

FEUDALISM

THE MEDIEVAL COUNTRYSIDE

Editorial Board under the auspices of Yale University

Paul Freedman, Chair, *Yale University*

Isabel Alfonso, *Consejo Superior de Investigaciones Científicas, Madrid*

Monique Bourin, *Université Paris 1 Panthéon-Sorbonne*

Sandro Carocci, *Università di Roma 'Tor Vergata'*

Piotr Górecki, *University of California, Riverside*

P. C. M. Hoppenbrouwers, *Universiteit Leiden*

Jeppe Netterstrøm, *Aarhus Universitet*

Sigrid Schmitt, *Universität Trier*

Phillipp Schofield, *Aberystwyth University*

Lluís To Figuera, *Universitat de Girona*

Previously published volumes in this series are listed at the back of this book

Volume 5

FEUDALISM
New Landscapes of Debate

Edited by

Sverre Bagge, Michael H. Gelting,
and Thomas Lindkvist



BREPOLS

British Library Cataloguing in Publication Data

Feudalism : new landscapes of debate. -- (The medieval countryside ; v. 5)

1. Feudalism--Europe. 2. Power (Social sciences)--Europe--History--To 1500. 3. Estates (Social orders)--Europe--History--To 1500.

I. Series II. Bagge, Sverre, 1942- III. Gelting, Michael H.

IV. Lindkvist, Thomas, 1949-

321.3'094'0902-dc22

ISBN-13: 9782503531588

© 2011, Brepols Publishers n.v., Turnhout, Belgium

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior permission of the publisher.

D/2011/0095/67

ISBN: 978-2-503-53158-8

Printed on acid-free paper

CONTENTS

Introduction	1
Fiefs and Vassals after Twelve Years SUSAN REYNOLDS	15
Economic and Political Aspects of Leases in the Kingdom of the Franks during the Eighth and Ninth Centuries: A Contribution to the Current Debate about Feudalism BRIGITTE KASTEN	27
Vassaux et fiefs dans la France de l'an mil DOMINIQUE BARTHÉLEMY	57
L'Aristocratie languedocienne et la société féodale: Le témoignage des sources (Midi de la France: XI ^e et XII ^e siècles) HÉLÈNE DÉBAX	77
Establishing Bonds: Fiefs, Homage, and Other Means to Create Trust GERD ALTHOFF	101
Imposing Feudalism on Anglo-Saxon England: Norman and Angevin Presentation of Pre-Conquest Lordship and Landholding JOHN HUDSON	115
What about Spain? Iberia in the Historiography of Medieval European Feudalism ADAM J. KOSTO	135

The Problem of Danish 'Feudalism': Military, Legal, and Social Change in the Twelfth and Thirteenth Centuries MICHAEL H. GELTING	159
'[...] nonetheless [he] fulfilled his obligations towards the hirð': Fealty and Politics in Medieval Norway ERIK OPSAHL	185
Feudalism in Hungary? JÁNOS M. BAK	203
The Question of Feudalism in Romanian Principalities in the Middle Ages COSMIN POPA-GORJANU	217

INTRODUCTION

The present volume has its background in the attacks over the last twenty-five years or so against the classic model of feudalism as summarized in François-Louis Ganshof's book *Qu'est-ce que la féodalité?* In the English-speaking world, Elisabeth Brown denounced the 'tyranny of the construct of feudalism' in an article from 1974 which was later followed up by Susan Reynolds's detailed study from 1994, that the Ganshofian model of feudalism was a creation of post-medieval scholars who based their ideas of medieval society on the work of learned legists from the twelfth century and later. In their book *La mutation féodale: X^e–XII^e siècles* (1980), Jean-Pierre Poly and Eric Bournazel attached little importance to the institutions of the fief and homage, although they retained the term *feudalism*; in their interpretation, in which inspiration from anthropology had an important part, old concerns about institutions and legal form had only a marginal role. Their core concept of a 'feudal mutation' (or 'transformation') posited a violent crisis in early to mid-eleventh-century France, whereby the old, Carolingian order broke down, to be replaced by the power of the 'castellans', the masters of the new castles that were springing up all around France. As a synthesis of the numerous regional studies of the period that had been published in France since the Second World War, *La Mutation féodale* became for a while the new master narrative of eleventh-century history in French historical writing. In the 1990s, however, Poly and Bournazel's model was vigorously challenged, especially by Dominique Barthélemy, who argued that historians had been deluded by the sources: they were mistaking for real social change what was essentially a change in the form of charters, from formal and formulaic texts concealing the conflicts underlying the transactions to narrative notices providing glimpses, even though partial ones, of what was really going on. In the following debate on 'la mutation féodale', as well as in the

cognate, mainly British–American debate on Thomas N. Bisson’s notion of a ‘feudal revolution’, historians of medieval France differed in chronology as well as emphasis. Nevertheless, the strong inspiration from anthropology on all sides of the debate still meant moving away from Ganshof’s definitions.

La Mutation féodale made an important point by assigning a major role to southern France and Catalonia in its interpretation of the transformations of the eleventh century. On the other hand, its almost exclusive focus on France shattered the relative unity of Ganshofian feudalism, since it is rather difficult to make the ‘mutationist’ model fit other countries which Ganshof saw as fully feudalized, such as England or the western parts of Germany. More importantly from the perspective of the present collection of papers, another consequence of these revisions was that the distinction between core and periphery in Europe in the high Middle Ages as usually understood became blurred. According to the old definition, peripheral Europe was defined by having adopted feudalism incompletely or not at all. This distinction was adopted enthusiastically by national historiographic schools, desirous to stress the unique and indigenous specificity of their respective countries. If the revisionists are right, it becomes more difficult to maintain such national separateness. Even if they may be wrong on one or more points, they represent a challenge to historians of the periphery that needs to be addressed. This forms the background of the present collection, based on the papers and discussion at a conference on feudalism held in Bergen in September 2006.

Since the concepts of ‘feudal mutation’ or ‘revolution’ have not played any substantial role in recent research on peripheral Europe (with the important exception of Catalonia), this collection is primarily focussed upon the challenge to the Ganshofian definition of feudalism and its implications for peripheral Europe. Its aim is twofold: to address the recent attacks on the traditional interpretation; and to consider the consequences of this discussion for the area of Europe traditionally regarded as non-feudal.

In the first paper, Susan Reynolds summarizes her argument in the following way: ‘The central argument of *Fiefs and Vassals* was that neither the relationship that medieval historians call vassalage nor the kind of property that they call fiefs took their shape from the warrior society of the earlier Middle Ages.’ On the contrary, they derive from the more bureaucratic society that developed from the twelfth century onwards and the arguments of professional lawyers. Earlier evidence about feudal institutions is mainly to be found in documents concerning ecclesiastical landowners whose relationship to their tenants differed from those of their lay counterparts. Laymen regarded their lands as their own property

which had not necessarily been granted to them by kings or other lords and owed loyalty and military service to kings and greater lords not because of what are called personal 'feudal' ties but as subjects of someone more like what in general, non-'feudal' contexts might be called a ruler. Further, the close emotional ties between lord and vassal often referred to in the literature is based on nineteenth-century Romanticism rather than medieval evidence. Thus, the neat system summarized by Ganshof is turned completely upside down. Methodologically, Reynolds stresses the importance of studying terms like fief or vassalage in their concrete context rather than reading them into the medieval texts or assuming a full-fledged 'feudal system' every time they do occur in any text.

How then does this picture compare with the evidence presented in the rest of the volume from various parts of Europe? The Merovingian and Carolingian realm is covered in Brigitte Kasten's article, which focusses on two main themes, the relationship between *precaria* and fief and whether the Carolingian counts were also vassals. Concerning the first question, Kasten points to the origin of *precaria* in Roman law. According to Isidore of Seville, *precaria* is the creditor's permission to the debtor to remain on the mortgaged estate and use its resources. Such permission is often referred to as a *beneficium*. Later, *precaria* often served as a way of granting a living to canons or monks and might also be used by the laity. In the eighth century, the early Carolingians allowed their men the use of church land in return for their services to the king, while the ecclesiastical institutions continued to own the land (*precaria verbo regis*). The legal basis for this was normally that the land in question had been donated by the king's ancestors. This use of land has often been interpreted as feudal but there is no evidence that the holders of this kind of land were vassals. Nor should the term *beneficium* in the period until around 1100 or even later be translated as 'fief'.

Concerning the second question, Kasten points to examples that vassals became counts but shows that they are never referred to as vassals afterwards. She regards the famous example of Tassilo of Bavaria as unique. Tassilo was forced to become Charlemagne's vassal in 787 as an alternative to being condemned to death. Thus, vassalage was a punishment, not a normal relationship between the king and the high nobility. Other examples from the following period point in the same direction. Although it eventually became normal for counts also to be vassals, this does not mean an identity between the office as count and vassalage. Neither landholding nor the relationship between the king and his subjects can be understood as feudal in the Carolingian period. The *precaria* cannot be identified with the later fief, and the king's relationship to his counts was essentially a relationship to office-holders to whom he had delegated parts of his power.

Concerning the post-Carolingian period, Dominique Barthélemy joins Susan Reynolds in attacking the classical model in his article on northern France. Already in 1953, Georges Duby depicted the lords of Mâconnais as a hereditary aristocracy rather than fief-holders, although without dismissing the importance of personal bonds. However, Duby was wrong in assuming that the conditions in Mâconnais were the result of a crisis around the year 1000; the system goes further back in time. Moreover, despite the criticism of Ganshof's model, feudalism should not be abolished, but rather be rethought. We can reject the idea of the fief as originally a donation from a lord as well as that of a close emotional tie between lord and vassal, while retaining that of lord and vassal. One of the problems in this context is the absence of a precise medieval terminology. Nor is there any written law about vassalage, but there are rituals expressing 'le don de soi', the formation of a link of personal subordination between a lord and a vassal.

Barthélemy supports his argument by discussing a series of examples of feudal relationships derived from narrative sources from the period around 1000. Richer of Reims put great emphasis on the oath of loyalty which to some extent may be interpreted according to Reynolds's view of the loyalty a subject owes to his king, a loyalty which is nevertheless strengthened by the element of vassalage. The oath is not automatically followed by a fief but always by a gift. Hugh Capet, Duke of Francia, had the advantage of a number of vassals, a fact that was of great importance for his election to the throne in 987. He had sworn an oath to King Lothar and taken his duchy — which was actually his inheritance — as fief from him, together with Poitiers, which he was allowed to conquer, a conquest he failed to carry out. Later, after Hugh had ascended the throne, his vassal Eudes de Champagne tried to conquer Melun, which Hugh had given to another vassal, Bouchard, claiming that he (Eudes) had inherited it from his grandfather. Eudes managed to make the castellan submit, but backed down when the king laid siege to the castle, letting down the castellan in order to reach an agreement with the King. Defending himself before the King, Eudes invoked feudal institutions, claiming that the castle would still have been under him if Eudes had conquered it, as Eudes was also his vassal, but also found it necessary to ask for pardon, which the King granted him. Later sources about Eudes's descendants show them receiving fiefs from the King, not in the form of real gift of land from the King's estates but inherited land that was contested and taken as fief in order to receive protection from the King.

Turning to Languedoc in southern France, Hélène Débax addresses the question about the existence of the feudal institutions as well as the traditional one about the extent of the feudal zone. Traditionally, France south of Loire was

thought to belong, together with the Mediterranean countries, Scandinavia, and Central and Eastern Europe, to the non-feudal or less feudalized parts of Europe. Recently, however, a series of monographs, including Debax's own, have depicted the Mediterranean as the most feudalized part of Europe, thus confirming the traditional view of feudal institutions in the early Middle Ages, while radically revising the geography of the concept. Her study is based on a large number of charters from the region between the Rhône and the Garonne and between the Pyrenees and the highlands of the Massif Central, a region that was completely outside royal control in the eleventh and twelfth centuries. Theoretically, the region was ruled by the count of Toulouse in competition with the counts of Carcassonne and Melgueil, but the actual power of these lords declined from the eleventh century onwards in favour of a considerable number of viscounts and other lords. From around 980, an increasing number of castles were erected, to the extent that we can talk of a 'castralization' of the region. The character of the landscape — the combination of hills, valleys, and flat agricultural land — contributed to this. These castles were centres of political and military power; an abundance of documents exists concerning their lords. Thus, contrary to many other parts of Europe, the main evidence for feudal institutions stems from the lay aristocracy, not the Church.

The feudal relationship is clearly expressed in a number of oaths from castellans to their lords. Typically, the former promise not to fail the latter, not to take the castle away from them, and to aid them. These oaths are distinct from the so-called *sécurités* which only promise not to harm the other party and which are often rendered mutually, thus not implying a hierarchical relationship. The language of these feudal documents, Latin strongly mixed with Occitan, seems intended to render the spoken words as exactly as possible and makes any learned influence unlikely. The term *fief* (*fevum* or *feudum*) also occurs early, already from around 900, and becomes very frequent from the beginning of the eleventh century. By contrast, *vassal* does not occur; the terms used are *homo* or *fidelis*. Nor is the fief normally land originally owned by the lord: as in northern France, it may have various origins; thus, there are many examples of castellans donating their alod to lords and then receiving it back as a fief. Thus, Débax, like Barthélemy, rejects the idea of the fief as simply a gift of land from the lord to the vassal. In practice, the fief is hereditary, very often held by a group of brothers or cousins — there is no primogeniture or individual succession in Languedoc — but the heirs have to swear an oath to the lord or — from the early eleventh century — to render *homagium*. Investiture does not occur; it is replaced by written documents. Thus, the society of Languedoc is clearly a feudal society. Power is

based on the castle, but the feudal ties uphold the hierarchy within the aristocracy and secure the division of power between lords and castellans.

Gerd Althoff's conclusions are based on German sources from the tenth to the twelfth century and mainly concern the relationship between the king and the members of the top aristocracy. He regards feudalism — feudalism — or rather what in German is called *Lehnswesen* — as one of several personal bonds that characterized contemporary society: kinship, friendship, and lordship. A king or lord depended on his relatives, friends, and followers for help and support and to be able to rule, a support that was not to be got for free, but had to be paid by gifts and rewards. He had to appeal to these people for support; *auxilium* depended on *consilium*. If the king did not consult his followers, they would hold their *consilium* without him and against him, as happened to Henry IV.

So far, tenth- to twelfth-century Germany conforms to most other early societies. But the bonds between kings and lords and their followers are formed in quite specific ways, which largely conform to the classical account of the feudal institutions. The *fidelis*'s bond to the king was based on a ritual act, a *commendatio* or *hominium* with *immixtio manuum*, usually followed by an oath, which made him the king's *miles*, the usual term for vassal. The gift bestowed in return for this act was very often a fief, as shown by numerous examples. The Saxons' *commendatio* to Henry II in 1002 was connected to the distribution of fiefs after the recently murdered Ekkehard of Meissen. Conflicts between the king and nobles opposing him are often concluded with the opponent doing homage and receiving a fief from him, as Henry the Quarrelsome in 986 and Hermann of Swabia in 1002 who both received their duchies as fiefs after the reconciliation, and the Polish Duke Boles³aw Chrobry who in 1013 received the contested land as a fief from Henry II. In other cases, however, the opponents make their peace without having their fiefs returned to them. The normal practice of enfeoffment is also confirmed by the exception: that the king changes a fief to an alod as a sign of special friendship, as for instance Otto III did to Margrave Ekkehard of Meissen. The awareness of receiving a fief as a kind of subjection can also be illustrated by the mythical story in the *Historia Welforum* about the early Welfs' refusal to do homage to the Roman emperor until one ancestor, not knowing of the tradition, performed the act in return for a large amount of land.

John Hudson's article tests the thesis about a sudden and complete feudalization of England after 1066 by examining the way in which the Anglo-Saxon period is represented in Norman sources. The narrative sources use terms like *baro*, *chevalier*, vassal, and fief about the Anglo-Saxon as well as the previous period, but contain little explicit mention of landholding or legal questions. Most

probably, they simply use contemporary terminology for describing the past without any awareness of changing conditions. Two histories of monastic lands partly form an exception and in some cases show awareness of the change from the Anglo-Saxon to the Norman period. The documentary sources have more to contribute. An effort was made to preserve Anglo-Saxon law by translating the laws into Latin or French, and some such translations survive. They are generally very reluctant to modernize the terminology and often keep the Anglo-Saxon terms, sometimes in a slightly different form. Forgeries also try to avoid specifically Norman terminology, although they can hardly be trusted to give a correct representation of the Anglo-Saxon past, as their object was to prove non-existing rights. In some cases, they grant jurisdictional privileges that were rare even in the Norman period, when such privileges were more extensive, but in others, they may simply have made absolute practices that were usual in the past. The most important but also the most complicated source is *Domesday Book* which gives ample evidence of people claiming rights going back to the Anglo-Saxon period but where it is often difficult to know the basis of these claims and the relationship between Anglo-Saxon and Norman landholding. Hudson's conclusion is that there is some degree of 'legal transplant', Norman legal practice imposed on the Anglo-Saxon past, most clearly in the form of terminology, but the degree of distortion seems to be less than might have been expected; 'the evidence cannot sustain an argument for an imposition of feudalism on Anglo-Saxon practices'. There seems to have been a belief that the Conquest did make a difference in the terms of landholding, although it is not clear to what extent the Normans really understood Anglo-Saxon landholding.

Moving to what is usually regarded as the non-feudal or only partly feudalized zone, we first come to Spain which now emerges as the neighbour of one of the most thoroughly feudalized regions of Europe, Languedoc, and part of which, Catalonia, is traditionally believed to have belonged to the feudal zone. Approaching the problem through the historiography rather than through a reevaluation of the evidence, Adam J. Kosto observes that this country, with the exception referred to above, is unknown to most students of feudalism and has played little part in the discussion. Marc Bloch confessed his ignorance about Spain in a letter to the great Spanish medievalist Sánchez Albornoz in 1931. Most of the classical accounts of feudalism, with the partial exception of Marc Bloch's *Société féodale*, hardly mention Spain at all: 'One needs to read very carefully to find hints that many of the authors of the canonical works on feudalism knew that there was inhabited land south of the Pyrenees.' Twenty years after Bloch, Robert Boutruche,

despite his greater awareness of different feudal societies, treated Spain very briefly, even referring to Catalonia as only partially feudalized.

