of the Domesday inquest the average hide was worth £1 a year, the six shillings collected in 1083-4 represented a 30 per cent tax on landed incomes. As it seems certain that Domesday valua-

9 Dialogus de scaccario, p. 102.
7 Ibid., pp. 83-84.
6 Ibid., pp. 87-88.
4 "Pipe roll 2 Henry II," The great rolls of the pipe for the second, third, and fourth years of the reign of king Henry II (ed. Joseph Hunter, Record commission), pp. 1-68; "Pipe roll 8 Henry II," Pipe roll society, V.
3 F. W. Maitland, Domesday book and beyond (Cambridge, 1907), pp. 462 466.
tions included revenue in kind, a cash tax at this rate must have been crushing. The references cited by Round in connection with the four-shilling geld of 1096 supports this conclusion. While it is likely that the revenue from land had increased and that money was more plentiful by the time of Henry I, his annual tax of two shillings on a hide must have been a serious burden well worth avoiding.

There were two obvious ways by which a baron could mitigate or avoid the cost of paying danegeld—he could get his assessment lowered or obtain a partial or complete exemption from the tax. As the hide was a unit of assessment, the crown could reduce the number of hides. Sometimes the king granted a reduction in the assessment of a particular estate. Then there were wholesale reductions such as those granted in the counties of Sussex, Surrey, Hampshire, and Berkshire between the Conquest and the Domesday inquest. The isolated reductions were clearly marks of royal favor, and there are distinct indications that favoritism played a part in the wholesale ones. Thus in Sussex the assessments of the demesne manors of the lords of the rapes—the counts of Mortain and Eu, Earl Roger de Montgomery, William de Warren, and William de Briouze—were reduced on an average well over 50 per cent while very few of the estates held by their vassals received any reduction. In Surrey the fiefs of Richard fitz Gilbert de Clare and the bishop of Bayeux fared far better than average, though here there was no striking difference between the treatment accorded to them and their tenants. In short it seems clear that those who were in the royal favor could obtain reductions in danegeld assessments.

If a baron succeeded in having the assessments on some of his manors reduced, he lessened, presumably forever, the tax burden on those lands. An exemption from danegeld did not change the obligations due from the land but simply freed the privileged holder from paying. Lower assessments reduced the danegeld totals on the king's books—exemptions simply cut the actual receipts. Exemptions from danegeld were of three types. A class or group of landholders might be exempt be-

cause of its position. A baron might obtain permanent exemption for himself and his successors. The third and apparently most common type was arbitrary relief from paying on a particular occasion granted as a special favor from the crown.

In 1083-4 the barons were not obliged to pay danegeld on their manorial demesnes. Round suggests that this concession was made because the rate of the levy was very high. In Wiltshire it resulted in the exemption of about 30 per cent of the hides. The decided favor shown to the barons as against their vassals indicated the great influence of the former. A passage in the *Leges Edwardi Confessoris* states that the demesnes of the church were exempt until the levy of 1096. As this compilation dates from the middle of the twelfth century, it is of doubtful authority. A writ of William I granting freedom from geld to the demesnes of the abbey of Bury St. Edmunds casts doubt on the existence of any such general exemption. It is, of course, possible that the passage in the *Leges* referred to manorial demesnes and that William's writ used the word in its broader sense. Henry I in his coronation charter promised that all who held by knight's service would be freed from paying geld on their manorial demesnes. This great extension of the scheme followed in 1083-4 would have exempted some 50 per cent of the hidage of England. If Henry paid any attention to this promise, he did so only for a time. Although the total hidage shown on the pipe roll of 1135 is below that of *Domesday Book*, the difference is not enough to cover any such sweeping exemption. The writs of quittance entered on this roll do not cover all the barons, to say nothing of all tenants by knight service. Finally a few of these writs specifically exempt the manorial demesnes of individuals and hence show that no general exemption for these lands was recognized.