To Spanish scholars, the main question was whether or not Spain was feudalized, a question that developed into a real academic controversy in the 1870s. To the leading Spanish medieval historian of the first half of the twentieth century, Claudio Sánchez Albornoz, the answer to this question was clearly no, with the exception of Catalonia, which had been subjected to Carolingian rule. Visigothic Spain was pre-feudal. In the following period, the small size of the Christian kingdoms and the wealth from booty during the wars against the Moors allowed Iberian monarchs to avoid the fragmentation of their power that took place in the feudal zone. The eventual feudal elements in Spanish society were the results of French influence. Sánchez Albornoz took a juridical-institutional view of feudalism, as did also his pupils and successors who dominated the discussion until around 1970.

The relative consensus on Spanish feudalism came to an end in the 1970s, partly as a consequence of the change of regime after Franco's death in 1975. First Pierre Bonnassie and then Abilio Barbero and Marcelo Vigil broke with the institutional approach and introduced Marxist perspectives. The former focussed on internal economic and political developments to explain the feudalization of Catalonia, while the latter concluded that the whole of Spain was a feudal society. This conclusion was largely the result of new definition of feudalism, focussing on the exploitation of the peasants and the pervasive links of dependence. This approach received a further impetus from the emergence of the idea of a 'Mediterranean feudalism', opposing the traditional idea of northern France as the core area of feudalism and the south as only partly feudalized. Despite this new focus on the south, however, Spain received relatively little attention; the main focus was on Italy and southern France. Nor was much done to integrate the Mediterranean into the general discussion on European feudalism. Moreover, the great debates in the 1990s on 'la mutation de l'an mil' in France and Susan Reynolds's radical rejection of early medieval feudalism shifted the focus once more to the north. Nevertheless, Spain has now shed its role as peripheral in the history and historiography of feudalism and younger scholars are catching up on the development of scholarship by regional and micro-regional studies. A new *Société féodale* will have to include Spain.

Kosto's comment on inhabited land south of the Pyrenees can equally well be applied to the areas north of the Elbe or east of the Oder. They are rarely included in the general accounts of feudalism; most of the discussion about feudalism in these countries is conducted by indigenous scholars. The most

widespread opinion in Scandinavian scholarship is that the Scandinavian kingdoms were not or only to a limited extent feudalized. This also applies to the two articles in this volume, which, however, contain some new observations in the light of recent debates about the phenomenon. Michael H. Gelting traces a profound transition in Denmark in the twelfth and thirteenth centuries. The old society was dominated by an elite of prosperous independent farmers who formed the backbone of the military as well as the judicial system of the country. They manned the fleet, which was the main military force at the time, and they dominated the local assemblies. Below them was a large number of slaves plus some poor tenants; above them a small minority of wealthy and politically influential magnates who were almost the king's equals. The changes that started in the late twelfth century strengthened the magnates at the cost of the farmers. Most farmers became tenants under great landowners, while slavery disappeared almost completely. Several factors contributed to this but an important one was the change from sea to land warfare, which created a military elite and gave the magnates and their followers a crucial role in the frequent wars at the time. The warrior elite was eventually not only exempted from taxes but even allowed to appropriate the taxes their tenants had been paying to the king. It is important to note that these changes were not the result of the breakdown of an old order; they were the outcome of deliberate transformations of public law.

Nevertheless, this change corresponds to the one that can be traced in many other countries and that usually serves to explain the rise of feudalism. Despite this, Denmark did not become feudalized in a Ganshofian sense. Only the apanged members of the royal house and the episcopacy were feudal lords with vassals under them. Almost all land was alodial and there was a clear distinction between private property and public office. Only the king could ennoble a man, and the courts of law were under the king's control. Why did the 'normal' transition to feudalism not take place in Denmark? Like some other Danish historians, Gelting suggests that it was deliberately halted, but, unlike them, he seeks the explanation in the weakness of the monarchy rather than in its strength. He regards feudalism as the expression of the strength of the monarchy, the ability of the king and his lawyers to define the land ultimately as owned by the king, whereas the Danish aristocracy managed to hold their lands as alods. While this was clearly an advantage for the aristocracy, it is more doubtful whether the same can be said about the lack of feudalization of the judicial system and the distinction between public and private.

A similar change to the one Gelting has traced in Denmark took place in the other Scandinavian countries as well, although it was less radical. The fleet was

still important in Norway in the early fourteenth century and was still mostly manned by peasants who, although most of them were tenants at this time, were still less dependent on the aristocracy than their counterparts in Denmark. Sweden was in an intermediate position between Denmark and Norway, with some regions dominated by great landowners and a military aristocracy and others by small landowners who formed part of the king's army or fleet. Norway is usually regarded as the least feudalized of the Scandinavian countries, and most Norwegian historians have rejected the idea of feudalism in Norway.

Nevertheless, Erik Opsahl points to some elements resembling western feudalism, as traditionally understood, notably the personal relationship between the king and the aristocracy, organized in the *hirð*, with mutual rights and duties, as illustrated in the account in the Saga of Håkon Håkonsson about Håkon breaking up his silver to provide for his men at Christmas, just after Skule had rebelled against him. This move was clearly intended to secure their loyalty during the coming conflict, but the saga also emphasizes that Håkon in this way fulfilled his duty to his men. New members of the *hirð* were also admitted through a ceremony resembling feudal homage, and a small group of high-ranking royal retainers, the *lendir menn*, received land from the king to hold for a certain period of time, usually their lifetime. The term *len*, a loanword from German, is also used, most often about territory whose administration had been delegated to royal favourites or members of the royal family. One of the difficulties in discussing the presence of feudal elements in Norway is the fact that the sources are usually in Old Norse, making a comparison with the Latin terminology a challenge. Nonetheless, the administration can hardly be considered feudal. The normal administrative unit, the *sysla*, was a permanent territorial unit, governed by an official who was appointed and could also be removed by the king. There is therefore no reason to regard Norway as feudal according to the Ganshofian model. The recent attacks on this model by Susan Reynolds and others, however, open the way for a more nuanced comparison between Norway and the rest of Europe, one focussing on the personal loyalty between the king and the aristocrats in his service.

Turning to East Central Europe, the scholarly tradition shows some similarity to the Scandinavian one. Concerning Hungary, János Bak points out that academic legal and constitutional historians from the nineteenth century until after the Second World War mostly rejected the idea of feudalism in this country, although previously, the liberals who wanted to abolish the great landed estates had used the term *feudal* in a pejorative sense, in the same way as in France. However, some historians in the twentieth century pointed to feudal features, notably György Bónis, who published a detailed study on feudalism and corpora-

tism in medieval Hungarian law in 1944. His results received little attention in the communist period, when Hungary, like the rest of Europe, was regarded as feudal in the Marxist sense and little progress was made in the study of Hungarian medieval society. After the fall of communism, Bónis's work was continued by Pál Engel; in several studies, Engel tried to trace the social reality underlying the official legal sources.

These sources give a somewhat paradoxical impression. The great law book *Tripartitum*, composed by Stephen Werböczy in 1514 (printed 1517), contains no trace of feudal institutions. Landholding was alodial and the numerous nobles, around 5 to 6 per cent of the population, had in principle equal status and were directly subordinated to the king. Alodial land was inheritable by male descendants but reverted to the king if the line became extinct. There were thus neither fiefs nor vassals. All nobles were obliged to fight in the king's army and had the right and duty to appear at noble assemblies, but this followed from fidelity to the crown, not from their landholding. Originally, it also seems that only the king could confer nobility, and that this meant that the noble was admitted to the king's *familia*. There is, however, increasing evidence from the late thirteenth century onwards of nobles joining the *familiae* of the great magnates. Despite the official ideology, there was also a vast difference in wealth and power between a small group of magnates and the great majority of nobles. Joining a magnate's *familia* meant similar rights and duties as towards the king, such as service in his army and performance of various judicial and administrative functions. In return, the *familiares* were included in the lord's household or, later, received rewards in kind or money or quite often in land, frequently with the provision that the land would escheat to the grantor if there was no male heir. Such land was in principle granted in return for past services, not on the condition of future ones, although there are examples of grants of land being revoked or even of receivers returning the land to their lords because they feel unable to perform the services expected. It is also clear that the *familiares* were not permanently attached to their lords; there are several examples of people who have changed lords. Finally, the *honores* in the later Middle Ages may be regarded as a feudal feature. Engel's study of the roughly one hundred and fifty castles of medieval Hungary shows that the king often granted *honores* consisting of three or four or even more counties with their castles to a small group of men, usually attached to the court. The charters use the term 'ownership' about these grants but they were not permanent; they were held *ad beneplacitum regis*. Bak abstains from a final verdict as to whether or not this system should be called feudal, but it is still clear that the social realities of medieval Hungary were quite different from the

official picture of a country ruled by a king with the whole population as his direct subjects.

In his article on the two Romanian principalities of Wallachia and Moldova, Cosmin Popa-Gorjanu points to the pervasive use of feudalism in a vague sense in Romanian historiography, which led him to examine more closely the historiography as well as the actual evidence. It seems that the concept of feudalism was introduced to Romania from France by Romanians who had studied there. Professional historians from the late nineteenth to the mid-twentieth century held different opinions on the question of Romanian feudalism; in particular, there were discussions concerning the existence of fiefs. An ideological reason for rejecting the influence of feudalism was the need to demonstrate the Romanian princes' independence of the kings of Hungary and Poland. Nevertheless, some leading twentieth-century medievalists criticized what they called 'the prejudice against feudalism' and pointed to feudal elements in Romania, while admitting that complete feudal institutions only existed in France and the Crusader states. With the introduction of communism, the Marxist model of feudalism became compulsory in Romania as in the other countries of East Central Europe, although some independent voices presented empirical objections to the general picture. The fall of communism means more scope for such trends, but it is still a problem that the term 'feudalism' and its derivatives are used so vaguely and in so many different meanings.

An empirical study of Romanian feudalism faces some difficulties. Little survives from the early history of the principalities, the thirteenth and fourteenth centuries; most of the material dates from the fifteenth century. In addition, the sources were written in Old Church Slavonic, which makes it difficult to trace the presence or absence of feudal terminology. Examining this evidence, Popa-Gorjanu concludes that there are parallels to the fief as well as to vassallage. There was a term for conditional landholding (*vislujenia*), and there were nobles who owed personal loyalty to the prince. Nevertheless, it is difficult to talk about real feudalism, at least in the classical sense, as land was given as reward for past services rather than in return for future ones and the nobles were obliged to do military service, not as vassals but as subjects, in the same way as all other inhabitants of the country.

This introduction is not intended to serve as a conclusion to the volume as a whole. The authors have different views, which the readers should consider themselves. However, some general remarks may be appropriate at the end. There seems to be agreement among the authors that the idea of the king as the original owner of all fiefs is a legal fiction from the twelfth or thirteenth century.

Fiefs were not necessarily gifts from the king or a superior lord and there was no necessary connection between vassalage and fief. On the other hand, several authors present strong arguments to the effect that both institutions existed already in the early Middle Ages in France as well as in Germany and not only in northern France but to an equal degree in the south. The evidence from Anglo-Saxon England is more uncertain, but there seem to be good arguments against the idea that the Normans completely transformed Anglo-Saxon terms of land-holding. Feudalism in practice differs considerably from Ganshof's neat picture — in itself not intended as a complete picture of practice over the whole feudal area — but it seems premature to pronounce its death at the present moment.

Concerning the geography of feudalism, the collection supports recent trends towards extending the core area to include southern France and possibly also Spain. Without necessarily abolishing the distinction between feudal and non-feudal, it challenges some traditional interpretations. Denmark and Hungary may serve as examples. Both countries were densely populated, had rich agricultural land, and adapted western European military technology, all of which led to a sharp distinction between a military elite and a dependent peasant population. They were eventually well integrated into western Christendom, and their elites were familiar with the feudal institutions in western Europe. Did they also become feudalized? Concerning Hungary, János Bak presents arguments in both directions and concludes that the jury is still out. According to the Ganshofian model, the answer is clearly no; according to a sociological rather than legal definition, there are arguments in both directions. The direct link between the king and the aristocracy, alodial rather than feudal landownership, and the existence of courts of law indicate absence of feudalism, whereas the increasing difference between the aristocracy and the peasants and individual aristocrats' extensive control over local society through links of patronage between lords and peasants and between magnates and ordinary aristocrats may resemble conditions in the feudal core areas. Michael Gelting attempts to get around the obstacle of the absence of feudal institutions in Denmark by pointing to the assimilation of Danish society to 'a common European, knightly and manorial model', suggesting that too much emphasis has been placed on the presence or absence of feudal institutions in the Ganshofian sense.

At a minimum, this comparison raises the question of the significance of this difference between the two areas. Are we dealing with legal and institutional differences between essentially similar societies or with deep-rooted differences? In this way, the question of feudalism in the periphery ceases to be a concern only to indigenous specialists but becomes an essential part of a general discussion about the fundamental features of European society in the Middle Ages.

FIEFS AND VASSALS AFTER TWELVE YEARS*

Susan Reynolds

The preoccupation with feudalism that led me to write *Fiefs and Vassals* started when I read E. A. R. Brown's article on 'The Tyranny of a Construct' in the *American Historical Review* in 1974 and then Fredric L. Cheyette's introduction to *Lordship and Community*, which was published a year later. After I met Peggy Brown in 1980 we planned for a while to write a book together about the problem of feudalism but she had other work on hand so I went ahead alone, though she read most, if not all, of my work in draft and made a mass of useful criticisms. But my book in the end owed as much to Cheyette because it may have been from his essay that I derived the idea of approaching the subject, not through Brown's wide look at the ideas behind the word *feudalism* but through an investigation of the medieval evidence about fiefs and vassalage, which medievalists have long taken as key institutions of what most of them characterize as feudalism. Unfortunately, I am ashamed to say, Cheyette's ideas had sunk so completely into my mind that I failed to cite his essay in my book. I have acknowledged this unconscious plagiarism since and hope my debt is now paid, at least in part.

Concentrating on fiefs and vassals means that my book had a relatively narrow scope: it was not intended to deal with Marxist feudalism,¹ or indeed with

* Parts of this essay repeat or paraphrase some sentences from *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford: Oxford University Press, 1994) as well as later summaries of my argument published in 'Fiefs and Vassals in Twelfth-Century Jerusalem: A View from the West', *Crusades*, 1 (2003), 29–48, and 'Fiefs and Vassals in Scotland: A View from Outside', *Scottish Historical Review*, 82 (2004), 176–93.

¹ I make some attempt at that in 'The Use of Feudalism in Comparative History', in

medieval society in general — kinship, religion, the economy, and so on — not because I was not interested in any of these subjects but because the book was not about them. One reviewer thought that this narrow focus meant that I was not a social historian but an old-fashioned *Verfassungshistorikerin*, a British empiricist uninterested in mentalities, communities, and group relations. I am certainly British and if being an empiricist means that I try to use evidence, I can bear the label. But so far as collective values and activities are concerned, it was, in fact, earlier work for my book on *Kingdoms and Communities* that had made me think about the way that concentration on fiefholding and vassalage seemed to obscure the importance of lay political ideas and especially of collectivities in medieval society.² *Fiefs and Vassals* was deliberately narrow. It also became increasingly negative as, to my increasing surprise, I gradually found how scarce was the medieval evidence, especially before the thirteenth century, for the concepts or phenomena that modern medievalists characterize as noble fiefholding and vassalage.

The central argument of *Fiefs and Vassals* was that neither the relationship that medieval historians call vassalage nor the kind of property that they call fiefs took their shape from the warrior society of the earlier Middle Ages. So far as I can see, they owed it to the more bureaucratic governments and estate administrations that developed from the twelfth century, and to the arguments of the professional and academic lawyers who appeared alongside. Of particular importance in this context were the arguments of twelfth-century north-Italian lawyers that were collected in what came to be called the *Libri feudorum* or *Consuetudines feudorum*. This collection became attached to the books of Roman law so that the vocabulary of the texts was taken up by university-trained lawyers and thus percolated through to the profession in general in Italy, France, Germany, and I think Spain, though not England. What about Scandinavia? When did documents here begin to use the vocabulary of fiefs and vassals that lawyers in other north European countries picked up from the *Libri feudorum*?

In so far as some of the obligations and terminology that historians associate with fiefs are to be found in the French, German, Italian, and English sources

Explorations in Comparative History, ed. by Benjamin Z. Kedar (Jerusalem: Hebrew University Magnes Press, 2009), pp. 191–217.

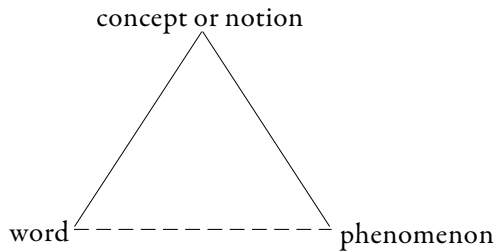
² Susan Reynolds, *Kingdoms and Communities in Western Europe 900–1300* (Oxford: Clarendon Press, 1984; 2nd edn with new introduction, 1997). On mentalities: ‘Social Mentalities and the Case of Medieval Scepticism’, *Transactions of the Royal Historical Society*, 6th ser., 1 (1991), 20–41.

from before the twelfth century that I have used, they are found chiefly in documents that record the relations of great churches with their tenants. This may be partly because so much of our information about the earlier period comes from records preserved by churches, but I argued, and still believe, that the relations of bishops or abbots with their tenants were significantly different from relations between kings and lay nobles, or between the nobles and their own followers. Although we have less evidence about the property of laymen apart from what they held as tenants of churches, we have enough to show that the rights and obligations attached to land do not seem to have generally derived from grants of land in return for military service, while such evidence as we have of political relations suggests that such relations were not based exclusively on individual, interpersonal bonds. Before the twelfth century nobles and free men, I maintain, did not generally owe military service because of the grant — or even the supposed grant — to them or their ancestors of anything like fiefs. They seem to have generally thought of their land, or most of it, as inherited family property that they held with as full, permanent, and independent rights as their society knew. Whatever service they owed to their kings or lords, they owed, not because of individual personal contracts as vassals or tenants of a lord, but as what can better be considered as property-owners, normally in rough proportion to their status and wealth, because they were subjects of someone more like what in general, non-‘feudal’ contexts might be called a ruler. The word *subditus* was used more often, and *vassus* or *vassalus* much less often and less widely, in earlier medieval texts than in modern works on medieval history.

The idea that the relations of vassalage and fiefholding dominated early medieval politics can be traced back, not to sources from the period, but to the academic lawyers and historians in the sixteenth century as their writings have since been interpreted.³ Neither the great extension of knowledge nor the elaboration of interpretations in the past two centuries seem to have led to serious questioning of the fundamental importance of fiefholding and vassalage. As a result, medieval historians have come to take fiefs and vassals so much for granted that they have barely worried about the confusion of words, concepts, and phenomena that seems to be involved in most discussions of the medieval forms of property and political relations that the words supposedly denote. This confusion seems sufficiently important to be discussed briefly in general terms. The distinction between words, concepts, and phenomena has long been made by

³ Reynolds, *Kingdoms and Communities* (1997), pp. xiv–xxxv, sketches the historiography very briefly.

those who study language and meaning, as well as by at least one medieval historian before me.⁴ It has sometimes been illustrated in a diagram like this:



Different writers have used a variety of different words for the trio, but for my limited purposes *word*, *concept*, and *phenomenon* seem the clearest.⁵ Different languages use different *words* to denote the same thing, and in any one language the same word may be used for many different things (for example, tables with legs, tables as a way of setting out information in books) and may change its meanings over time. To refer to ‘things’ may suggest physical objects, like tables, but we also use words for other, more abstract entities, that I include in what I call *phenomena*. By this I mean what the *Oxford English Dictionary* puts as its first definition of the word *phenomenon*: ‘A thing that appears, or is perceived or observed; an individual fact, occurrence, or change as perceived by any of the senses, or by the mind: applied chiefly to a fact or occurrence, the cause or explanation of which is in question.’⁶ In between the word and the phenomenon comes something else: a *concept or notion*, however vague and unthought-out, that we have in our minds when we say, write, or hear a word. A concept or notion may remain the same irrespective of the particular word we choose but, at the same time, different people may have rather different notions in their heads when they use the same word or refer to the same phenomenon. Words are thus directly related to concepts or notions, and concepts are directly related to phenomena,

⁴ Ruth Schmidt-Wiegand, ‘Historische Onomasiologie und Mittelalterforschung’, *Frühmittelalterliche Studien*, 9 (1975), 49–78.

⁵ Charles K. Ogden and Ivor A. Richards, *The Meaning of Meaning* (London: K. Paul, Trench, Trubner, 1923), pp. 13–15; later discussions in, e.g., John Lyons, *Semantics*, 2 vols (Cambridge: Cambridge University Press, 1977), I, 95–119, 175; Raymond Tallis, *Not Saussure* (Basingstoke: Macmillan, 1988), pp. 114–16.

⁶ *Oxford English Dictionary*, 2nd edn, 20 vols (Oxford: Oxford University Press, 1989), II, 674.

but word and phenomenon are related only through concepts — what the people using, hearing, or reading the word understand by them.

Historians who discuss what they call ‘the concept [or *Begriff*, *concetto*, etc.] of the fief [or *Lehen*, *feudo*, etc.]’ often start by discussing the history of the words *feudum*, *feodum*, *fevum*, etc., which are the Latin forms of the word generally rendered in English as *fief* — except, paradoxically, in discussions of English law and history, where *fee* is confusingly traditional. The words we translate as *fief*, *Lehen*, *feudo*, etc. were used in a variety of contexts and senses in the Middle Ages, so that they seem to relate to rather different phenomena — that is, to different kinds of property entailing different rights and obligations. They therefore presumably reflected a variety of concepts or notions in the minds of those who used them. None of these need have been the same as the notions in the minds of historians who use the word now. The historian’s ‘concept of the fief’ as discussed in modern works of history is a set of notions or theories about the essential attributes of pieces of property that historians have defined as fiefs, though some of them do not appear in the sources under any of the words that we translate as fief. There is nothing wrong with starting from our own concept or notion, any more than there is anything wrong with using our own words. It is, however, vital to notice whether we are talking about our concept or theirs, or whether we are really talking not about a concept at all, but about phenomena — that is, the rights and obligations attached to what historians call fiefs. Even if one is primarily interested in concepts or phenomena, it is vital to start by noticing the words used, or not used, in the sources.

To make sense of the kind of property that historians call fiefs I decided that I needed to compare its rights and obligations with the rights and obligations attached to other property in the same society at the same time and also to property in other societies, including our own. The word *property* is used here to cover any objects (in this context mostly immovable) that are generally and/or officially considered in a given society to belong to a person or persons. More recent works about property in general and in different societies suggest that in every society it carries some obligations, while rights in it are limited, if only by the existence of some kind of legal system to define them and processes to adjudicate about them. Rights in land are often shared and can be envisaged as coming in layers — as do the rights in my apartment in London. In *Fiefs and Vassals*, rather than relying on distinctions between words like *ownership* and *tenure*, *allods* and *fiefs*, I therefore made a checklist of rights and obligations to avoid falling into the trap of concentrating on one sort of right, such as inheritance, when looking at

one sort of property and one sort of obligation, like liability to a particular sort of service, when looking at another.⁷

What emerged was that, from the twelfth century on, the various forms of the word *fief* seem to have come to be generally used for the property of nobles (except in England, where it covered all free heritable property, including that of some peasants). This use of the word was, so far as I could see, new. It did not, however, to my surprise, apparently bring with it any general diminution of rights. It is true that obligations, as distinct from rights, were being increased at much the same time, since government was becoming more systematic and demanding, but, so far as I could see, that does not seem to have been generally connected with a deliberate change of categories. So far as military obligations are concerned, any association with fiefs seems to have been at this stage vestigial. In France noble fiefholders had no fixed obligations until military service to the crown was formally imposed on them in the late thirteenth century. Even in England, from which the model of feudal knight-service seems to have been derived, the word *feodum* on its own had no connotation of military service: hence the expressions *feodum militis* or *feodum militare*. Only in England and Sicily, of the areas discussed in *Fiefs and Vassals*, did what the English call tenants in chief owe reliefs and only in England did they owe what are called 'feudal aids'. Reliefs, aids, and other casualties or 'feudal incidents' seem to have been the product of increasingly systematic government rather than survivals of an archaic vassalic bond.

As for vassalage, the word *vassus* or *vassallus* was used in the Carolingian empire for lay servants of kings, lords, or churches, who served in armies and local government, and might or might not hold bits of their lords' lands. Neither then nor in the next few centuries do great lords seem to have been called the king's vassals. In the quite rare references to vassals in eleventh- and twelfth-century Latin sources from north of the Alps, the word does not generally seem to denote fiefholders. By the twelfth century, however, it had come into use in French vernacular literature to denote a warrior or valiant man, generally with no implications of relation to a lord.⁸ By the thirteenth century it was creeping back into legal use in France to mean fiefholder, as a result of its use in that sense in some of the mini-treatises that went to make up the twelfth-century *Libri feudorum*. Even

⁷ For my checklist: Reynolds, *Fiefs and Vassals*, pp. 53–57, and works about ideas of property cited there.

⁸ Theo Venckeleer, 'Faut-il traduire vassal par vassal?', in *Mélanges de linguistique, de littérature et de philologie médiévales, offerts à J. R. Smeets* (photog. typescript, Leiden, 1982), pp. 303–16.

in the thirteenth century, however, it is modern historians, not contemporaries, who use the terms *les grands fiefs* and *les grands vassaux* for the great lordships and lords of the kingdom.⁹

Apart from the *word*, the *concept* of vassalage as a close affective relationship between lord and man that bound medieval society together seems less prominent in medieval sources than in the writings of medieval historians. My suspicions about what seemed an overemphasis on what historians call vassalage were strengthened by further work on it after the publication of *Fiefs and Vassals*. In a new introduction to the second edition of my earlier book on collective activity I argued that the idea of the supreme importance of the essentially interpersonal, affective, dyadic bonds between lord and vassal originated not in the Middle Ages nor in the early modern study of the Law of Fiefs, but in the age of Romanticism.¹⁰ That does not mean that I deny that great men had followers who were bound closely to them. Warfare must often have created strong bonds between those who fought together, but medieval sources do not suggest that the interpersonal, dyadic relation between lord and vassal was the main bond of lay society. On the contrary, leaving aside kinship and family, which I deliberately excluded from both my books, partly because so much attention had been devoted to them by others, there is a good deal of evidence that other collective bonds and feelings of community were taken for granted, even if, as always, some people offended against the norms of solidarity and public spirit.¹¹

This further argument about the late appearance of the idea of vassalage as a vital interpersonal relationship filled one gap in *Fiefs and Vassals*, and so did another look at the oath of fidelity imposed by Charlemagne in 802 and at Le Goff's essay on 'Le Rituel symbolique de la vassalité'.¹² I have also extended my

⁹ As pointed out by Jean Richard, *Saint Louis: Roi d'une France féodale, soutien de la Terre sainte* (Paris: Fayard, 1983), p. 62.

¹⁰ Reynolds, *Kingdoms and Communities* (1997), pp. xvi–xxx.

¹¹ Reynolds, *Kingdoms and Communities* (1997), pp. xlv–lvi, et passim; Reynolds, *Fiefs and Vassals*, pp. 17–47, 124–33, 189–92, 199–201, 331–33, 403–15.

¹² Susan Reynolds, 'Afterthoughts on Fiefs and Vassals', *Haskins Society Journal*, 9 (2001), 1–15 (also published in Italian as 'Ancora su feudi e vassalli', *Scienza e Politica*, 22 (2000), 3–21). I also clarified a few points in a response to a review by Johannes Fried, *German Historical Institute London: Bulletin*, 19.1 (1997), 28–41; 19.2 (1997), 30–40, and made a small comment on Carolingian counts as vassals in 'Carolingian Elopements as a Sidelight on Counts and Vassals', in *The Man of Many Devices [...] Festschrift in Honor of János M. Bak*, ed. by Balázs Nagy and Marcell Sebök (Budapest: Central European University Press, 1999), pp. 340–46.

argument to the kingdom of Jerusalem and to Scotland.¹³ I am still prepared to maintain the general line of my argument. Some reviewers were more or less convinced by it, some rejected it entirely, while most approved of bits but rejected others. Altogether I have been gratified by the amount of attention, favourable or hostile, that the book has received. Even if a few reviewers seem not to have read much of it, their reviews may have stimulated others to think about the subject, which is what I wanted. There are certainly many points that need to be corrected but so far the only significant revision has been made by Fredric Cheyette, who has shown that my suggestion that the first *fiefs de reprise* were recorded in early twelfth-century Montpellier was wrong.¹⁴ I was able to acknowledge and correct this, I hope adequately, along with some smaller points, in the Italian translation of my book that appeared in 2004.¹⁵

There are many other parts of my argument that need to be discussed by those who know the relevant material better than I do. I still hope, for instance, that at some time more historians of medieval France may consider — whether to approve or reject — my questioning of Duby's arguments about the eleventh-century Mâconnais (which Cheyette's review, alone among those I have seen, noticed); that historians of England may consider my suggestions about the effect of the arrangement of Domesday Book on the idea of a hierarchy of property rights and about seigniorial jurisdiction in the early twelfth century; and that those of Germany may look at what I said about apparent changes in the rights of benefices in the twelfth century and the possibility of influence from Italy, and about the signs of increasing professionalization of law in the *Sachsenspiegel*. If I am wrong about any or all of these points then showing that I am would advance knowledge.

Above all, I hope that the book may gradually stimulate more medieval historians to think more critically about some of the assumptions about medieval society that are implied in the way so many of them use the words *vassal* and *fief*. A good starting point might be to restrict their use to times when they are used in the sources. Words are only words, but these two carry many connotations that may imply, or allow readers to infer, assumptions about political and social relationships that, I suggest, need to be questioned, and then either confirmed or

¹³ See above, *.

¹⁴ Fredric L. Cheyette, review in *Speculum*, 71 (1996), 998–1006, and 'On the *fief de reprise*', in *Les Sociétés méridionales à l'âge féodal: Hommage à Pierre Bonnassie*, ed. by Hélène Débax (Toulouse: CNRS, Presse Universitaire de Mirail, 1999), pp. 319–24.

¹⁵ *Feudi e vassalli*, trans. by Sara Menzinger (Rome: Jouvence, 2004).

abandoned, rather than assumed. When historians refer to witnesses to lords' charters in eleventh-century France as the vassals of those lords even when the word is not used in the charter, what do they think the word would have meant in that context if it had been used? Is the historian using it in the Carolingian sense (a lay servant with military and governmental duties); in the vernacular French sense that we know from a little later (a soldier or valiant man, with no implication of relationship or service); in the later legal sense derived from the *Libri feudorum* (a fiefholder); or in the sense developed by nineteenth-century post-Romantic historians of someone bound to his lord by the strongest bond of medieval society? The same questions arise when the sources refer to kings or other lords campaigning *cum suis* and historians render this as 'with their vassals'. Were their armies composed of people who were vassals in any of these senses and, if so, which? Historians who use the word *vassal* when it is not in the sources risk creating two troubles for their readers. First, a reader may assume that the word is in the source. Second, if it is not in the source, it implies that the historians using it think that they are so sure that vassalage was such a strong and universal bond in medieval society that they can read it into sources that do not refer to it.

Similar questions are raised by referring to nobles' lands as fiefs or *Lehen* when they are not so described in the sources, or indeed by assuming, when they are so described, that the word implied more or less the same rights and obligations everywhere. The use of these two words by many medieval historians invites the question whether feudal structures exist rather in twentieth- or twenty-first-century minds than in eleventh- and twelfth-century society.

A fair number of medievalists say that they no longer use the word *feudalism*. Nevertheless, so long as they go on assuming, for instance, that noble property was in general derived from individual grants by kings or lords on clear-cut conditions, generally of military service, counsel, and subjection to jurisdiction, then they are still cherishing the concept without using the word. If it is even partly right that this general picture derives from post-medieval law and historiography and is hard to substantiate from the medieval sources, then whether it is called feudalism (*féodalité*, *feudalesimo*, *Lehnswesen*, etc.) or merely has the adjective *feudal* attached to it is unimportant. The question I want considered is whether the phenomena of medieval political and social relationships, rights and obligations corresponded to the historians' concept of non-Marxist feudalism, whether or not the word is used. Is it right to think of medieval feudalism as a single, general phenomenon? The best evidence of a king granting out land on a large scale comes from England after 1066, though even there the evidence that it was at first granted in return for specified military service is weak. The idea that individual

relations between lords and their men (or vassals) outweighed any obligations to kings comes from the nineteenth-century picture of 'feudal anarchy' in post-Carolingian France, fortified by an argument put forward by the learned thirteenth-century lawyer, Jean de Blot, on behalf of his client. The quite different evidence from the kingdoms of England and France was then combined and elaborated until it dominated representations of the Middle Ages. Historians of other areas then either interpreted their sources (or filled in gaps in their sources) to fit this framework of feudalism, or maintained that their areas did not fit and were therefore not 'feudal'. But what sense does that make if the framework does not fit what we now know about either of the two areas for which it was devised? Envisaging it as a Weberian ideal type that need not fit exactly is not enough if the ideal type is a mere bundle of characteristics that do not seem to belong together in any coherent way, especially if the evidence for some of them anywhere is weak.

However many mistakes and misunderstandings there are in *Fiefs and Vassals*, however overstated its arguments may be, and however flawed its use of evidence, I still maintain that the non-Marxist idea of feudalism has produced a distorted view of the Middle Ages. Its concentration on the upper classes, largely ignoring at least nine-tenths of the population, distorts even the view of the upper classes themselves by making the line between them and the rest too hard. Its concentration on dyadic, interpersonal relations, and especially on relations between lords and their followers, has distracted attention from the strong collectivist ideas that informed secular society and politics, the emphasis on government by consultation and consensus, on collective judgements, and the belief in *peoples* as natural, given units of society and politics bound together by descent, law, and customs. To those who have rightly pointed out that *Fiefs and Vassals* was a very negative book and have asked where I want us to go from there, I suggest that we go to the kind of collective ideas and activity that I tried to sketch — over an equally rash range of territory and evidence — in *Kingdoms and Communities*.

All that I have read suggests to me that the idea of natural peoples which ought to be ruled through consultation and custom was so widespread as to be largely assumed rather than argued. It seems to underlie references to all units of government, from towns and villages, through lordships and provinces, up to kingdoms, but was most explicitly applied to kingdoms. It has been suggested that I may lay too much stress on kingdoms because I was brought up on English history, with its strong emphasis on centralization under Strong Kings, and that may well be true. All the same, medieval sources (including medieval stories) seem to me to

treat kingdoms as the archetypes of political units and kings as the archetypes of rulers. Why else did kingdoms survive depositions and periods of more or less ineffective royal control? Why else did magnates, however troublesome to their kings, so seldom claim formal independence outside the kingdom against whose ruler they rebelled?¹⁶

I am not for a moment arguing that all kingdoms were the same, let alone that the most centralized and apparently peaceful were the best. Nor do I argue that ideas of collective, consultative government, whether of kingdoms or lesser units, were always put into practice and produced happy harmony, just government, and contented subjects. But I suggest that recognizing the prevalence of these ideas and norms about consultation and consent may illuminate medieval life rather more than does exclusive stress on interpersonal, contractual relations among the upper classes. In particular I suggest that more attention needs to be paid to early medieval law and custom and to the way it worked before there were professional lawyers. With relatively ineffective enforcement and no systematic records and argument, it may not look to modern lawyers or historians like real law, but what records we have suggest that there were very general norms that it followed — or was meant to follow — and that formed the foundation for the professional law of the high and later Middle Ages. But though I think one can detect old norms under the new professional law I also suggest that the coming of professionalism makes a very big change in the history of any form of law.¹⁷ It is therefore, I suggest, safer to detect old norms surviving in the new law than to read details of the new law back into the earlier period. I still maintain that the ‘feudal law’ of the later Middle Ages was the creation of the professional government and law of the later Middle Ages, not of the social and political relations of the earlier. The customary law of the earlier Middle Ages needs to be investigated from the sources of that time, without interpreting them through late medieval professional law, or through the interpretations of early modern feudists and antiquaries or of

¹⁶ Susan Reynolds, ‘The Idea of the Nation as a Political Community’, in *Power and the Nation in European History*, ed. by Len Scales and Oliver Zimmer (Cambridge: Cambridge University Press, 2005), pp. 54–66, and ‘Power and Authority in the Middle Ages’, in *Power and Identity in the Middle Ages: Essays in Memory of Rees Davies*, ed. by Huw Pryce and John Watts (Oxford: Oxford University Press, 2007), pp. 11–22.

¹⁷ Susan Reynolds, ‘The Emergence of Professional Law in the Long Twelfth Century’, *Law and History Review*, 21 (2003), 347–66; Reynolds, ‘Variations in Professionalism’ (response to three commentators), *Law and History Review*, 21 (2003), 389–91, and more summarily in ‘Medieval Law’, in *The Medieval World*, ed. by Peter Linehan and Janet L. Nelson (London: Routledge, 2001), pp. 485–502.

historians and literary scholars of the eighteenth and nineteenth centuries. The result may be quite different from what I have argued but in so far as I have stimulated others to look at the subject again after examining their own assumptions about fiefs and vassals, that is fine. Of course I should be glad if my findings were confirmed but if they are not, then I and maybe others will have learned something useful.