While there is no valid evidence that general class exemptions from the payment of danegeld were granted on other

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12 *Feudal documents from the abbey of Bury St. Edmunds*, p. 49.
13 *Charter of liberties*, c. 11.
occasions than the levy of 1083-4, certain landholders were exempt by charter or custom. Royal charters wholly or partially freeing ecclesiastical estates from this burden do not concern us except to note that they were fairly common. Our interest lies in the exemptions granted to laymen. The earliest charter I can find that specifically frees a lay fief from the payment of danegeld belongs to the middle years of Henry I. But there is evidence that other grants were made by the Norman kings. In the pipe roll of 1135 Brian fitz Count, lord of the barony of Wallingford, is given quittance from geld on all his lands, both demesnes and fees. Under Henry II this exemption was allowed to the "barons of Wallingford." The only possible explanation would seem to be that some lord of Wallingford had obtained a grant of exemption for himself, his vassals, and their successors. On the roll of 1135 the Earl Warren and the earl of Gloucester received quittances for all their lands. In 1155 the so-called nova terra of Earl Warren in Norfolk was apparently exempted without question, but the crown tried to collect the geld due from his other lands. The earl protested, and the collection was postponed. Next year he had writs giving full exemption to his lands in East Anglia and Surrey and to his demesne in his barony of Lewes. In 1155 the earl of Gloucester refused to pay geld on his demesne and the following year had writs of quittance. Now it seems clear that both these earls believed that they were entitled to at least partial exemption from geld, and Henry II appears to have recognized the justice of their claims. I believe both had some sort of grant of exemption from one of the Norman kings.

The lord and tenants of the Wallingford barony and the two earls mentioned above probably had charters freeing them from geld, but some lay lords were exempt by custom. The Dialogue of the exchequer tells us that the barons of the

15 Calendar of charter rolls, III, 360.
18 Pipe roll 2 Henry II, pp. 7, 10, 61; Pipe roll 3 Henry II, pp. 79, 94.
19 Pipe roll 2 Henry II, pp. 9, 33, 67; Pipe roll 3 Henry II, p. 100.
exchequer were quit of geld on their demesnes and fees and the sheriffs on their demesnes. The writs of quittance on the pipe rolls indicate that this privilege was recognized in practice. As a matter of fact the *Dialogue* informs us that in the case of the barons of the exchequer the writs were never actually issued and the statement of their existence was a pure matter of form. In short the barons were capable of seeing to the enforcement of their own financial immunities.

It would be pleasant to be able to draw up a list of those exempt from danegeld by charter or custom for comparison with the lists of quittances granted by the crown. Unfortunately this is impossible. Our evidence is far too scanty to enable us to assert that no laymen except those mentioned above were permanently exempt. In fact I suspect very strongly that the earls of Leicester and the kings of Scotland, earls of Huntingdon, enjoyed at least partial exemption. It is rarely possible to be certain as to who was a baron of the exchequer. Nevertheless it is clear that many quittances were granted as a momentary mark of royal favor. The kings gave few charters of exemption, but they were fairly generous in freeing important men from a particular levy. When used in this way writs of quittance were a valuable political tool—a means of rewarding the faithful and winning over the doubtful.

The last danegeld was levied by Henry II in the year 1162. There has been much scholarly speculation as to why the king abandoned this fairly lucrative tax. In 1162 the geld yielded £3,132 as against £2,408 for the most profitable feudal aid of Henry's reign. It amounted to slightly less than a third as much as the total of the county farms. Hence I cannot accept the argument that the exemptions had grown so numerous that danegeld was not worth collecting. I suspect that we have here an unrecorded baronial victory over the crown. Stephen had promised to abolish danegeld. Henry II collected it but twice in his first eight years and then gave it up. The only reasonable answer is fierce baronial opposition to the levy. I do not believe that Henry abandoned it formally—he simply stopped levying it. The *Dialogue of the exchequer* in its dis-

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20 *Dialogus de scaccario*, pp. 95, 102.

cussion of danegeld does not suggest that it was obsolete or that the king could no longer levy it if he saw fit.