ECONOMIC AND POLITICAL
ASPECTS OF LEASES IN THE KINGDOM
OF THE FRANKS DURING THE EIGHTH
AND NINTH CENTURIES: A CONTRIBUTION
TO THE CURRENT DEBATE ABOUT FEUDALISM

Brigitte Kasten

Almost all the questions about feudalism that are now being posed in present-day scholarship were already matters of controversy in the second half of the nineteenth century, for example, in the debate between Paul (von) Roth and Georg Waitz.¹ Today, however, these questions receive more sophisticated answers. Early medieval social and constitutional historians not only in France, but in Germany too² — and at more or less the same time as Susan Reynolds — have begun to feel uneasy with the simplified and therefore beguilingly clear interpretations offered by Mitteis and Ganshof, who postulated the presence of feudalism in the second half of the ninth century under Charles

¹ For a brief summary of this debate: Brigitte Kasten, 'Beneficium zwischen Landleihe und Lehen — eine alte Frage, neu gestellt', in *Mönchtum — Kirche — Herrschaft 750–1000*, ed. by Dieter R. Bauer and others (Sigmaringen: Thorbecke, 1998), pp. 243–60 (pp. 243–44), with references to the older literature.

² See, e.g., Karl Ferdinand Werner, 'Der fränkisch-französische Königs- und Lehnstaat bei Heinrich Mitteis: Eine kritische Würdigung', in *Heinrich Mitteis nach hundert Jahren (1889–1989)*, ed. by Peter Landau and others, Bayerische Akademie der Wissenschaften, philos.-hist. Klasse, Abhandlungen n.s., 106 (Munich: Bayerischen Akademie der Wissenschaften, 1991), pp. 23–46 (pp. 36–37); Herwig Wolfram, 'Karl Martell und das fränkische Lehnswesen: Aufnahme eines Nichtbestandes', in *Karl Martell in seiner Zeit*, ed. by Jörg Jarnut and others, Beihefte der Francia, 37 (Sigmaringen: Thorbecke, 1994), pp. 61–78; Kasten, *Beneficium*.

the Bald (Mitteis) and at the beginning of the century under Charlemagne (Ganshof).³ Susan Reynolds, on the other hand, summarizes her thesis thus: 'The central argument of *Fiefs and Vassals* was that neither the relationship that medieval historians call vassalage nor the kind of property that they call fiefs took their shape from the warrior society of the earlier Middle Ages.'⁴ In as much as grants of benefices had a purely civilian character well before they were employed to meet military requirements, my own study of benefices confirms her argument.

I am not concerned here with the whole historiographical tradition formed since the nineteenth century, since, as Wilhelm Ebel observed: 'Only in our time has the study of feudalism, focussing more on the roots than on the crown of the tree, clearly taken the military vassalic fief to be the model, proclaiming it as the fief pure and simple.'⁵ Rather, in the context of the new reservations developed since about 1990, my discussion will focus on two themes: benefices and bearers of high office as vassals. Let me say at the outset that for the early Middle Ages, I — like Susan Reynolds and against the view expressed by Ludolf Kuchenbuch⁶ — see no need to hang on to the concept of feudalism. It gets in the way of our view of the realities of the time and of the multiplicity of potentialities for political and social action.

Benefices

Early medieval landlords who wanted to grant land to others to use or hold found in Roman law a form enabling them to do so: the *precarium*, an agreement which

³ François Louis Ganshof, 'Benefice and Vassalage in the Age of Charlemagne', *Cambridge Historical Journal*, 6 (1939), 147–75; 'L'origine des rapports féodo-vassaliques', in *I problemi della civiltà carolingia*, Settimani di studio del Centro Italiano di studi sull'alto medioevo, 1 (Spoleto: Presso de la sede del Centro, 1954), pp. 27–69; 'Das Lehnswesen im Fränkischen Reich: Lehnswesen und Reichsgewalt in karolingischer Zeit', in *Studien zum mittelalterlichen Lehnswesen*, Vorträge und Forschungen, 5 (Sigmaringen: Thorbecke, 1972), pp. 37–49.

⁴ Cf. in this volume.

⁵ Wilhelm Ebel, 'Über den Leihegedanken in der deutschen Rechtsgeschichte', in *Studien zum mittelalterlichen Lehnswesen*, Vorträge und Forschungen, 5 (Lindau: Thorbecke, 1960), pp. 11–36 (p. 14).

⁶ Ludolf Kuchenbuch, "'Feudalismus': Versuch über die Gebrauchsstrategien eines wissenschaftlichen Reizwortes', in *Die Gegenwart des Feudalismus/Présence du féodalisme et présent de la féodalité/The Presence of Feudalism*, ed. by Natalie Fryde and others, Veröffentlichungen des Max-Planck-Instituts für Geschichte, 173 (Göttingen: Vandenhoeck & Ruprecht, 2002), pp. 293–323.

conveyed immovable or movable property for a fixed period and was revocable at any time.⁷ In Visigothic Spain Isidore of Seville (c. 560–636) discussed the *precarium* in his *Etymologies*, Book V, ‘Laws and Times’. He assigned *precarium* to the law of contract and commented: *precarium* is the creditor’s permission, given in response to a debtor’s request, allowing the latter, after mortgaging his property, to stay on it and enjoy its yield. It is called *precarium* because it is consequent upon a request (*preces*).⁸ It has, he continued, something reciprocal about it because it produces an exchange of property: *a me tibi datur, ex meo tuum fit*. It is similar to a pledge since it is given for a time, but is not entirely subsumed under the law of pledges, since it also has some features in common with the *arr(h)a* of commercial law in which at first only a down payment is made and the whole contract not completed until a later date.⁹ Isidore further distinguished *precarium* from other forms of time-limited possession of property such as *locatio*, *conductio*, *usura*, and *commod(at)um*, all contracts relating to rent, leasing, interest, and usufruct, but did not develop this. This forms a much-abbreviated and one-sided extract from the legal learning that had been assembled in Justinian’s empire a few decades earlier in the Digest. There the pledge was only a subordinate and exceptional case of the many kinds of precarial property.¹⁰ The non-precarial forms of leases will not be considered further here since, usufruct apart, their use in the Frankish kingdom is not attested.¹¹ Out of all the Roman forms of temporary possession, only the *precarium* seems to have survived in the Frankish kingdom, though to make up for this three

⁷ *Corpus iuris civilis*, ed. by Theodorus Mommsen and Paulus Krueger, 3 vols (12th repr. Berlin: Weidmann, 1911), I, 750 (Digest, 43, 26: De precario).

⁸ *Isidori Hispalensis episcopi Etymologiarum sive originum libri XX*, ed. by Wallace Martin Lindsay (Oxford: Clarendon Press, 1911), v, 25, 17, ll. 10–14: ‘Precarium est dum prece creditor rogatus permittit debitorem in possessione fundi sibi obligati demorari, et ex eo fructus capere. Et dictum precarium quia prece aditur, quasi precadium, R pro D littera commutate.’ For the classical *precarium* cf. Ernst Levy, ‘Vom römischen Precarium zur germanischen Landleihe’, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung*, 66 (1948), 1–30; Claudio Sánchez-Albornoz, *Estudios sobre las instituciones medievales españolas* (Mexico: Universidad nacional autónoma de México, UNAM, Instituto de investigaciones históricas, 1965), ‘El precarium en Occidente durante los primeros siglos medievales’, pp. 521–46; Hans Voltolini, ‘Prekarie und Benefizium’, *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*, 16 (1922), 259–306; Max Kaser, ‘Zur Geschichte des *precarium*’, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung*, 89 (1972), 94–148.

⁹ Isidor, *Etymologiae*, v, 25, 18–21, ll. 14–24.

¹⁰ *Corpus iuris civilis*, p. 750 (Digest, 43, 26, 6, 4).

¹¹ Isidor, *Etymologiae*, v, 25, 12–16, ll. 3–10.

forms were distinguished: *precaria data* (straightforward leases), *precaria oblata* (leasebacks of property given to the lessor), and *precaria remuneratoria* (leasebacks which the lessor has supplemented with property of his own).

The precarial lease was already so well known in the south of Gaul in the fifth century that Salvian of Marseille (early fifth century — after 470) could use the word figuratively in a religious sense. Men are merely *precarii possessores* of the gifts that God had given them — in other words: they are no more than holders of temporary and revocable usufruct, while God remains the true owner. And this is a divine benefaction, *beneficium*, made to sinful mankind.¹² Evidently the church had early on taken this aspect of the law of leases from the secular world and made use of it, not only to illustrate its moral theology but also for the practical business of building up church institutions. Prosper Tiro of Aquitaine (c. 390 — probably 463),¹³ who lived in Marseille for several years in the 430s and 440s before he moved to Rome, apparently permanently, and entered papal service, stated the principle that clerics who intended to live off church property must first make a properly recorded gift of their own property to the church. The church could then grant them the use of it for life as a *beneficium*. One useful side-effect was that rich clerics could thus find a way out of the dilemma posed by Christ's call to poverty. This at any rate was maintained in the mid-eighth century by Chrodegang of Metz (d. 766), who knew that Prosper Tiro was not the only father of the church to advocate the introduction of this construct from the Roman law of leases into the management of ecclesiastical property.¹⁴

Chrodegang used this same system about 755 to establish a community of canons for his cathedral church of Metz and to organize its economic affairs. For him the connection with *precaria*, as the lease was now called in the Frankish kingdom, was entirely self-evident. The cathedral cleric should give his property to the bishop's church in order to receive it back from the bishop, with right of

¹² Salvian, *Oeuvres*, I: *Les Lettres, les livres de Timothée à l'église*, ed. by Georges Lagarrigue, Sources Chrétienues, 176 (Paris: Cerf, 1971), p. 156 (Ad ecclesiam, I, 26); Levy, 'Vom römischen Precarium', pp. 5–6; Jens-Uwe Krause, *Spätantike Patronatsformen im Westen des Römischen Reiches*, Vestigia: Beiträge zur alten Geschichte, 38 (Munich: Beck, 1987), pp. 258–59.

¹³ On Prosper Tiro: Steven Muhlberger, *The Fifth-Century Chroniclers: Prosper, Hydatius and the Gallic Chronicler of 452*, ARCA Classical and Medieval Texts, Papers and Monographs, 27 (Leeds: Cairn, 1990), pp. 48–135.

¹⁴ 'La Règle de saint Chrodegang', in *Études sur la cathédrale de Metz III*, I: *La Liturgie*, ed. by Jean-Baptiste Pelt (Metz: Imprimerie du Journal de Lorraine, 1937), chap. 31, p. 24: 'ita tamen ut ipsi clerici, dum advivent, si ita placuerit, res suas usufructuario ordine per beneficium ecclesie habeant'.

usufruct for his lifetime as a *precaria*. Precarial possession meant that the cleric had exclusive right to the produce but could not sell, exchange, or diminish the real property itself. Arable land, vineyards, woods, meadows, dwellinghouses and other buildings, unfree servants (*mancipia*), and tenants all counted as part of the real property, as the lists of appurtenances usual in charters also indicate.¹⁵ The cleric's rights in the property had been turned into usufruct. True, the *precaria* altered the holder's rights in as much as any sale, exchange, or diminishment of the property was forbidden, but initially it made very little difference to his actual dealings with his property. For as long as he lived he was permitted to provide for his needs out of the estate income and make gifts from it as he wished, though Chrodegang recommended he give preference to the community of canons and the poor. He might make legacies at his death from half of the yield of his precarial property, although here again he was urged to make bequests for pious purposes such as the saying of masses or to meet the needs of the poor. The other half went to the community of canons. In this way the less wealthy clergy of the cathedral would be supported, for the church could provide for the fulfilment of the community's basic needs in food and clothing, enabling them all to observe the requirement for poverty.¹⁶ Paul the Deacon (720/730–c. 799) in his *Lives of the bishops of Metz* (composed between 782 and 786) praised the Rule of Chrodegang for ensuring that each cathedral cleric was adequately maintained, enabling him to fight (*militare*) for God as he ought, without having to worry about his livelihood.¹⁷ The word *militare* may have been chosen by chance, but both at the king's court and in Metz it may have evoked associations with the

¹⁵ 'La Règle de saint Chrodegang', p. 25 (chap. 31): 'Et precaria, si ita ei placuerit, exinde ab episcopo accipiat in ea ratione, ut, dum advivet, ipsas res usufructuario ordine habent. [...] Et ipsi clerici de ipsis rebus quas in precarias habent, neque de terris neque de vineis aut silvis, pratis, domibus, aedificiis, mancipiis, accolabus, vel quibuslibet rebus immobilibus minuendi aut vendendi aut comutandi potestatem non habeant, excepto, ut diximus, de illa fructa vel quod ibidem laborare potuerint, viventes faciant quod voluerint.'

¹⁶ Cf. in general Franz Georg Gast, 'Stipendium und Unterhaltsvertrag im fränkisch-kirchlichen Recht', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 51 (1965), 24–138. For the formula *victus et vestitus* cf. Gesine Jordan, 'Nichts als Nahrung und Kleidung': *Laien und Kleriker als Wohngäste bei den Mönchen von St Gallen und Redon (8.–9. Jahrhundert)*, Europa im Mittelalter, 9 (Berlin: Akademie der Wissenschaften, 2007), pp. 78–87.

¹⁷ Paul Warnefrid, *Liber de episcopis Mettensibus*, ed. by Georg Heinrich Pertz, MGH, SS, 2 (Hannover: Hahn, 1829), p. 268: 'normamque eis instituit, qualiter in ecclesia militare deberent; quibus annonas vitaeque subsidia sufficienter largitus est, ut perituris vacare negotiis non indigentes, solummodo officiis excubarent'.

world of those real soldiers who served in the Carolingian army and were similarly provided for financially by *precarie*.

Precarial contracts not only served to set up cathedral chapters but during the seventh-century missions within Francia also took on a function in the establishment of monasteries. In the absence of large gifts to monastic communities of property with full rights, early precarial donations from which the yield went to the monks at least guaranteed them a slender livelihood.¹⁸ Until well into the tenth century *precarie* even played a role in the endowment of oblates.¹⁹ But it was especially when entire monasteries with all their landed property, including churches, were conveyed to more distinguished monasteries — or to individuals — by the noble family that had founded them — or by other owners — that the precarial leaseback lessened the heavy cost to the donor of such surrenders of property. This was the case, for instance, when Irmina, the daughter of Duke Heden II of Thuringia, conveyed her nunnery on the Marienberg at Würzburg to the city's bishop;²⁰ in 685 when the nobleman Amalfrid and his wife Childebertana gave the nunnery of Honnecourt-sur-Escaut (Nord), over which his daughter presided as abbess, to Abbot Bertin of Sithiu/Saint-Bertin;²¹ when the priest Felix in 745 gave his *cella* at Roksem (West Flanders) to that same abbey of Sithiu/Saint-Bertin;²² when King Pippin in 765 granted the *cella* of St Goar on the Rhine to Abbot Assuer of Prüm as his personal property on condition of guaranteeing

¹⁸ For example, Stablo-Malmedy: cf. Brigitte Kasten, 'Grundbesitzgeschäfte im Spiegel der kirchlichen Überlieferung: Zu den materiellen Grundlagen der Missionierung im nördlichen Lothringen (bis 900)', in *L'Évangélisation des régions entre Meuse et Moselle et la fondation de l'abbaye d'Echternach (V^e–IX^e siècle)*, ed. by Michel Polfer, Publications du CLUDEM, 16 (Luxembourg: Section Historique de l'Institut Grand Ducal, 2000), pp. 263–300 (pp. 282–84).

¹⁹ Folcwin, *Gesta abbatum S. Bertini Sithiensium*, ed. by Oswald Holder-Egger, MGH, SS, 13 (Hannover: Hahn, 1881), p. 631 (chap. 109): in 959 one Waldo gave his son Rikelinus to the abbey of Saint-Bertin along with a church as one of his inherited properties, and received the church back *per precariam* for his other son.

²⁰ *Vita Burchardi*, ed. by Oswald Holder-Egger, MGH, SS, 15.1 (Hannover: Hahn, 1887), pp. 28–29 (II, 4).

²¹ *Diplomata Belgica ante annum millesimum centesimum scripta*, ed. by Maurits Gysseling and Anton C. F. Koch, 2 vols (Brussels: Belgisch Interuniversitair Centrum voor Neerlandistiek, 1950), I, no. 5, pp. 15–16. In King Theuderic's confirmation of 1 April (689), the whole gift was called a *beneficium* for the Abbot of Saint-Bertin: *Die Urkunden der Merowinger*, ed. by Theo Kölzer, MGH, DD regum Francorum e stirpe Merovingica, 2 vols (Hannover: Hahn, 2001), I, no. 130, p. 331, l. 23.

²² *Diplomata Belgica*, no. 15, pp. 30–31.

the royal right to hospitality there;²³ in 807 when Charlemagne granted the monastery of Saint-Germer-de Fly (Oise) to Abbot Ansegis of Saint-Wandrille as a *precaria* on condition that he build it up again both spiritually and materially;²⁴ in 878 when Charles III the Fat gave his wife the Abbey of Saints Felix and Regula in Zurich which his sister Berta had previously held as a *precaria*;²⁵ and 891 when King Arnulf gave the nunnery of Susteren (Brabant) to the priest and famous craftsman (*illuster artifex*) Siginand as a reward for his service with permission to give it to Prüm.²⁶ Examples of this kind could be multiplied.

The precarial lease of land was continuously used in late antique Gaul as also in the Merovingian and Carolingian kingdom, whether by laity or clergy, by churches, monasteries, kings, nobles, or less wealthy landowners. This form of property was not specifically ecclesiastical, as has sometimes, owing to the nature of the surviving sources, been wrongly assumed.²⁷ The difference between lay and ecclesiastical *precarie* was merely that churches were supposed only to lease out estates they had just been given.²⁸ This has been traced back to imperial legislation of 470.²⁹ In all seigniorial contexts, whether in the relations between Roman

²³ Wandalbert of Prüm, *Commemoratio quemadmodum et a quo cella sancti Goaris fuerit monasterio Prumiae sociata*, ed. by Oswald Holder-Egger, MGH, SS, 15.1 (Hannover: Hahn, 1887), p. 372.

²⁴ *Gesta sanctorum patrum Fontanellensium coenobii*, ed. by F. Lohier and J. Laporte (Rouen: Lestringant, 1936), p. 93.