From 1162 to the end of his reign Henry II made no attempt to levy a land tax, but his sons and grandson used this source of revenue under new names—carucage or hidage. In 1194 Richard I demanded two shillings from every carucate. As there is no evidence that a special assessment was made, one must presume that this was simply a danegeld under a new name. In 1198 he asked for five shillings a carucate, but this time apparently it was a tax on actual plowlands and was not based on the old danegeld assessment. Similar taxes were levied by King John in 1200, by William Marshal as regent in 1217, and by Hubert de Burgh in the name of Henry III in 1220. As these levies do not appear on the pipe rolls, little is known about them. A few charters to laymen grant exemption from hidage, but all the clear cases are later than 1220 when this tax was last collected. A charter of John dated 1206 seems to free John de Hastings and four of his vassals from hidage, but doubt is thrown on its meaning by the same king’s charter freeing Robert de Braybrook from “the hidage called sheriff’s aid.” While the crown occasionally released an individual from a particular levy, there is no evidence that any lay barons enjoyed exemption by custom. In 1220 some great lords were allowed to collect the tax in their lands and pay it in to the royal coffers. A few others like the earl Marshal and the earl of Chester seem to have avoided the tax by simply refusing to pay it. This levy of 1220 met strong opposition from the barons. Perhaps it is for this reason that we hear no more of hidage and carucage.

Next in importance to danegeld among the public burdens of the Norman period stood murder fines and common penalties assessed against counties and hundreds. The murder fine was

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22 On these taxes see under carucage in the indices of Ramsay, *Revenues of the kings of England* and Mitchell, *Studies in taxation*.
23 *Close rolls*, 1256-9, p. 62; *Calendar of charter rolls*, I, 54, II, 61.
24 *Rot. chart.*, p. 146b; Facsimiles of early charters from *Northamptonshire collections* (ed. F. M. Stenton, *Northamptonshire record society*), no. XVII.
25 *Book of fees*, I, 298, 312, 326.
apparently originally a means devised by the Conqueror to protect his followers. If a man was found slain and the people of the neighborhood could neither produce the culprit nor prove that the victim was an Englishman, a heavy financial penalty was laid on them. According to the *Leges Henrici* if the body was found in a house, court, or enclosed area, the manor paid to the extent of its resources, and any deficiency was made up by the rest of the hundred. If the body was found in the open, the whole hundred shared equally in the payment. The earliest surviving records indicate that in practice murder fines were assessed against the whole hundred. The *Dialogue of the Exchequer* does not mention the possibility that a single manor might bear most of the burden. The *Dialogue* also points out that by the time it was written there was little chance of proving any freeman to be a pure Englishman. Hence the murder fine was levied in the case of all unsolved homicides except when the victim was a local villain. Common penalties were exactions levied against counties and hundreds for such offences as improper procedure in their courts. As murder fines and common penalties were distributed by laying a share on each hide, they were in reality a sort of punitive taxation.

The *Leges Henrici* state that forty-six marcs was the standard murder fine. The *Dialogue of the Exchequer* says that it varied between £36 and £44 according to circumstances. Taking the theoretical hundred of 100 hides, a forty-six marc fine would amount to roughly six shillings a hide. If sums as large as this were ever actually exacted, exemption from participation in murder fines was indeed a valuable privilege. The pipe roll of 1135 shows these penalties varying from one marc to twenty with most of them between ten and twenty. Early in the reign of Henry II the variation was almost as wide, from one marc to £10, but the average was lower, from two marcs to £5. By 1203 the rates range from one marc to £5 with two marcs, £1, and three marcs the most usual penalties. In short if the large sums mentioned in the laws were actually collected in the eleventh century, murder fines were then a heavy burden. They were serious and well worth avoiding at the rate used by

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27 *Leges Henrici*, c. 91.  
28 *Dialogus de scaccario*, pp. 99-100.
Henry I. By John's time they were not of any great importance, and freedom from them must have been sought as a matter of prestige rather than of money.

Exemption from participation in murder fines and common penalties was a very common, in fact almost a universal ecclesiastical privilege, but it was rarely accorded to lay barons. The earliest charter I have found specifically granting this exemption to a layman dates from the reign of Henry I, and indirect evidence indicates that a few great barons enjoyed it during the Norman period. In 1251 Henry III announced that an inquest had decided that all the "new land" of Earl Warren and his demesnes as a whole were exempt from common penalties and participated in murder fines only when the murder had been committed in them. This late evidence is supported by an entry in the pipe roll of 1196 pardoning to the Earl Warren his share of a murder fine *per libertatem quam habet in nova terra*. As this "new land" consisted of the manors described in *Domesday Book* as given "for the exchange of Lewes," it seems probable that its special privileges dated from the Conqueror's time. The pipe rolls indicate that this exemption was regularly accorded in practice. In July 1199 King John granted to Robert, earl of Leicester, all the privileges enjoyed by his ancestor, Robert, count of Meulan. Freedom from murder fines was specifically mentioned. The pipe rolls show that quitances were regularly issued to the earls of Leicester. Then a charter of Henry III which I cannot find but which was continually mentioned in the thirteenth century granted to John, earl of Chester and Huntingdon, all the rights enjoyed by his ancestors who were earls of Huntingdon including freedom from murder fines. This is supported by entries in the pipe rolls of Richard's reign which acquit David, earl of Huntingdon, *per libertatem cartam*. Finally a charter of John granting the manor of Ailsbury to Geoffrey fitz Peter, earl of

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29 Close rolls, 1247-1251, p. 474.
30 "Pipe roll 8 Richard I," *Pipe roll society*, XLV, 133.
32 Calendar of charter rolls, I, 180; Rot. chart., p. 5.
34 "Pipe rolls 3 and 8 Richard I," *Pipe roll society*, XI, 115; XLV, 228.
Essex, confers extensive privileges including exemption from murder fines and mentions that Geoffrey already enjoyed these rights in the lands of the Mandeville barony. 35

I do not wish to suggest that no other great lords of the Norman period enjoyed freedom from murder fines—in fact I suspect very strongly that men like the count of Mortain, the bishop of Bayeux, and Earl Roger de Montgomery had it. But I believe it was a rare and cherished privilege. The Angevin kings granted it very sparingly. I can find only about a dozen specific concessions of exemption from murder fines in charters issued by Richard, John, and Henry III. All these grants were to men like Hugh de Neville, Hugh de Welles, Hubert de Burgh, and Roger de Mortimer who stood high in the royal favor. 36 A number of charters of the Angevin kings which granted very extensive privileges specifically excluded exemption from murder fines. 37 Long after these penalties had lost their importance as financial exactions, the prestige involved in being exempt from them made them a source of dispute between king and barons. 38

Quittances from murder fines and common penalties were used as were quittances from danegeld to reward the king’s friends. The barons of the exchequer were exempt by custom, but many other men received writs releasing them from particular payments. In the Norman period, when murder fines were comparatively heavy, this must have been a most useful political weapon in the hands of the crown. If you were in the king’s favor you paid a low relief, were partially or wholly exempt from danegeld, and did not participate in murder fines or common penalties. Under the Angevin kings the low rate at which these fines were levied made freedom from particular penalties less avidly sought for. The formula often found in the pipe rolls—such a hundred owes so much with the liberties excepted—suggests that the exemptions had become stable and arbitrary writs of quittance rare.

35 Rot. chart., pp. 127-128.
36 Ibid., pp. 128b, 129b; Calendar of charter rolls, I, 54, II, 61.
37 Rot. chart., pp. 31-32; Calendar of charter rolls, III, 305.
38 Close rolls, 1234-7, p. 79; ibid., 1247-1251, pp. 253, 274, 474; Memoranda roll, 1230-1 (ed. Chalfant Robinson, Pipe roll society), pp. 35, 73.
From the purely financial point of view the heaviest of the public burdens borne by the manors of England was the levy called sheriff's aid. Mr. Morris has shown that this tax was certainly collected in the reign of Henry I and probably in that of William II.\(^39\) By 1163 it was an annual levy made at the rate of two shillings on the hide or carucate.\(^40\) It was collected by the sheriff and formed part of the farm of the county—that is part of the revenues which enabled the sheriff to pay the lump sum demanded from him annually at the exchequer.\(^41\) As the charter of John to Robert de Braybrook mentions "hidages called sheriff's aids," it seems safe to assume that many of the references to hidage in thirteenth-century documents are to this tax.\(^42\) This would answer the difficult question as to why hidage should so often appear in the statements of the annual obligations borne by manors in the hundred rolls. Certainly the hidage listed among the perquisites of the shrievalty of Bedford and Buckinghamshire in a document in the *Red book of the exchequer* must be the sheriff's aid.\(^43\) As an annual levy at a high rate, this tax was well worth avoiding if possible.