²⁵ *Dip. Karl III. der Dicke*, ed. by Paul Kehr, MGH, DD Karol., 2 (Berlin: Weidmann, 1936), no. 7, p. 11.

²⁶ *Dip. Arnolf*, ed. by Paul Kehr, MGH, DD Karol., 3 (Berlin: Weidmann, 1955), no. 85, pp. 126–27.

²⁷ Cf. Elisabeth Magnou-Nortier, 'La Féodalité en crise: Propos sur "Fiefs and Vassals" de Susan Reynolds', *Revue Historique*, 600 (1996), 253–348 (p. 295). The Carolingians gave *precarie* from the fisc to free men (*liberi homines*) who paid rent for them; cf. Eckhard Müller-Mertens, *Karl der Große, Ludwig der Fromme und die Freien: Wer waren die liberi homines der karolingischen Kapitularien (742/43–832)? Ein Beitrag zur Sozialgeschichte und Sozialpolitik des Frankenreichs*, *Forschungen zur mittelalterlichen Geschichte*, 10 (Berlin: Akademie der Wissenschaften, 1963), p. 76. The Burgundian Count Heccard before 876 gave Theutberga, the repudiated wife of King Lothar II of Lotharingia, one of his allods *per precariam*: *Recueil des chartes de l'abbaye de Saint-Benoît-sur-Loire*, ed. by Maurice Prou and Alexandre Vidier, *Documents publiés par la Société Historique et Archéologique de Gâtinais*, 5, 2 vols (Paris: Picard, 1900), I, no. 25, p. 63.

²⁸ Cf., e.g., *Lex Alamannorum*, ed. by Karl Lehmann, MGH, *Leges nat. Germ.*, 5.1 (Hannover: Hahn, 1888), pp. 65–67 (tit. 2).

²⁹ Cf. Voltolini, 'Prekarie und Benefizium', p. 271; Krause, *Spätantike Patronatsformen*, p. 262.

patrons and clients, between Germanic lords and their followers, or Frankish-Carolingian *seniores* and *fideles*, conditional gifts of land were made and relationships created. Clients gave their land to a patron who then granted it back as some form of lease, usufruct, or *precaria*.³⁰ Merovingian kings gave land with varying rights. To their followers, *fideles* and *leudes*, they often transferred only temporary rights in the royal land they gave them, ruling out inheritance or alienation. When the beneficiary died the king was nevertheless free to give his land to the man's heirs.³¹ If his successor confirmed such a gift, that had little to do with the formal law of persons but was a common legal procedure already practised by emperors in late Antiquity.³² It has already been suggested that in the many cases of the confiscations of property from people suspected of treason regularly mentioned by Gregory of Tours, it was not their own property that was taken but the precarial estates which Merovingian kings leased to their *fideles* for life.³³ Vertical social bonds and loyalties in a seigniorial context³⁴ could evidently be strengthened like this.³⁵ From the beginning both the provision of land and appointment to office were among the types of patronage.³⁶ From very early on a grant of an individual right was, like a grant of authority to exercise public office, perceived as the bestowal of a benefice. In 682 a diploma of Theuderic III described as a *beneficium* the king's grant to Abbot Bertin of Sithiu/Saint-Bertin of the right to buy parts of the fisc of Attin.³⁷

With Salvian there appears — perhaps not for the first time — the link in meaning between precarial loan and benefice that would be so common in the

³⁰ Krause, *Spätantike Patronatsformen*, pp. 254–63.

³¹ Franz Dorn, *Die Landschenkungen der fränkischen Könige: Rechtsinhalt und Geltungsdauer*, Rechts- und staatswissenschaftliche Veröffentlichungen der Görres-Gesellschaft, n.s., 60 (Paderborn: Schöningh, 1991), pp. 94–96.

³² Stefan Esders, *Römische Rechtstradition und merowingisches Königtum: Zum Rechtscharakter politischer Herrschaft in Burgund im 6. und 7. Jahrhundert*, Veröffentlichungen des Max-Planck-Instituts für Geschichte, 134 (Göttingen: Vandenhoeck & Ruprecht, 1997), pp. 246–47.

³³ On Merovingian grants cf. most recently Esders, *Römische Rechtstradition*, pp. 243–52.

³⁴ Cf. Verena Epp, *Amicitia: Zur Geschichte personaler, sozialer, politischer und geistlicher Beziehungen im frühen Mittelalter*, Monographien zur Geschichte des Mittelalters, 44 (Stuttgart: Hiersemann, 1999), p. 135.

³⁵ Esders, *Römische Rechtstradition*, pp. 369–70.

³⁶ Krause, *Spätantike Patronatsformen*, pp. 50–52; Epp, *Amicitia*, pp. 160–62.

³⁷ *Diplomata Belgica*, 14 (no. 4) = Dip. Theuderic III, no. 127 von (684) Oktober 23, in *Die Urkunden der Merowinger*, 1, 323, l. 27. For further examples see Voltolini, 'Prekarie und Benefizium', pp. 287–88.

Carolingian age. Chrodegang of Metz treats *precaria ab episcopo* in exactly the same way as *per beneficium ecclesie*. By *beneficium* Salvian meant a favour, Chrodegang meant a lease of land on the terms set out in the precarial documents of his time. In the eighth and ninth centuries these charters almost always contain the word *beneficium*. By this time the word so clearly meant a lease of land³⁸ that the act of making such a lease could be simply conveyed by the word *beneficiare*.³⁹ Always translating *beneficium* as fief (*Lehen* in German) is undoubtedly misleading, for it is much more likely that it was a *precaria*. The editors of the *Regesta Imperii* (Volume I) referred regularly to *Lehen* when the Latin text has *beneficium*, and in so doing they impressed on the imaginations of many generations of scholars the assumption that feudalism existed in the eighth and ninth centuries — something that is, in reality, hard to demonstrate.⁴⁰

The *precaria verbo regis data*, which helped the early Carolingians increase the number of their supporters so decisively, made use, not without reason, of the common form of leasing land. In this way the idea of the *beneficium*, that had come with the *precaria*, was improperly extended and changed. From the beneficiary's point of view, in the case of a *precaria verbo regis data* it was the king who gave the *beneficium*, while the actual grantor, the lord of the benefice, generally a monastery or church, dropped into the background.⁴¹ In the ninth-century formulary of Murbach Abbey in Alsace there are two documents about the Abbot's dispute with a count between 774 and 789 that clearly illustrate this.

³⁸ Cf. Kasten, 'Beneficium', pp. 253–54.

³⁹ Cf., e.g., the testament of Bishop Remigius of Strasbourg of 778 in *Solothurner Urkundenbuch: 762–1245*, ed. by Ambros Kocher, 3 vols (Solothurn: Staatsarchiv des Kantons Solothurn, 1952–81), I (1952), no. 2, pp. 3–7 (p. 5): *per precariam beneficiavi*; *Urkundenbuch der Abtei Sanct Gallen*, I, ed. by Hermann Wartmann (Frankfurt am Main: Höhr, 1863), no. 17, pp. 20–21: *michi usum beneficerem*, *ibid.*, no. 338, p. 312; *Cartulaire de l'abbaye de Gorze*, ed. by A. d'Herbomez, *Mettensia*, 2 (Paris: n. pub., 1898), nos 22, 30, 38, 39, 44, 51, 52, 56, 58, 71.

⁴⁰ *Die Regesten des Kaiserreichs unter den Karolingern*, ed. by Johann Friedrich Böhrer, new edn ed. by Engelbert Mühlbacher and others, *Regesta Imperii*, 1 (Hildesheim: Olms, 1966); cf. Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford: Oxford University Press, 1994), p. 93.

⁴¹ The Carolingians were not the inventors of this system, since it had already been used in the seventh century by the mayor of the palace Ebroin; cf. Émile Lesne, *Histoire de la propriété ecclésiastique en France*, *Mémoires et travaux des facultés catholiques de Lille*, 19, 6 vols (Lille: Giard, 1910–43), II:1 (1922), pp. 27–29, 40–48, 270–92. For the development of the *precaria verbo regis*: Lesne, 'Diverses acceptions du terme 'beneficium' du VIII^e au XI^e siècle', *Revue historique de droit français et étranger*, 4th ser., 3 (1924), 5–66.

The monastery had been given estates by Charlemagne, by his father, Pippin, and his grandfather, Charles Martel. Abbot Amico complained to Charlemagne that a count had stolen them from the abbey, alleging that they had been taken during a *turbatio* between the Alemanns and Alsations when their unfree (*mancipia*) had fled and claimed to be free.⁴² The count and other men claimed that they held both land and people as a *beneficium* of Charlemagne.⁴³ Taking into account several parallel cases a possible sequence of events can be reconstructed. The king asked a monastery to lease out properties that his predecessors had given it. This was not unusual, for as can be shown elsewhere, it conformed to the custom of precarial leases. The monastery could not refuse such a request, since the donor or his heirs had the right to a leaseback of the usufruct of what had been given.⁴⁴ A long time could elapse between the gift and a request for its leaseback. Thus King Louis the German once asked the monastery of St Emmeram, Regensburg, for the leaseback *per beneficium* of property that his grandfather Charlemagne had given it.⁴⁵ But in Murbach's case the king passed the properties on to the count for him to use in combatting regional unrest. The count understood the grant of the property not as a *beneficium* from the monastic owner but as a mark of the king's gratitude for loyal service and to help him fulfil his military duties. He held on to it even after he had completed the commission. Carolingian legislation from the time of King Pippin insisted that on benefices of the *precaria verbo regis* type, lessors had to be compensated in the form of payment of tenths and ninths.⁴⁶ Murbach seems to have received neither these nor the usual rent and raised the

⁴² *Formulae merowingici et Karolini aevi*, ed. by Karl Zeumer, MGH (Hannover: Hahn, 1886): *Formulae Morbacenses*, no. 4, pp. 330–31. For the date, cf. *Regesta Alsatie aevi merowingici et Karolini*, 1, ed. by Albert Bruckner (Strasbourg: Heitz, 1949), nos 333–34, pp. 209–10. On the political significance: Michael Borgolte, *Geschichte der Grafschaften Alemanniens in fränkischer Zeit*, Vorträge und Forschungen, suppl. 31 (Sigmaringen: Thorbecke, 1984), pp. 111–21.

⁴³ *Formulae merowingici*: *Formulae Morbacenses*, no. 5, p. 331.

⁴⁴ Examples in Kasten, *Beneficium*, p. 254, n. 47.

⁴⁵ *Dip. Ludwig der Deutsche*, ed. by Paul Kehr, MGH, DD Karol., 1 (Berlin: Weidmann, 1956), pp. 37, 47–49, no. 37 (28 July 844), p. 48, ll. 35–36: 'Baturicus episcopus, rector ipsius monasterii, [...] nobis beneficiavit.'

⁴⁶ *Capitularia regum Francorum*, 1, ed. by Alfred Boretius, MGH, Legum sectio, 2 (Hannover: Hahn, 1883), p. 50 (no. 20: Capitulare Haristallense, March 779), chap. 13. Cf. most recently Hans J. Hummer, *Politics and Power in Early Medieval Europe: Alsace and the Frankish Realm, 600–1000*, Cambridge Studies in Medieval Life and Thought, 4th ser., 65 (Cambridge: Cambridge University Press, 2005), pp. 80–82.

alarm when their unfree (*mancipia*) tried to free themselves from bondage since that threatened the permanent loss of valuable property rights.

Murbach was right to fear this, for the fate of some properties, including very large ones, in the hands of Carolingian *fideles* can be traced through several generations. The *villa* of Neuilly-Saint-Front (Aisne) that King Carloman (768–71) gave to Saint-Remi, Reims, for his burial, was then given by Charlemagne to the Saxon Anscher *in beneficio* during the vacancy of the see after the death of Archbishop Tilpin (794). Anscher paid tenths and ninths to Saint-Remi until his death. After Louis the Pious gave the estate to count Donatus *in beneficio*, however, the systematic alienation of considerable parts of the property began. Not until 874 were those parts, in the meantime long regarded as property of the fisc, judicially awarded to the church.⁴⁷

Similarly with the property of the church of Bourges. Between 866 and 875 Archbishop Vulfad of Bourges instituted proceedings against the Burgundian Count Heccard about the *villa* of Perrecy-les-Forges, which covered about 47,000 hectares lying in the triangle of the counties of Autun, Chalon-sur-Saône, and Mâcon, and that Heccard then held with full rights. Originally, however, it had belonged to the archbishopric of Bourges and seems to have come to the branch of the Carolingian line to which Heccard belonged in the course of the notorious divisions of church property made by King Pippin, the so-called secularization. In the second half of the eighth century a precarial contract was made by which Heccard's ancestor undertook to pay a yearly rent of three pounds to the church of Bourges. Despite this, in the earlier ninth century this great estate counted as part of the royal fisc and was granted out first as a benefice⁴⁸ and then, in 839, as an allod.⁴⁹ Just as with precarial leases, the verb *beneficiare* was used to describe the procedure by which royal lands were leased and meant the same, that is a lease of

⁴⁷ Hincmar of Reims, *De villa Noviliaco*, ed. by Hubert Mordek, in 'Ein exemplarischer Rechtsstreit: Hincmar von Reims und das Landgut Neuilly-Saint-Front', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung*, 114 (1997), 86–112.

⁴⁸ *Chartes de l'abbaye de Saint-Benoît-sur-Loire*, nos 10–12, 16, 17, pp. 25–29, 36–38.

⁴⁹ On Perrecy-les-Forges cf. Brigitte Kasten, 'Erbrechtliche Verfügungen des 8. und 9. Jahrhunderts: Zugleich ein Beitrag zur Organisation und zur Schriftlichkeit bei der Verwaltung adeliger Grundherrschaften am Beispiel des Grafen Heccard von Burgund', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung*, 107 (1990), 236–338 (pp. 318–20). For another similar case: *Recueil des actes de Charles II le Chauve, roi de France*, ed. by Georges Tessier, *Chartes et diplômes relatifs à l'histoire de France*, 8–10, 3 vols (Paris: Imprimerie nationale, 1943–55), II (1952), no. 427 (7 May 877), pp. 454–55.

property with usufruct.⁵⁰ Nothing indicates that this meant that Heccard and his ancestors had become vassals of their royal cousins. If one were to assume this simply because the word *beneficiare* was used, one would also have to believe that Carolingian kings became vassals of the monasteries from which they leased benefices. In 844 the ruler of St Emmeram's *beneficiavit* Louis the German when he transferred land to him *per beneficium*.⁵¹ Yet no one would on this account assume that the King became a vassal of St Emmeram. In many cases therefore *beneficiare* should be translated not as 'enfeoff' (*belehnen*) but as 'lease' (*beleihen*). The distinction made in older historiography between a vassalic and a non-vassalic benefice depended not on differences in the legal status of the property but purely and simply on the status of the person who held it. It used to be assumed that if he were a vassal then it followed that the context was what historians considered a feudal one and the benefice therefore was a fief. But just as there were benefices until the eleventh and perhaps the twelfth century that were not vassalic, so also there were vassals who held benefices that were *precarie* not fiefs.⁵² Once again caution is called for before assuming that behind every benefice there lurks a fief.

The distinction between a vassalic and non-vassalic lease is not, however, merely a learned theoretical construct, for the word *beneficium* could refer to two different types of lease: the *precaria verbo regis*, on which tenths and ninths were to be paid, and the ordinary *precaria*, on which a very modest annual rent was paid. Immediately after Pippin became king in 751 the division of bishops' prop-

⁵⁰ *Chartes de l'abbaye de Saint-Benoît-sur-Loire*, p. 30, no. 13: 'illas res quae sunt in pago Augustidunense, in villa Balgiaco, quem Karolus Hildebranno beneficiaverat de villa Patriciaco'. Further similar examples are found in Languedoc.

⁵¹ See n. 45.

⁵² Camillus Wampach, *Geschichte der Grundherrschaft Echternach im Frühmittelalter*, I, pt II: *Quellenband* (Luxemburg: Luxemburger Kunstdruckerei, 1930), no. 111, p. 179; *Urkundenbuch zur Geschichte der jetzt die Preussischen Regierungsbezirke Coblenz und Trier bildenden Territorien*, ed. by Heinrich Beyer, 3 vols (Koblenz: Hölscher, 1860–74), I (1860), no. 158 (915–23), pp. 221–22: 'qualiter annuente domno Rotgero prestantissimo archiepiscopo [of Trier] Uolmarus uasallus illius quendam locum pro facienda municuicula iure precario acquisiuit [p. 221]. [...] ut utrumque videlicet datum et acceptum idem Uolmarus et coniunx eius Richildis et unus eorum filius quem ipsi ad hoc eligere uoluerint cunctis diebus uite illorum sub pretextu precario cum omni securitate habeant [p. 222]. [...] Ut autem huius precariae conditio firma et stabilis permaneat [...] [p. 222]'. *Cartulaire de Gorze*, no. 52 (26 March 849), pp. 92–94. In all cases the vassals had made a previous grant of land to the church concerned. Examples could be multiplied.

erty from that of counts was given the force of law,⁵³ and in consequence leases based on *precaria verbo regis* were duly given recognition in law in 779 under his successor.⁵⁴ When the requirement that a written record (*descriptio*) be made of the divisions of church property between bishop and count, of tenths and ninths, and of leases made at the king's command, proved to be unrealistic, then in their own interest churches and monasteries became all the more concerned to list benefices and *precarie* separately,⁵⁵ and to institute proceedings for the restitution of church property. From about the mid-ninth century, lease agreements use different formulas to distinguish benefices and *precarie*.⁵⁶ For greater security many monastic landlords had clauses inserted in the precarial contract stating that this *beneficium* was a lease *vinculum precarie*, and that should the *precator*⁵⁷ ever say that it was his own property, or wanted to alienate it somehow, then he would lose it.⁵⁸ Charles

⁵³ *Annales Alamannici*, in *Untersuchungen zur frühalemannischen Annalistik: Die Murbacher Annalen. Mit Edition*, ed. by Walter Lendi, Scriptorium Friburgense, 1 (Freiburg: Universitätsverlag, 1971), p. 152 (AD 751): 'res ecclesiarum descriptas atque divisas'.

⁵⁴ *Capitularia regum Francorum*, no. 20, Capitulare Haristallensis, chap. 13: 'et discretio inter precarias de verbo nostro factas et inter eas quae spontanea voluntate de ipsis rebus ecclesiarum faciunt'.