Unfortunately for the historian the fact that the sheriff's aid was not a direct obligation to the crown but formed part of the farm of the county prevented it from appearing in the pipe rolls. Hence our only source of knowledge as to exemptions from it comes from charters granting this privilege. As a result it is impossible to make any statement about the exemptions enjoyed by lay barons during the Norman period. John's charter to Robert of Leicester granting him all the rights


\(^{41}\) Mr. Morris believes that sheriff's aid was removed from the farm and made a direct source of royal revenue in 1163. In this I believe he is mistaken. Sheriff's aid was never accounted for on the pipe roll. In three documents showing how county farms were made up it is included among the sheriff's revenues. (*Red book of the exchequer*, II, 774-777.) The document chiefly relied on by Mr. Morris to support his view simply states that when a barony which had been exempt from sheriff's aid fell into the king's hands, the sheriff could not collect the aid and add it to his income. As the amount of the farm had been set with this exemption in mind, the aid from the tenants of the barony when it was an escheat belonged to the crown. (*Ibid.*, pp. 768-769.)

\(^{42}\) *Facsimiles of early charters from Northamptonshire collections*, no. XVII.

enjoyed by Robert, count of Meulan, mentions sheriff’s aid. I am inclined to believe that barons who were exempt from participating in murder fines were probably also released from paying sheriff’s aid, but I can present no evidence to support this belief. In fact our only knowledge of the extent of exemptions from this levy comes from three late twelfth- or early thirteenth-century documents in the *Red book of the exchequer*. They show the total sheriff’s aid from Essex as £11 5s 5d, from Hertfordshire as £20 3s 6d, from Warwick and Leicestershire as £62 2s 9d, and from Buckinghamshire and Bedfordshire as £102 2s 4d. A levy of two shillings a hide should have yielded £213 in Essex, £98 in Hertfordshire, £218 in Warwick and Leicestershire, and £262 in Buckinghamshire and Bedfordshire. From this it seems clear that there were extensive exemptions from the levy in these counties.

Exemption from sheriff’s aid was granted fairly freely by the Angevin kings. Some dozen charters of King John confer this privilege, and Henry III was equally generous with it. Although most of these grants were to royal favorites who were not among the greatest landholders, they included confirmations to the earls of Leicester and Huntingdon and apparently a new concession to the earl of Richmond. While there is little evidence of the usurpation of this privilege, sheriff’s aid was the type of obligation which could be avoided by this means. Danegeld and murder fines were paid directly into the exchequer and accounted for on the rolls. They could only be avoided through a royal charter or writ shown to the barons of the exchequer. But the sheriff collected his aid to help him pay the farm. The crown occasionally granted exemption from the aid without giving relief to the sheriff, and it had no direct interest in helping him collect it. There is evidence

44 Calendar of charter rolls, I, 180; Rot. chart, p. 5.
46 I have taken the figures for the yield at two shillings a hide from the table of the danegeld of 1162 in Ramsay, *Revenues of the kings of England*, I, 194.
47 As examples see Rot. chart., pp. 31-32, 61, 106b, 128, 128b, 129b, 146b; Calendar of charter rolls, I, 54, 181, II, 61.
48 Ibid., I, 180; Placita de quo warranto, p. 547; Close rolls, 1256-9, p. 62; Rotuli parliamentorum (Record commissio), I, 165.
49 No credits to sheriffs appear for the grants made by John to Ralph Musard and Baldwin de Bethune. The credits allowed for the grant to the earl of
that barons quarrelled with sheriffs over the liability of their manors for sheriff's aid.\textsuperscript{50} In one case at least tenants of a barony in one shire paid the aid while those in other counties were exempt.\textsuperscript{51} Clearly it was possible for a powerful lord, especially in time of civil commotion, to refuse to pay the aid and defy the sheriff to collect it. As we shall see such usurpation was common in the case of other privileges. The lack of positive evidence for it does not convince me that usurpation did not play its part in building up the total exemptions from sheriff's aid.