⁵⁵ Example for the monastery of Wissembourg (Bas-Rhin) in Alsace perhaps from the first third of the ninth century: *Capitularia regum Francorum*, I, no. 128 (Brevium Exempla ad describendas res ecclesiasticas et fiscales), chaps 10–15 on *precariae* and chaps 17–22 on *beneficia*, pp. 252–53, and Bobbio Abbey in the late tenth century: Mario Nobili, 'Vassalli su terra monastica fra re e "principi": Il caso di Bobbio (seconda metà del sec. X—inizi del sec. XI)', in *Structures féodales et féodalisme dans l'occident méditerranéen (X^e–XIII^e siècles): Bilan et perspectives de recherches*, Collection de l'École française de Rome, 44 (Rome: École française de Rome, 1980), pp. 299–309; Cinzio Violante, 'Bénéfices vassaliques et livelli dans le cours de l'évolution féodale', in *Histoire et société: Mélanges offerts à Georges Duby*, II: *Le Tenancier, le fidèle et le citoyen* (Aix-en-Provence: Publications de l'Université de Provence, 1992), pp. 123–34 (pp. 125–26); Feller, 'Éléments de la problématique du fief en Italie', in *Die Gegenwart des Feudalismus*, ed. by Fryde and others, pp. 153–74 (pp. 163–64).

⁵⁶ *Urkundenbuch zur Geschichte der jetzt die Preussischen Regierungsbezirke Coblenz und Trier bildenden Territorien*, I, no. 105 (866: *praestaria* of the monastery of Prüm for Hiedilda), p. 110: 'ut nullus prelatus licentiam habeat cuiquam ipsas res beneficiare uel commutare aut in prestariam tribuere'.

⁵⁷ The word *precator* or *precatrix* occurs, e.g., in the charters of St Vanne, Verdun, and Gorze, near Metz, and is therefore to be preferred to the term *Prekarist* which is commonly used by scholars today.

⁵⁸ Hermann Bloch, 'Die älteren Urkunden des Klosters S. Vanne zu Verdun', *Jahrbuch der Gesellschaft für lothringische Geschichte und Altertumskunde*, 10 (1898), no. 2 (1 July 771), pp.

the Bald was the last ruler, so far as is known, to make an attempt to have benefices recorded: counts were to record in registers the benefices of vassals and vassals those of counts, manse by manse, with the names of those who held them. This was clearly intended to function as a two-way check.⁵⁹

A specifically feudal law did not, however, develop out of the *precaria verbo regis* type of benefice. *Ius beneficiarium* or *ius beneficium* are terms found only, so far as I can see, in the ordinary precarial contracts before 1100. This law dealt with the irregular payment or non-payment of rents.⁶⁰ It was evidently in common use since some documents do no more than state that in the event of rent arrears the *precator* must do what the law (*lex*) requires or abide by the law (*cum lege*).⁶¹ The law protected the *precator* since he was not to be ejected at once because of arrears but must be given the possibility of paying them off.⁶² Here it

338–449 (p. 379): ‘et vos mihi pro beneficio vestro sancto Vitono habere promisistis; ideo et ego spondeo pro huius vinculo precarie, ut annis singulis in censu [...] faciam dare. [...] aut si ipsas res meum proprium esse dixero aut alienare voluero, potestas vestra sit successorumque vestrorum me exinde foras mittere et cum emelioratione res vestras recipere.’

⁵⁹ *Actes de Charles II le Chauve*, II, no. 318, p. 200.

⁶⁰ For now the best and most comprehensive account of precarial rent is Hummer, *Politics and Power*, pp. 76–129. My only reservation concerns his exaggerated emphasis on the initial effect of the so-called capitulary of Herstal (779).

⁶¹ *Urkunden des Klosters S. Vanne zu Verdun*, no. 2 (1 July 771), p. 379: ‘Quod si non fecero aut si de ipso censu negligens fuero, sicut lex est, de hoc faciam et ipsam res habeam’; *ibid.*, no. 7 (16 August 911–23), p. 387: ‘et si de ipso censu negligentes aut tardi ad reddendum apparuerimus, qualiter lex docet, emendare studebimus’.

⁶² In the Prüm document of 866, on p. 110: ‘quod si de hoc censu tarda aut negligens apparueris legis compositionem exinde facias ut ipsas res minime perdas’. *Traditiones Wizenburgenses: Die Urkunden des Klosters Weissenburg 661–864*, ed. by Karl Glöckner and Anton Doll (Darmstadt: Selbstverlag der Hessischen historischen Kommission Darmstadt, 1979), no. 255 (11 April 801), p. 495: ‘et si inde negligens aut tardus apparueris, de lege mea conpono et sic habeam[us] usque ad fine uite mee’. *Cartulaire de Gorze*, no. 63 (864?): ‘nam de ipso censu, si tardus aut negligens apparuerit, cum lege restituat et ipsam precariam non perdat’; *ibid.*, no. 69 (874 or 884), p. 127: ‘si vero de ipso censu tardi aut negligentes apparuerint, cum legis beneficio hoc restituant et ipsam precariam minime perdant’. For the date 884, cf. Paul Marichal, *Remarques chronologiques et topographiques sur le Cartulaire de Gorze*, Mettensia, 3 (Paris: Klincksieck, 1902), pp. 25–27. *Les Origines de l’abbaye de Bouxières-aux-Dames au diocèse de Toul: Reconstitution du chartrier et édition critique des chartes antérieures à 1200*, ed. by Robert-Henri Bautier, *Recueil des documents sur l’histoire de Lorraine*, 27 (Nancy: Société d’archéologie lorraine, 1987), no. 2 (19 September 923), p. 66: ‘et si de ipso censo tardi aut negligentes apparuerint, cum legis sanctione illud restituant, sed eorum precariam minime perdant’.

can appear as a *beneficium* in the sense of a legal favour.⁶³ This *lex* was called sometimes *precaria lex*,⁶⁴ *ius prestatium*,⁶⁵ *ius precarium*,⁶⁶ or *mos precarius*,⁶⁷ but in the eighth and ninth centuries the terms *ius beneficiarum* or *beneficii* predominate.⁶⁸ Very occasionally the dual form *ius precarii ac beneficii* occurs, probably intended to indicate the unambiguity of the legal position.⁶⁹ *Usus beneficii* is the same as *usus fructuarius*.⁷⁰ Arrangements agreed in case of arrears provide further references to the law of leases, as, for example, whether it was permitted to defer payment of rent for a year on condition of then paying double

⁶³ *Urkundenbuch zur Geschichte der jetzt die Preussischen Regierungsbezirke Coblenz und Trier bildenden Territorien*, I, no. 14 (762–804), p. 18: 'Et si de ipso censu negligentes aut tardi apparueritis cum legis beneficio hoc exsoluere faciatis.' Cf. nn. 62, 76.

⁶⁴ *Urkundenbuch zur Geschichte der jetzt die Preussischen Regierungsbezirke Coblenz und Trier bildenden Territorien*, I, no. 170 (929), p. 234: 'qualiter ego Megingaudus cum interuentu et auxilio amicorum meorum quoddam prædum [...] in precarium ius mihi [...] impetrare studui [...] Ea scilicet conditione ut eadem possessio mihi quamdiu uiuam uxori quoque meae Bilidrude et filio meo Godefrido usque ad obitum uitae eorum præcaria lege deseruiat.'

⁶⁵ *Dip. Lothar II.* ed. by Theodor Schieffer, MGH, DD Karol., 3 (Berlin: Weidmann, 1966), no. 26 (17 January 866), p. 428, ll. 5–6: 'ut iam fata Gerildis res, quas contulit, simul et illas, quas ex iure eiusdem monasterii præstario iure adepta est'.

⁶⁶ For *ius precarium*, cf. *Urkundenbuch zur Geschichte der jetzt die Preussischen Regierungsbezirke Coblenz und Trier bildenden Territorien*, no. 173 (936) and no. 174 (c. 938); *Origines de l'abbaye de Bouxières-aux-Dames*, no. 4 (923–31), p. 69: 'Postea uero fuit illorum petitio [...] ut de rebus [...] iure precario reddederimus.'

⁶⁷ *Origines de l'abbaye de Bouxières-aux-Dames*, no. 2 (19 September 923), p. 66: 'sub usu fructuario more precario [...] valeant habere'; no. 4 (923–31), p. 69.

⁶⁸ *Origines de l'abbaye de Bouxières-aux-Dames*, no. 1 (12 February 912), p. 64: *possideant jure siquidem beneficiario et usu fructuario* = *Recueil des actes de Charles III le Simple, roi de France*, ed. by Philippe Lauer, Chartes et diplômes relatifs à l'histoire de France, 2 vols (Paris: Imprimerie nationale, 1940), I, no. 71, p. 161, ll. 6 f.; no. 2 (19 September 923), p. 66: 'ei beneficii jure donaremus'. Wandalbert von Prüm, *Commemoratio*, p. 372.

⁶⁹ *Gesta sanctorum patrum Fontanellensis coenobii*, ed. by F. Lohier and R. P. J. Laporte (Rouen: Lestringant, 1936), pp. 93–94: 'domnus Ansighis [Abbot of Saint-Wandrille] Flauiacum coenobium quo sanctus Geremarus corpore requiescit, quod est situm in pago Belloacensi [Saint-Germer-de-Fly (Oise)], a domno rege Karolo in precarium accepit, anno uidelicet incarnationis Domini Christi DCCCXVII [p. 93] [...] Praeterea dum praedictum Flauiacum iure precarii ac beneficii teneret [...] [p. 94]'.

⁷⁰ *Regesta Alsatie*, no. 125 (Murbach, 24 July 735), p. 65: 'Ut michi in usum beneficii rem ecclesie vestre [...] concedere deberetis. [...] In ea ratione, ut [...] ad usum fructuarium ordine tenere debeam'.

the amount,⁷¹ or whether the arrears could be paid later in the same year;⁷² or whether a penalty might be demanded after forty nights⁷³ or whether the confiscation of the *precaria* was threatened if the agreed rent was not paid within forty days;⁷⁴ or whether, on the contrary, it was stipulated that non-payment of rent did not incur the loss of the property;⁷⁵ or whether the making of a pledge (*fidem facere*) was required.⁷⁶

In no case therefore did receiving landed property *iure beneficii* (et *usufructuario*) mean holding it under feudal law; rather it meant leasing it in return for rent.⁷⁷ There is certainly no way that the *ius beneficiarum* or *ius beneficii* of the Carolingian documents leads to feudal law. On the contrary, under pressure from the church, Carolingian legislation attempted to bring all benefices on which tenths and ninths were owed under the law of leases. The holders of benefices were forbidden in the capitularies to diminish the property by alienation or neglect.⁷⁸ These formulas picked up one of the clauses of precarial contracts that had always forbidden precarial tenants from diminishing or damaging the property but rather expected them to improve or increase it. Thus, taking just two examples out of many, it says in a charter of Weissenburg Abbey in Alsace 'licenciam uero non habeat ex rebus suprascriptis aliquid alienare aut uendere, sed potius meliorare et emendare',⁷⁹ and in one of Gorze in Lotharingia, 'et nichil

⁷¹ *Regesta Alsatie*, no. 307 (Murbach, 1 March 784), p. 191; still clearer in no. 404 (804–05), p. 254.

⁷² *Regesta Alsatie*, no. 346 (789–91), p. 220.

⁷³ *Regesta Alsatie*, no. 339 (789–90), p. 216.

⁷⁴ *Regesta Alsatie*, no. 125 (24 July 735), p. 65.

⁷⁵ *Cartulaire de Gorze*, no. 52 (26 March 849), p. 93.

⁷⁶ *Cartulaire de Gorze*, no. 30 (791), p. 61: 'et si de ipso censu tardus aut negligens apparuerio ad reddendum, cum legis beneficium est, fidem exinde facio'. For the date, cf. Marichal, *Remarques chronologiques*, p. 24. *Traditiones Wizenburgenses*, no. 264 (12 July 765), p. 507: 'Et si de ipso cinso negli[g]ens aut tardus aparuerio, cum fide facta ipso ci[n]so restituum.'

⁷⁷ *Actes de Charles II le Chauve*, no. 427 (7 May 877), p. 455, ll. 25 f.

⁷⁸ *Capitularia regum Francorum*, I, no. 35, chap. 49, p. 104: 'Ut beneficia domni imperatoris et ecclesiarum considerentur, ne forte aliquis alodem suum restaurans beneficia destruat'; no. 77, chap. 4, p. 171: 'Ut hi qui beneficium nostrum habent bene illud in meliorare in omni re studeant.'

⁷⁹ *Traditiones Wizenburgenses*, no. 151 (23 January 840), p. 354. On improvements, cf. Brigitte Kasten, 'Agrarische Innovationen durch Prekarien?', in *Tätigkeitsfelder und Erfahrungshorizonte des ländlichen Menschen in der frühmittelalterlichen Grundherrschaft (bis ca. 1000): Festschrift für Dieter Hägermann zum 65. Geburtstag*, ed. by Brigitte Kasten, Viertel-jahrschrift für Sozial- und Wirtschaftsgeschichte, Beihefte, 184 (Stuttgart: Steiner, 2006), pp. 139–54.

exinde habeant pontificium minuendi, nisi quicquid addere vel augmentare vel emeliorare potuerint'.⁸⁰ Formulas like this are found in collections as early as the mid-eighth century.⁸¹

To conclude: the *ius beneficii* of the early Middle Ages was a law of leases that regulated non-payment of rent and there can not have been any direct connection from it to feudal law. In the tenth century there began, though only gradually, a development that continued into the eleventh and probably also the twelfth century: the terminology of precarial contracts moved further away from the concept of *beneficium* so that in the future it became easier to avoid confusion with that form of lease, also known as a benefice, but was regarded as a favour from the king or other lord, and on which in the Carolingian period if the land came from the church, tenths and ninths were owed.⁸² The fact that from the tenth century onwards documents recording precarial leases speak more often of *ius precarium* than of *ius beneficii* fits in with this trend. This also helped to distinguish the different kinds of beneficial leases.

From this provisional conclusion relating to benefices follows another relating to feudalism considered in its property aspect: that scholars can make do without the concept of feudalism until c.1100 or even later, with the exception only of those cases when word *feudum* (and its variants) is expressly used in the sources. When *beneficium* is used, moreover, one must always consider whether what is meant is one of the two forms of precarial lease, the ordinary *precaria* or the

⁸⁰ *Cartulaire de Gorze*, no. 69 (874 or 884), pp. 126–27.

⁸¹ *Formulae merovingici*: Markulfi Formularum, p. 78 (II. 5): 'ea scilicet ratione, ut nihil exinde paenetus de qualibet rem alienandi aut minuandi ponteficium non habeamus'; *Formulae Turonenses*, no. 7, p. 139: 'Et si fuerit aut ego ipse aut ullus de heredibus meis vel quislibet persona, qui contra hanc praecariam aliquam calumniam vel repetitionem aut contemptum generare presumpserit, illud quod repetit non vindicet, et insuper contra cui litem intulerit solidos 100 componat'; *Formulae Senonenses*, no. 15, p. 191: 'ut ipsas res nec vendere nec donare nec commutare nec per nullis modis nullisque ingenies de ipsa casa Dei abstrahere nec minuare pontificium non habeam'; no. 32, p. 199: 'et aliubi ipsas res alienare pontificium non habeam, et post meum quoque discessum cum rem inmeliorata ad ipso monasterio [...] faciant revocare potestatem'. In a ninth-century formulary, the *Formulae Salicae Merkelianae*, probably a product of the time of Louis the Pious, no. 7, p. 243, reads: 'et aliubi nec vendere nec condonare nec alienare nec calumniare nec in naufragium ponere nullum exinde habeam potestatem faciendi, nisi quod legitimus usus pertinet. Et post nostrum quoque discessum cum rem emeliorata vel superposita [...] in vestra valeatis recipere potestatem vel dominationem.'

⁸² Kasten, *Beneficium*, pp. 257–58.

precaria verbo regis, or some other type of lease such as a heritable lease or a prebend.

High Officials as Vassals

Whether counts were vassals and counties were fiefs is one of the central questions in the discussion about feudalism as a formative element of lordship as early as the Carolingians. Conjectures about this were correspondingly frequent even before the reinvigorated debates since 1990. They cannot all be summarized here, since from the very start, that is to say in nineteenth-century historiography, it was observed that Carolingian counts were always referred to as *fideles*, never as vassals. Opinions have differed widely, however, as to how this finding should be interpreted. Susan Reynolds⁸³ was in my view entirely right, like Charles Odegaard before her,⁸⁴ to refuse to consider counts as vassals merely because they had benefices and were called *fideles*. On the other hand, the title to high office could have eclipsed the lower status of vassalage. That is what François Louis Ganshof meant when he said that '*fidelis* was the name of the genus of which *vassus* was simply a species',⁸⁵ and that holders of higher office could be vassals and were indeed described as such. His evidence for the second statement was that one count appointed a deputy to carry out his judicial functions in his county. This man would have been the count's vassal. In the Carolingian period, however, viscounts were still far from having high social status and it is, moreover, not proved that this viscount was actually the count's vassal.⁸⁶

⁸³ Reynolds, *Fief and Vassals*, pp. 111–12.

⁸⁴ Charles E. Odegaard, *Vassi and Fideles in the Carolingian Empire* (New York: Hippocrene Books, 1972). Cf. Walther Kienast, *Die fränkische Vasallität: Von den Hausmeiern bis zu Ludwig dem Kind und Karl dem Einfältigen*, ed. by Peter Herde, Frankfurter Wissenschaftliche Beiträge, Kulturwissenschaftliche Reihe, 18 (Frankfurt am Main: Klostermann, 1990), p. 126.

⁸⁵ François L. Ganshof, *Feudalism*, trans. by Philip Grierson, 3rd English edn (London: Longman, 1964), p. 52; Kienast, *Die fränkische Vasallität*, p. 127, follows Ganshof.

⁸⁶ *Epistolae Karolini aevi*, III, ed. by Ernst Dümmler, MGH, Epistolae, 5 (Berlin: Weidmann, 1898), pp. 201–03 (Bishop Agobard of Lyon, letter no. 10 to Count Matfried of Orleans, c. 818–28), with no reference to *vassus*; Ganshof deduced the vassalage of the count's deputy merely from Agobard's reference to the count as his *senior*: 'hęc a me dici non posse adversum comitem nostrum Bertmundum, quippe qui bene satis habeat ordinatum de iusticiis comitatum suum, eo quod talem virum pro se constituerit ad hęc peragenda, qui non solum propter amorem et timorem senioris sui id strenue gerat verum etiam, quod sublimius et laudabilius est, propter amorem Dei et amorem ipsius equitatis et iustitiae.'