A highly interesting question arises in connection with sheriff's aid. Some of the royal charters giving exemption from this levy confined the privilege to the demesnes of the grantee, but others extended it to cover knights' fees as well. The charters to the earls of Leicester and Huntingdon freed both their demesnes and their fees. One is naturally led to wonder whether this meant that the tenants did not pay aid or paid it to their lord instead of to the sheriff. The \textit{Dialogue of the exchequer} states that it was a serious offence for one who had obtained release from an obligation to collect it from his men.\textsuperscript{52} But in one case at least John specifically authorized a lord to collect sheriff's aid for his own use.\textsuperscript{53} In the absence of any clear evidence that barons who had obtained exemption for their demesnes and fees collected sheriff's aid from their tenants, one must assume that it was not generally done, but I should not be surprised to find someday an indication that such a levy swelled the coffers of some great lord. The money paid for view of frankpledge, which was also a source of the sheriff's official revenue, was collected by certain franchise holders such as the earls of Gloucester and Leicester and the lord of Wallingford. Perhaps this was considered a payment for a service and hence was in a different category than was the sheriff's aid.

Leicester ceased in 1203. For proof that sheriffs were sometimes forced to make up in other ways the aid they lost by grants of exemption see \textit{Red book of the exchequer}, II, 768-769.

\textsuperscript{50} \textit{Calendar of inquisitions miscellaneous} (Rolls series), I, 60.

\textsuperscript{51} \textit{Memoranda roll}, 1230-1, pp. 73-74.

\textsuperscript{52} \textit{Dialogus de scaccario}, p. 95.

\textsuperscript{53} \textit{Rot. chart.}, p. 204.
So far we have been discussing public burdens that were from the beginning purely financial. Now we must turn to an obligation that was primarily a public service—the duty of doing suit at the shire and hundred courts. In the thirteenth century this service was valued in terms of money, but it is not clear on what basis the valuation was made. It may have been an estimate of the value of the penalties to be collected from the suitors. Perhaps those who attended the courts were expected to make a payment to the sheriff. We find sheriffs receiving credit on their farms for estates which had been granted exemption from this obligation, and in the hundred rolls the removal of a suit from the shire and hundred courts was considered a diminution of the royal revenue.54

The judicial functions of these courts will be considered in connection with the discussion of baronial franchises. Here we are simply interested in the obligation to attend their meetings. The Leges Henrici state that if a baron or his steward was present, all his demesnes were considered to have performed their obligation.55 A decree of Henry I commanded all men whose predecessors had owed suit in the time of King Edward to attend the shire and hundred courts even if they had received a royal charter of exemption.56 While it is difficult to obtain positive evidence, it seems fairly clear that Henry continued to grant such exemptions, and the presumption is that they were effective.

Exemption from doing suit at the shire and hundred courts was one of the most common privileges granted by the Angevin kings. Practically everyone who was freed from paying sheriff’s aid was acquitted of these suits, and a number of lords received the latter privilege without the former. During the reign of Henry II all the lands of the earls of Leicester, Huntingdon, Essex, and Warren were apparently free from this burden.57 Henry III granted exemption to Hubert de Burgh, Warin de

54 "Pipe rolls 4 and 5 John," Pipe roll society, LIII, 144, LIV, 199; Pipe rolls 6 and 7 John, Public Record Office. These revenues were part of the sheriff’s farm. Red book of exchequer, II, 777.

55 Leges Henrici, c. 7, 7.

56 Liebermann, Die Gesetze des Angelsachsen, I, 524.

57 Rot. chart., pp. 5, 128; Placita de quo warranto, p. 547; Close rolls, 1242-7, p. 219; ibid., 1251-3, p. 189.
Montchenesi, and Peter of Savoy, earl of Richmond.\textsuperscript{58} Besides these great lords the kings granted it freely to their favorites of lesser importance.\textsuperscript{59}