A comparable phenomenon concerning high ecclesiastical dignitaries that has also been cited as evidence for high office as vassalage will be mentioned here only in passing. The holder of high ecclesiastical office could, before he took up that office, be made a *homo regis* through commendation and the appropriate ritual,⁸⁷ after taking up that office, however, he was never again referred to as *homo regis*, let alone as a vassal. The two supposed references to abbots as vassals — namely Abbot Adalhard of Corbie as a vassal of Charlemagne⁸⁸ and Abbot Salaman of Pfäfers (Switzerland) as a vassal of King Louis II⁸⁹ — do not need to be considered since both come from dubious sources.

Nor need the case of Harald of Denmark, who received a *beneficium* from the Emperor Louis the Pious, be considered, since he was mentioned as a subordinate king who owed *servitium* to Louis only in a poem by Ermold. Although this indicates that Ermold could conceive of a king undergoing a ritual of subordination, Harald did not become a vassal. The number of examples of high dignitaries who were royal vassals is thus reduced to one, Duke Tassilo of Bavaria. In 787 Tassilo was forced into becoming Charlemagne's vassal — the alternative being execution — because he had been persuaded neither by kinship nor by an oath of fidelity to recognize Charlemagne's lordship over him but had instead carried on politics like a king. Charlemagne, however, claimed Bavaria as part of

⁸⁷ *Vita sancti Rimberti*, ed. by Georg Heinrich Pertz, MGH, SS, 2 (Hannover: Hahn, 1829), chap. 21, p. 774. Kienast, *Die fränkische Vasallität*, p. 571, took this as evidence of the vassalage of bishops. He did not, however, look more closely at the report which stated that Rimbart more or less designated his successor, presented him to the king at court, and that the king took the successor into his circle of advisers after making him a *homo regis*. This then is an account of the appointment of a counsellor which can also be read as the king's agreement to the episcopal succession planned by Rimbart.

⁸⁸ *I Placiti del 'Regnum Italiae'*, ed. by Cesare Manaresi, Fonti per la storia d'Italia, 92 (Rome: Tip. del Senato, 1955), no. 25, pp. 77–79 (March 812): 'vassus domni Caroli imperatoris'. This is most probably a slip by the scribe, since otherwise the document describes the abbot correctly throughout as *missus dominicus*.

⁸⁹ *Dip. Ludwig II.*, ed. by Konrad Wanner, MGH, DD Karol., 4 (Munich: Monumenta Germaniae Historica, 1994), no. 36 (6 March 861 or 862?), pp. 139–42. The Abbot's name is over an erasure 'mannus dilectus vassus noster'. It could be that the original name of a lay recipient was erased in favour of that of Abbot Salaman, or that Abbot Salaman was a layman and as such a vassal of the king. With Herbert Zielinski, *Die Regesten des Kaiserreichs unter den Karolingern 751–918/962*, III, pt I: *Die Regesten des Regnum Italiae und der burgundischen Regna* (Cologne: Böhlau, 1991), no. 200, p. 85, I prefer the first solution. It is also doubtful that Pfäfers Abbey was the actual recipient of the charter. It could have been Massino am Langensee, as Wanner suggests.

the kingdom of the Franks.⁹⁰ It was as the result of a conquest achieved by military superiority that Tassilo surrendered his rule over what he understood as an independent *regnum* and received it back from the king's hand *in vassaticum*. The ritual, whether of handing a staff to the king (Annales Nazariani) or of delivering himself into the king's hands (*tradens se manibus in manibus*: Annales Regni Francorum), was a humiliation⁹¹ that formed the preliminary to Tassilo's deposition and entry into a monastery the following year.⁹² The final step was his renunciation, once again pronounced in public, on behalf of himself and his family, of any rights in property.⁹³ All he had left were two estates as benefices,⁹⁴ presumably to cover his living expenses in the monastery.

The picture of relations between Tassilo and the Carolingian kings is so much coloured by being told from the victor's point of view that the case cannot be used as conclusive evidence that holders of high political office were vassals. It testifies,

⁹⁰ *Dip. Karl der Grosse*, MGH, DD Karol. 1, no. 162 (789), p. 219: 'Igitur quia ducatus Baioarie ex regno nostro Francorum aliquibus temporibus infideliter per malignos homines Odilonem et Tassilonem propinquum nostrum, a nobis subtractus et alienatus fuit, quem nunc moderatore iusticiarum deo nostro adiuvante ad propriam revocavimus dicionem.'

⁹¹ Grifo, half-brother of the mayor of the palace Pippin III, rejected as degrading a subordinate lordship of this kind in 748. This was the benefice of Le Mans with twelve counties, comparable to a duchy. For the sources, Jean-Pierre Brunterc'h, 'Le Duché du Maine et la marche de Bretagne', in *La Neustrie: Les pays au nord de la Loire de 650 à 850*, ed. by Hartmut Atsma, Beihefte der Francia, 16.1 (Sigmaringen: Thorbecke, 1989), pp. 29–127 (at pp. 42–43 with n. 75); Sören Kaschke, *Die karolingischen Reichsteilungen bis 831: Herrschaftspraxis und Normvorstellungen in zeitgenössischer Sicht*, Schriften zur Mediävistik, 7 (Hamburg: Kovac, 2006), pp. 184–90. The representations and formulations of the falls of Grifo and Tassilo were composed by Carolingian historians at about the same time and can be regarded as conceptions of lordship held in court circles about 790.

⁹² Matthias Becher, *Eid und Herrschaft: Untersuchungen zum Herrscherethos Karls des Grossen*, Vorträge und Forschungen, Sonderband, 39 (Sigmaringen: Thorbecke, 1993), pp. 61–77, gives a comprehensive account and analysis of sources. The objections of Philippe Depreux, 'Tassilon III et le roi des Francs: Examen d'une vassalité controversée', *Revue Historique*, 593 (1995), 23–73, are not convincing.

⁹³ *Concilia aevi Karolini*, 1, ed. by Albert Werminghoff, MGH, Leges, 3 (Hannover: Hahn, 1906), pp. 165–66: Council of Frankfurt 794, chap. 3; facsimile in 794, *Karl der Große in Frankfurt am Main: Ein König bei der Arbeit. Ausstellung zum 1200-Jahre-Jubiläum der Stadt Frankfurt am Main* (Sigmaringen: Thorbecke, 1994), pp. 10–11.

⁹⁴ *Capitularia regum Francorum*, no. 45 (divisio regnorum, 6 February 806), chap. 2, p. 127: 'et Baiovariam, sicut Tassilo tenuit, excepto duabus villis quarum nomina sunt Ingoldestat et Lutrahahof, quas nos quondam Tassiloni beneficiavimus et pertinent ad pagum qui dicitur Nortgowe'.

however, to political opinion in circles near to the court around 790, which held that dukes could be made into vassals and duchies bestowed as benefices. This does not, however, need to have been a generally accepted conception of lordship. Heinrich Mitteis nevertheless developed the theory that investiture with an office in and of itself constituted enfeoffment with the right to exercise governmental functions, even though, on his interpretation, it was not until the end of the Carolingian period that office holders were at the same time vassals of the king.⁹⁵ Ganshof's argument that most office-holders were vassals from the time of Charlemagne, which was based on the belief that Tassilo had been King Pippin's vassal since 757, is now entirely abandoned.⁹⁶

The political conception of the tenure of office and of the vassalage of office-holders in the 830s is revealed in a story told by Paschasius Radbertus of Corbie, i.e. more than five decades (perhaps 845–50) after the story of Tassilo was told. When, during the great crisis of his reign, Louis the Pious confronted his sons in 833 at the 'Field of Lies' near Colmar, he demanded obedience and fidelity from them, because they were his sons, had sworn fidelity to him, and were his vassals.⁹⁷ Paschasius Radbertus, like his revered patron Wala, was on Lothar's side. Consequently his account implicitly explains why Lothar captured his father Louis at Colmar and seized power from him. If Louis the Pious really demanded vassalic conduct from his sons, then in the eyes of his enemies he was demeaning them. What is signalled here is that Louis had been guilty of a serious *faux pas*, a last outrageous provocation in a whole series of mistaken decisions and humiliations inflicted on his sons. Paschasius was seeking understanding for the actions of the rebels. This is not evidence that Louis's sons, provided as they were

⁹⁵ Heinrich Mitteis, *Lehnrecht und Staatsgewalt: Untersuchungen zur mittelalterlichen Verfassungsgeschichte* (Weimar: Böhlau, 1933), pp. 198–200. For Mitteis's argument it was unimportant whether counts were named in the sources as vassals or not. In current scholarship the connection between the grant of office and vassalage is not assumed before the twelfth century: cf. Gerhard Dilcher, 'Die Entwicklung des Lehnswesens in Deutschland zwischen Saliern und Staufern', in *Il feudalesimo nell'alto medioevo*, Settimane di studio del Centro Italiano di studi sull'alto medioevo, 47 (Spoleto: Sede del Centro, 2000), pp. 263–303 (pp. 277–78).

⁹⁶ Ganshof, *Feudalism*, pp. 39–40; Ganshof, 'Charlemagne et les institutions de la monarchie franque', in *Karl der Grosse: Lebenswerk und Nachleben*, 1: *Persönlichkeit und Geschichte*, ed. by Helmut Beumann (Düsseldorf: Schwann, 1965), pp. 349–93 (pp. 388–90).

⁹⁷ Paschasius Radbertus, *Epitaphium Arsenii*, ed. by Ernst Dümmler, *Abhandlungen der königlichen Akademie der Wissenschaften zu Berlin 1899–1900* (Berlin: Königl. Akademie der Wissenschaften, 1899–1900), pp. 1–99 (pp. 85–86).

with *regna*, were vassals.⁹⁸ On the contrary, as late as 845–50 the obedience demanded of a vassal still counted as a lower kind of loyalty, higher indeed than that of an unfree servant, who served out of fear of punishment, but much lower than that of a son, which was based on love, and not on having sworn an oath like a vassal.⁹⁹ This voluntary and unconditional filial obedience, destroyed by Louis's relations with his sons after 829, could not be restored by repeated oaths of obligation sworn by the sons.

A story told by Notker the Stammerer shortly before 900, that has also been used as evidence for the vassalage of kings' sons, points in an entirely different direction. In the presence of the court Charlemagne honoured his still very young grandson, Louis the German, with a kiss. Louis then thought he was equal with his father, Louis the Pious, King of Aquitaine, in his relation to the emperor. He went to stand beside his father and, when his father asked him why he did so, he said: 'As long as I was your vassal, my place, as was fitting, was behind you with my fellows; but now I am your fellow and colleague so I rightly claim equality with you.'¹⁰⁰ This episode too is not reliable evidence that kings' sons were vassals. In the first place, it describes as a vassal a ruler's son who had not yet been given authority but still lived at his father's court; in the second it is a story set in the context of court life. It shows how status and rank were defined at court by closeness to the ruler, and says nothing about dependency in relations connected with the government of the kingdom. In the third place Notker uses the word *vassal* in other places too as a general word for the king's followers and not as a technical term for a vassal in the feudal sense.¹⁰¹ Notker's anecdote proves only that in court society *c.* 900 being made a direct vassal of the king was regarded as an elevation of rank and that entry into vassalage could be made by a kiss, without commendation or its accompanying ritual.

⁹⁸ For detailed argument, cf. Brigitte Kasten, *Königssöhne und Königsherrschaft: Untersuchungen zur Teilhabe am Reich in der Merowinger- und Karolingerzeit*, MGH, Schriften, 44 (Hannover: Hahn, 1997), pp. 201–03, 230, 232–38.

⁹⁹ Kasten, *Königssöhne und Königsherrschaft*, pp. 233–34 with n. 136.

¹⁰⁰ Notker the Stammerer, *Gesta Karoli Magni imperatoris II*, ed. by Hans F. Haefele, MGH, SRG, n.s., 12 (Berlin: Weidmann, 1959), chap. 10, p. 66: 'Quando', inquit, vester eram vasallus, post vos, ut oportuit inter commilitones meos steteram. Nunc autem vester socius et commilito non inmerito me vobis coequo'.

¹⁰¹ On the third argument, cf. Hans-Werner Goetz, *Strukturen der spätkarolingischen Epoche im Spiegel der Vorstellungen eines zeitgenössischen Mönches: Eine Interpretation der 'Gesta Karoli' Notkers von Sankt Gallen* (Berlin: Habelt, 1981), pp. 31, n. 92, 74.

A last item in the list of supposed instances does not support the case for counts as vassals either. In 837 the Emperor Louis the Pious made his youngest son, Charles the Bald, king of an area between the Seine and Frisia, the *optima pars regni Francorum*, and in 838 added to it Neustria between the Seine and Loire. The Annals of Saint-Bertin for 837 says that 'bishops, abbots, counts and royal vassals who had benefices in these territories commended themselves to Charles and confirmed their fidelity with an oath'.¹⁰² Here four groups of persons, who have in common only their direct relation to the king, are distinguished from each other in the same official language as in capitularies and diplomas. It bound bishops, abbots, and counts to bear office in the newly formed kingdom. The royal vassals were only mentioned because they had benefices in the same area. The counts may also have had benefices there to assist them in the exercise of their official duties, but that was irrelevant in this connection. They swore allegiance (*fidem sacramento firmaverunt*) to the new king as holders of office in his kingdom, not because they had land there as benefices, as property attached to their office. The fact that Nithard described those who did homage but did not hold office as count, abbot, or bishop, simply as inhabitants (*inhabitantes*) of the territory, fits in with this interpretation.¹⁰³ The oath of allegiance sworn in 837 does not mean that any of the office-holders became vassals of the thirteen- or fourteen-year-old King Charles.

François Louis Ganshof, like Heinrich Mitteis, thought that when a man took up office an enfeoffment with public rights took place. Unlike Mitteis, however, he thought a formal and legal act, commendation, and the clasp of hands ('*immixtio manuum*'), was necessary for an office-holder to become a vassal of the king. He took the report in the Annals of Saint-Bertin as good evidence that counts were usually vassals at that time.¹⁰⁴ There are other reasons too why the source does not support this reading, since Mathias Becher has shown that commendation and ritual hand-clasp — like the oath of fidelity — were forms of homage to rulers that went back to Antiquity and could have survived from then at least to the end of the tenth century. Vassalic rituals, because of the formal

¹⁰² *Annales de Saint-Bertin*, ed. by Félix Grat and others (Paris: Klincksieck, 1964), pp. 22–23 (837): 'Sicque iubente imperatore in sui praesentia episcopi, abbates, comites et vassalli dominici in memoratis locis beneficia habentes Karolo se commendauerunt et fidelitatem sacramento firmaverunt.'

¹⁰³ Nithard, *Historiarum libri IIII*, ed. by Ernst Müller, MGH, SRG, 44 (Hannover: Hahn, 1907), pp. 8–9 (I. 6).

¹⁰⁴ Ganshof, 'L'origine', pp. 46, 60; Ganshof, *Feudalism*, pp. 25–26.

similarity of their gestures to those of surrenders into serfdom, led to an ambiguity in the act of homage. Homage to a ruler without vassalage is, however, unmistakably done, and in the case of Tassilo of Bavaria the inclusion of commendation and hand-clasping in the act of submission virtually rules out a vassalic meaning.¹⁰⁵ In the report of Tassilo's recognition of King Pippin's overlordship in 757 in the *Annales regni Francorum*, vassalage serves merely as an analogy (*sicut vassus*) for the obsequiousness that was desired of him. So too the account of Tassilo's submission in 787, composed with some thirty years of hindsight, could have used the feudal connection merely as an aid to visualize what at the time was not an act of homage but one of total surrender.

It should be remembered that the most common form of commendation in the Frankish kingdom was that made by a third party and had nothing to do with vassalage. In this a noble handed his son over to someone of his own standing who would then undertake the duty of educating the boy and would give him the prospect of a suitable position in the future. A secular noble, for instance, would be pleased to send his sons, along with their tutors, to complete his upbringing and education at the king's court. The boys would be commended to the king or to an influential man at court for a limited period and could then be passed on in the same way from one household to another. This, however, happened only to the most distinguished nobles. From the letters of Charlemagne's biographer, Einhard, we learn that going to the court involved big economic risks for ambitious young men.¹⁰⁶ It was not easy to find someone who would undertake the cost of their keep and the duties of care and education in return for their service. Fidelity and obedience were obviously required from the boy and so was the duty to address the lord he served respectfully as *senior*.¹⁰⁷ There was virtually

¹⁰⁵ Matthias Becher, 'Die *subiectio principum*: Zum Charakter der Huldigung im Franken- und Ostfrankenreich bis zum Beginn des 11. Jahrhunderts', in *Staat im frühen Mittelalter*, ed. by Stuart Airlie, Walter Pohl, and Helmut Reimitz, Österreichische Akademie der Wissenschaften, philos.-histor. Klasse, Denkschriften 334 = *Forschungen zur Geschichte des Mittelalters*, 11 (Vienna: Österreichischen Akademie der Wissenschaften, 2006), pp. 163–78 (pp. 170–71).

¹⁰⁶ Einhard, *Briefe*, ed. by Karl Hampe, MGH, Epp., 5 (Berlin: Weidmann, 1898–99), no. 10, p. 114.

¹⁰⁷ Dhuoda, *Manuel pour mon fils*, ed. by Pierre Riché, trans. by Bernard de Vregille and Claude Mondésert, Sources Chrétiennes, 225 (Paris: Cerf, 1975), pp. 166, 168 (III. 8). Dhuoda as wife addressed her husband as *senior* and her son William did the same to his father, so the word does not always have vassalic implications. Karl Friedrich Krieger, 'Lehnswesen', *Reallexikon der Germanischen Altertumskunde*, 18 (2001), 218–25 (p. 219), believes that William was a vassal of Charles the Bald because he addressed him as *senior* (translated as 'Lehnsherr') and was to serve him with great fidelity. This interpretation is in my view unconvincing.

an appeal made to the great men at court to accept boys into their service.¹⁰⁸ In this way the court would be supplied with talented people, even non-nobles, who for their part hoped to obtain benefices for life.¹⁰⁹

It is occasionally said in modern works that young men regularly became vassals of the lords who had educated them.¹¹⁰ The one piece of certain evidence that this actually happened comes from the second half of the ninth century and concerns an exceptional case from the highest ranks of society. When Waltbert, a grandson of Widukind, the leader of the Saxon revolt, was commended by his father to the Emperor Lothar I, Lothar took him into the company of the courtiers and made him his vassal.¹¹¹ A distinction was made here: Waltbert became both *fidelis* and *vasallus*. A *fidelis* was therefore not as such a vassal. In the eyes of the writer, Meginhard, author of the *Translatio sancti Alexandri*, the admission of the young noble as a direct vassal of the Emperor constituted an exceptional honour. Waltbert was receiving an honour comparable perhaps to that in Notker's story about the young Louis the German. In return Lothar I may have expected to gain the support of this respected high-status family in the kingdom of his brother, Louis the German. In Meginhard's account too the exclusively courtly setting of vassallic commendation is striking. But it evidently did not create a lifelong bond, for Waltbert returned to Louis the German's kingdom in 851 and later became a count there.