The most interesting feature of this privilege was the ease with which it could be usurped especially in a period when the royal government was weak. One could simply stop doing suit. In times of peace it was difficult enough for a sheriff to distraint a great baron, and in times of civil commotion it was practically impossible. The earliest example I can find of such usurpation in time of war was in the honor of Giffard. In 1222 twelve knights appeared before the king's justices to say what revenues King John had enjoyed from the Giffard lands before the war between him and his barons. The jurors stated that the holders of the honor, William Marshal, earl of Pembroke, and Gilbert de Clare, earl of Hertford, had been exempt from suit to shire and hundred on their demesnes but not on their fees.\textsuperscript{60} Obviously the two magnates had withdrawn the suit due from their fees during the civil war. What is more they seem to have won the debate despite the testimony of the jurors. An entry in the hundred rolls states that Fawley in Buckinghamshire did suit to shire and hundred paying fees of ten shillings until William Marshal the elder obtained exemption.\textsuperscript{61} The hundred rolls make clear that the fees of this honor were exempt in the later thirteenth century.\textsuperscript{62}

The great period for usurpation of exemption from suit at shire and hundred courts was the time of civil commotion in the reign of Henry III. The most prominent offenders in regard to the extent of their operations were Richard and Gilbert de Clare, successively earls of Gloucester and Hertford. Throughout the hundred rolls and the \textit{quo warranto} pleas we read with tiresome regularity the statement that a suit had been removed by Earl Richard or his son.\textsuperscript{63} Apparently their object

\textsuperscript{58} Ibid., 1256-9, p. 62; Calendar of charter rolls, I, 54; Rotuli hundredorum (Record commission), I, 468.
\textsuperscript{59} As examples see Rot. chart, pp. 31-32, 106b, 126, 128b, 129b, 146b, 181; Close rolls, 1227-1231, p. 338; \textit{ibid.}, 1231-4, p. 196; \textit{ibid.}, 1234-7, p. 238; Calendar of charter rolls, I, 253.
\textsuperscript{60} Bracton's note book, III, 450.
\textsuperscript{61} Rot. bund., I, 22.
\textsuperscript{62} For examples see \textit{ibid.}, pp. 25, 31.
\textsuperscript{63} Rot. bund., I, 2, 50, 201, II, 8, 10; Placita de quo warranto, pp. 183, 703.
was bit by bit to usurp exemption for all their fees and demesnes. As they were holders of many private hundreds, they, often managed to transfer the suit to one of their own courts.\textsuperscript{64} The extent of this usurpation can be judged from the fact that at one point in the \textit{quo warranto} proceedings the king's attorney claimed that the earl had withdrawn suits to the value of £100.\textsuperscript{65} Close behind the earls of Gloucester in this activity was the king's brother Richard of Cornwall.\textsuperscript{66} Naturally other barons followed their example. In 1266 Roger de Mortimer obtained a charter acquitting his demesne manor of Cleobury Mortimer from suit at shire and hundred courts. Then he coolly withdrew the suit owed by the fees attached to this manor and those held of his chief barony of Wigmore.\textsuperscript{67} The Corbet seat of Cause was over the border of Wales and hence owed no suit, but many of its fees were in Shropshire. The Corbets withdrew their suits and transferred them to Cause.\textsuperscript{68} There were, in fact, few barons who did not withdraw some suits owed. The jurors of the wapentake of Bingham in Nottinghamshire reported that the baronies of Tutbury, Aincurt, Basset of Weldon, Lovetot, Biset, and Ghent had all removed their fees.\textsuperscript{69}

It is, of course, not always possible to be certain whether the suits which the jurors state to have been withdrawn had been removed legally or illegally. Thus the earl of Richmond is charged with many usurpations, but his demesnes and fees had been acquitted by a charter from Henry III. On the other hand the earl of Gloucester admitted his usurpations and eventually made reparation. There may have been many border-line cases like that of Roger de Mowbray. Roger was summoned to show by what authority he did no suit to the shire court of Lincolnshire. He answered that neither he nor his ancestors ever had. The jurors disagreed. They stated

\textsuperscript{64} \textit{Rot. hund.}, II, 14, 126, 131, 133.
\textsuperscript{65} \textit{Placita de quo warranto}, p. 183. This apparently included some sheriff's aid and fees for view of frankpledge as well as the value of the suits.
\textsuperscript{66} \textit{Rot. hund.}, I, 27; II, 30, 46.
\textsuperscript{67} \textit{Calendar of charter rolls}, II, 61; \textit{Rot. hund.}, II, 108; \textit{Placita de quo warranto}, p. 675.
\textsuperscript{68} \textit{Rot. hund.}, II, 60.
\textsuperscript{69} \textit{Ibid.}, p. 27.
that the suit had been performed until the reign of Henry III. Then Roger and the sheriff made an agreement. Roger paid the sheriff five marcs to be quit of suit and view of frankpledge. Roger or his seneschal were to attend one meeting of the shire court each year and to be quit of the rest unless they were needed for a serious case. This clearly shows one of the conditions that served to make usurpation of exemption from suits easy. The popular courts had little business and hence little real need for suitors. Like so many other services, suit of court had become largely a financial matter. A sheriff could be persuaded or forced to accept a cash compromise. Such an arrangement was illegal—exemption could be granted by the crown alone, but it was hardly pure usurpation.

It is extremely difficult to get a clear idea of the value to a baron of exemption from suit at the popular courts. The earl of Gloucester was charged with removing suits worth £100, but this figure is too round and too vague to inspire much confidence. The eagerness of the barons to obtain or usurp the privilege indicates that it was valuable. I can find no regular basis for the sums paid for suit by individual estates—they seem to have no connection with the number of hides but to be purely arbitrary. Thus one fee held of the barony of Cainhoe was assessed for hidage at five hides and paid 6s 8d for suit. Another fee of the same barony had seven and one-half hides, but paid only two shillings for suit. In general the payments for suit varied between two and ten shillings for a manor. For a great barony like that of the earls of Gloucester containing hundreds of estates—they must have held well over 450 knights’ fees—the total of such sums could be very large.

Obviously one of the chief purposes of the hundred and \textit{quo warranto} inquests was to check illegal withdrawals of suits due to the shire and hundred courts and recover the revenue lost to the crown. As far as the first of these purposes was concerned they seem to have been successful. The baron who had once failed to establish his claim to exemption had not much chance to usurp it later. The record was easily available to the royal judges. Unfortunately it is impossible to discover how many

\footnotesize{\textsuperscript{70} Placita de quo warranto, p. 429. \textsuperscript{71} Rot. hund., I, 4; II, 326.}
usurped suits were regained. The earl of Gloucester made reparation. Probably others did as well, but clear evidence is lacking.

To sum up, a few great lords like the earls of Leicester and Huntingdon held this privilege at least as early as the reign of Henry II. Richard and John granted it to a few favorites none of whom were really great landholders. Henry III gave it to some great fiefs like the earldom of Richmond. Naturally barons who lacked this privilege desired it. William Marshal and Gilbert de Clare usurped it during the revolt against John for their fees of the honor of Giffard. There was probably a steady series of scattered usurpations throughout the reign of Henry III. But the great opportunity came with the civil wars and was used most profitably by such immensely powerful magnates as the earls of Gloucester and Richard of Cornwall. In fact one can say that there appears to have been a concerted attempt on the part of the English barons to usurp this privilege during the civil commotions.

On the whole it seems safe to say that in general the lay barons of England did not succeed in their efforts to avoid the public burdens imposed on their lands. Their closest approach to it came in the widespread usurpation of exemption from suit of court during the civil wars of Henry III’s reign. But the recognized freedom from hidage, murder and common fines, sheriff’s aid, and suit at shire and hundred courts that was enjoyed by most important ecclesiastics was possessed by few lay lords. A small number of fortunate and powerful magnates like the earls of Leicester and Huntingdon, a few relatives of the king such as Richard of Cornwall and Peter of Savoy, and a larger but still not very large group of royal favorites were the only laymen to approach the ecclesiastical privileges in this respect. As for the new types of taxes which stemmed from the Saladin tithe, I can find no evidence that hereditary exemptions were ever granted. Favored barons might receive exemption on their demesnes in the case of an individual levy, but even such cases seem rare. In the reign of Henry III certain great lords like the earl Marshal, the earl of Richmond, and the earl of Leicester seem to have been allowed to assess and collect these taxes in their baronies, but this does not imply exemption but merely freedom from royal agents.