That this sort of commendation by a third party was usually unconnected with vassalage is clear from its use in the ecclesiastical sphere. Bishops or abbots

¹⁰⁸ Hincmar of Reims, *De ordine palatii*, ed. by Thomas Gross and Rudolf Schieffer, MGH, *Fontes iuris*, 3 (Hannover: Hahnsche Buchhandlung, 1980), chap. v, pp. 80–82, ll. 451–58.

¹⁰⁹ Einhard, *Briefe*, no. 18, p. 119 (concerning an artist); no. 39, p. 129; no. 6, p. 112; no. 19, p. 120.

¹¹⁰ Most recently by Franz Staab, 'Knabenvasallität in der Familie Karls des Großen', in *Karl der Große und das Erbe der Kulturen*, ed. by Franz-Reiner Erkens, Akten des 8. Symposions des Mediävistenverbandes, Leipzig, 15–18 March 1999 (Berlin: Akademie der Wissenschaften, 2001), pp. 67–85, particularly apropos of young Tassilo of Bavaria, Dhuoda's son William, and the young Louis the German. Similar arguments had earlier been refuted by Detlef Illmer, 'Zum Problem der Emanzipationsgewohnheiten im merowingischen Frankenreich', in *L'Enfant, II: Europe médiévale et moderne*, Recueils de la Société Jean Bodin pour l'histoire comparative des institutions, 36 (Brussels: Librairie Encyclopédique, 1976), pp. 127–68 (pp. 142–43).

¹¹¹ *Translatio sancti Alexandri*, ed. by Bruno Krusch, in 'Die Übertragung des H. Alexander von Rom nach Wildeshausen durch den Enkel Widukinds 851: Das älteste niedersächsische Geschichtsdenkmal', in *Nachrichten der Gesellschaft der Wissenschaften zu Göttingen, phil.-hist. Klasse* (Berlin: Vandenhoeck & Ruprecht, 1933), pp. 405–36 (chap. 4, p. 427).

commended their nephews to other ecclesiastics for education.¹¹² It was as a rule no more than the medieval way of concluding arrangements for education, finding a mentor, and climbing the career ladder.

As is well known, vassals are to be found in higher and very responsible positions in Carolingian and post-Carolingian courts. They were counsellors like, for example, Haimo/Immo at the Emperor Lothar I's court in Italy, Suppo under the Emperor Louis II, Odelrich under Berengar I, and Gisibert under King Rudolf I of Upper Burgundy.¹¹³ They took up high office at court, as did, for example, Eberhard, *vassus et senescallus* of the Emperor Louis II of Italy in 865 and his *praepositus mensae* in 869–70. Suppo, mentioned above, served Louis during the same period as *primus concofanariorum* und *archiminister*. After he became marquis of Camerino and/or Spoleto in 871, there are no more references to his former — or even still continuing — vassalage. The same applies to Odelrich after his appointment as marquis in 915, to Gisibert after he became Count of Bergamo in 922–23,¹¹⁴ and to Gisibert's son Lanfranc.¹¹⁵ Gunter, son of Autcher, is mentioned in 912 and 913 as a vassal of King Berengar I, in 920 and 921 as a count, but in 931 again as a vassal, this time of Kings Hugh and Lothar of Italy. While he exercised the office of count, he was not described as a vassal but as 'fidelis et eximius consiliarius'. Only after the loss of the office did he act again as vassal.¹¹⁶ Then there is the suggestion, already discussed elsewhere, that counts'

¹¹² *Epistolae Karolini aevi*, 2 (2nd edn, 1974), pp. 253–54 (Alcuin, letter no. 156 to Archbishop Arn of Salzburg, September 798).

¹¹³ Hagen Keller, 'Zur Struktur der Königsherrschaft im karolingischen und nach-karolingischen Italien', *Quellen und Forschungen aus italienischen Archiven und Bibliotheken*, 47 (1967), 213 (Haimo), 141–43 (Suppo), 216–17 (Odelrich), 210–11 (Gisibert). Odegaard, *Vassi and Fideles in the Carolingian Empire*, pp. 40–42, gives further examples. Cf. also E. Hlawitschka, *Franken, Alemannen, Bayern und Burgunder in Oberitalien, 774–962*, *Forschungen zur oberrheinischen Landesgeschichte*, 8 (Freiburg im Breisgau: Albert, 1960), pp. 99, 154–56, 197–98, 271–73, with further examples.

¹¹⁴ On Gisibert cf. also Jörg Jarnut, *Bergamo 568–1098: Verfassungs-, Sozial- und Wirtschaftsgeschichte einer lombardischen Stadt im Mittelalter*, *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*, Beihefte, 67 (Wiesbaden: Steiner, 1979), p. 852; François Menant, 'Les Gisibertins, comtes du comté de Bergame et comtes palatins', in *Formazione e strutture dei ceti dominanti nel medioevo: Marchesi, conti et visconti nel Regno Italico (secc. X–XII)*, *Atti del primo convegno di Pisa 1983*, 1, *Nuovi studi storici*, 1 (Rome: Istituto storico Italiano per il Medio Evo, 1988), pp. 115–86 (pp. 124–26).

¹¹⁵ Jarnut, *Bergamo 568–1098*, p. 257.

¹¹⁶ Hlawitschka, *Franken*, pp. 193–94; Keller, 'Zur Struktur der Königsherrschaft', p. 212.

sons were vassals. If one of them succeeded his father or became a count elsewhere, he was no longer assigned to the class of vassals, while a count's brother who had no office remained a vassal.¹¹⁷

Heinrich Brunner concluded from the fact that the king filled high offices with men who had been his vassals well before they received office that not only did the properties attached to their office count as benefices but that governmental offices themselves also took on the character of benefices. Hence the word *honor*, that originally denoted the dignity of an office, was increasingly applied to benefices of large size and high status.¹¹⁸ In the light of the findings above it is indeed possible that counts and other holders of high office were vassals, as there is no reason why the vassalic bond should have been extinguished after the assumption of the office. The first proof of this is, however, not found until the Ottonian period.¹¹⁹ Until then it was the holding of office that distinguished the status groups of counts and vassals from each other.

It is consequently not possible, in my opinion, to deduce from this that the grant of office developed into enfeoffment with office. Counties and bishoprics, as offices in the government of the Frankish kingdom, remained in the Carolingian period untouched by feudalism. The corresponding distinction was made c. 900 in a story told by Notker the Stammerer. When Charlemagne was asked once why he never gave his counts more than one county, he replied: 'With this estate or that, with this little abbey or that church, I can secure the fidelity of a vassal, make him as good a man as any count or bishop, and perhaps a better.'¹²⁰

¹¹⁷ Brigitte Kasten, 'Aspekte des Lehnswesens in Einhards Briefen', in *Einhard: Studien zu Leben und Werk*, ed. by Hermann Scheffers, Arbeiten der Hessischen Historischen Kommission, n.s., 12 (Darmstadt: Hessische Historische Kommission Darmstadt, 1997), pp. 247–67 (pp. 256–57, 262–63). Cf. Susan Reynolds, 'Carolingian Elopements as a Sidelight on Counts and Vassals', in *The Man of Many Devices, Who Wandered Full Many Ways [...] Festschrift in Honor of János M. Bak*, ed. by Balázs Nagy and Marcell Sebök (Budapest: Central European University Press, 1999), pp. 338–46.

¹¹⁸ Heinrich Brunner, *Deutsche Rechtsgeschichte*, ed. by Claudius Freiherr von Schwerin, new edn, 2 vols (Berlin: Duncker & Humblot, 1906–28), II (1928), p. 344.

¹¹⁹ *Die Urkunden Konrads I, Heinrichs I und Ottos I*, ed. by Theodor Sickel, MGH, Die Urkunden der deutschen Könige und Kaiser, I (Berlin: Weidmann, 1956), pp. 206–07 (Otto I, no. 125) (1 May 950).

¹²⁰ *Notker the Stammerer*, p. 17 (l. 13): 'Cum illo fisco vel curte, illa abbatiola vel ecclesia tam bonum vel meliorem vassallum, quam ille comes est aut episcopus, fidelem mihi facio.' This cannot be used as evidence that counts were vassals, as Hans-Werner Goetz, 'Staatlichkeit, Herrschaftsordnung und Lehnswesen im Ostfränkischen Reich als Forschungsprobleme', in *Il*

The common denominator of the otherwise distinct groups of counts and vassals was the oath of fidelity sworn to the ruler. It was that fidelity, not vassalage, which united counts and vassals. In order to achieve the king's goal of increasing the number of faithful and assiduous followers, it was enough to lease benefices from fiscal and ecclesiastical property, the number of counties and bishoprics being, in any case, finite. Vassals were those whom the king took into his service but on whom he had not yet been able or willing to confer an office. Counts and bishops were, to take analogies from modern academic life, the holders of established university posts, while vassals, like those with research grants, were supported out of the resources of third parties. No one today would think of characterizing the academic world only in terms of those who had obtained external funding.

Counts could therefore have been vassals, but that does not make their counties into fiefs. Feudalism was simply a means of further extending the king's lordship beyond those who held office. When it comes to making a judgement as to whether the Carolingian kings' rule was significantly enhanced by feudal means, the possible vassalage of counts is of minor importance. It might indeed be interesting for the modern historian to find out, if one could, what percentage of counts had previously been vassals, but it is not possible. For the Carolingians it might have been more important that by appointing a vassal as count, they would free the resources with which to recruit another vassal, and furthermore that with this policy of appointments they could hope to secure the loyalty of generations of comital families. So long as a count occupied his post the members of his family, whether sons or brothers, could be bound to the king only by vassalage.

Conclusion

There is no valid evidence for the assumption that Frankish royal lordship was feudal lordship or touched to any significant extent by feudalism. A benefice was a precarial lease of land, often involving small landholders as well as nobles and kings. Like the fief, the *precaria* was used in political contexts. It was by no means exclusively a lease of small peasant properties, but its use included churches and monasteries as well as great estates, i.e. institutions on which lordship was based. The *ius beneficii* was not feudal law; rather it was applied in contracts of *precaria*

feudalesimo, p. 120, suggests, especially if it is also considered that properties belonging to the fisc, abbeys, and churches could be leased as *precarie* to vassals, as shown above.

and usufruct to deal with disputes about payment of rent. Commendation and ritual hand-clasping did not necessarily create vassalage, since they were also characteristic of acts of homage in general. The king demanded from his vassals primarily fidelity and service, and only secondarily *consilium et auxilium*. Despite the possible vassalage of their holders, counties were not fiefs. Instead c. 800 the offices of counts and bishops were understood as *officia* and therefore defined as dependent spheres of responsibility within which, however, the office-holder felt a degree of personal duty. Soon afterwards an ideology of *ministerium* was developed, to become fully formed after 825, which took hold because it offered both king and nobles room for their own understanding of their exercise of lordship.¹²¹ This ideology emphasized the service of the office-holder to the king, to Christian society, and ultimately to God. The *ministerium* of the king was granted by God. The office-holders under him shared, each at his own lesser level, in the godly task of their ruler, and were therefore also answerable to God. The vassals were fully integrated in this, for they too were *fideles Dei et regis*.¹²² The participation of the *ministerium*-bearers and the vassals in the king's godly task constituted the intellectual and political foundation of the Carolingian period. Vassalage and the granting of benefices in the sense of fiefs, on the other hand, had much less importance in the formation of the state and none at all for ideas about the state. They were, moreover, unsuited to the formation of a hierarchical state, since they did not allow for a structure of many levels of command and obedience. Feudalism in Carolingian times was defined by historians by the relationship to one's own lord, and not beyond that to the lord of one's lord or further to that lord's lord. Hence it was not possible by this means — contrary to the *ministerium*-idea — to establish a hierarchy of delegation of power in the ninth century.

¹²¹ Cf. among others Thomas Zotz, 'In Amt und Würden: Zur Eigenart "offizieller" Positionen im früheren Mittelalter', *Tel Aviver Jahrbuch für deutsche Geschichte*, 22 (1993), 1–23.

¹²² Herbert Helbig, 'Fideles Dei et regis: Zur Bedeutungsentwicklung von Glaube und Treue im hohen Mittelalter', *Archiv für Kulturgeschichte*, 33 (1951), 275–306.

VASSAUX ET FIEFS DANS LA FRANCE DE L'AN MIL

Dominique Barthélemy

O n a longtemps abusé de la féodalité, des vassaux et des fiefs, dans les descriptions de la France de l'an mil. A lire beaucoup d'auteurs d'entre 1750 et 1950, il n'y aurait eu, pour maintenir l'existence du royaume et une cohésion minimale de la société, que la fidélité formelle des princes régionaux envers les rois et l'allégeance, plus réelle, des seigneurs châtelains à ces princes, ou des chevaliers de châteaux à ces seigneurs. Encore, en ces temps de guerre civile, le lien vassalique a-t-il un rapport ambivalent avec la violence: parfois il protège des hommes contre elle, parfois il les organise en bandes pour l'exercer ensemble depuis les châteaux qui 'symbolisent le régime féodal', selon un lieu commun du XIX^e siècle français. Et les tendances à l'anarchie sont favorisées par une tendance fréquente de tout vassal à se rendre indépendant de son seigneur, en s'appropriant le fief qu'il a reçu.

Dès la fin du XIX^e siècle pourtant, l'école méthodique a commencé à se méfier à juste titre des systèmes: Jacques Flach en est un bon exemple, en 1893.¹ Mais le

¹ Jacques Flach, *Les Origines de l'ancienne France, X^e et XI^e siècle* (Paris: Larose et Forcel, 1893), p. 3: 'il y a une telle diversité à cette époque dans les liens d'homme à homme, une telle confusion, une telle fluctuation dans les notions juridiques qu'on ferait fausse route à coup sûr si on voulait systématiser'. Et Flach ne parle jamais de 'société féodale'; lui qui s'est efforcé de lire et d'utiliser toute la documentation écrite disponible, il refuse l'idée d'une féodalité qui serait comme un tout organique (il y tendait encore au tome I, en 1886) et veut décrire 'une société concrète et vivante' (p. 2); mais, s'il valorise bien la seigneurie châtelaine (il a inspiré en cela Georges Duby), il reste très porté à imaginer les vassaux sous formes de bandes, de groupes domestiques. Bien que foisonnant d'aperçus géniaux et de pages savoureuses, et plusieurs fois très supérieur à Flach, le livre de Marc Bloch sur *La Société féodale*, 2 vols (Paris: Michel, 1939-40) a lui aussi ses limites: voir mes remarques dans Véronique Sales, dir., *Les Historiens* (Paris: Colin, 2003), pp. 85-102.

grand tournant des études sur l'an mil a été — ou aurait pu être — la thèse de Georges Duby en 1953. Elle fait surgir par petites touches, pour le XI^e siècle, une société moins féodale et moins troublée qu'on ne le disait jusque là: une société en même temps moins instable, car dominée, régentée, par une classe seigneuriale digne de ce nom et soucieuse d'assurer sa reproduction sans trop de heurts. Les seigneurs du Mâconnais sont des héritiers nobles, formés à la chevalerie mais pas nécessairement guerriers à outrance, et leur vie sociale ne se réduit pas à leurs rapports avec un suzerain ou à leur appartenance à une bande châtelaine.² On ne peut que davantage regretter l'erreur initiale que Georges Duby a commise au seuil de son livre en tirant, d'une évolution de 'la charte' vers 'la notice', l'idée d'une crise de l'an mil, avec poussée d'indépendance châtelaine — ses épigones ont dit 'de féodalisation'.³ En cet endroit c'est le *background knowledge* qui revient contrarier, assez mal à propos, le fort et le vif de sa découverte de la complexité sociale. Il faut le suivre dans cette découverte et la pousser plus loin, ce qui oblige à renoncer au mot de 'féodalité', ou en tout cas à en faire un usage limité et prudent pour des raisons qu'Elisabeth Brown a bien explicitées.⁴ Cela conduit-il pour autant à ne plus trouver nulle part ni vassaux ni fiefs? A mon avis, non. La vassalité, effectivement liée au fief, a occupé une certaine place dans la société postcarolingienne (que j'évoquerai ici dans un 'an mil' de presque un siècle: 980–1060). Elle a besoin d'être repensée, notamment grâce aux suggestions de l'anthropologie comme le fait admirablement Stephen White,⁵ mais non pas rayée de nos papiers.⁶

Or aujourd'hui, on abuse de la critique des vassaux et des fiefs. On la mène de plusieurs manières, à mon avis peu convaincantes. Si Robert Fossier parle de

² Georges Duby, *La Société aux XI^e et XII^e siècles dans la région mâconnaise*, 2^eme éd. (Paris: Mouton, 1971).

³ Mes critiques sont regroupées dans *La Mutation de l'an mil a-t-elle eu lieu? Servage et chevalerie dans la France des X^e et XI^e siècles* (Paris: Fayard, 1997).

⁴ Elisabeth A. R. Brown, 'The Tyranny of a Construct: Feudalism and Historians of Medieval Europe', *American Historical Review*, 79 (1974), 1063–88.

⁵ Stephen D. White, *Re-Thinking Kinship and Feudalism in Early Medieval Europe* (Aldershot: Ashgate, 2005).

⁶ Il y a notamment beaucoup à tirer des remarques de François-Louis Ganshof, 'Les Relations féodo-vassaliques aux temps postcarolingiens', dans *I problemi comuni dell'Europa postcarolingia*, Settimane di studio del Centro italiano di studi sull'alto Medioevo, 2 (Spoleto: Centro Italiano di Studi sull'Alto Medio Evo, 1955), pp. 67–114, même si l'on doit s'efforcer de contextualiser davantage, et de distinguer la formalité stéréotypée du contenu effectif de telle ou telle transaction.

‘néant féodal’ ou de simple ‘pellicule’, c’est qu’il cherche le fief dans des sources qui sont peu faites pour en parler.⁷ D’autre part, on procède à des lectures littéralistes de mots latins dont la vieille école savait au contraire très bien comprendre que, dans des contextes nouveaux, ils avaient changé de sens: ainsi, en l’an mil, rien ne nous interdit de traduire *consul* par ‘comte’, *miles* par ‘vassal’ et *fiscus* par ‘fief’, alors que ce sont de vrais contresens qui font parler de ‘consul’, de ‘soldat’ et de ‘fisc’. Enfin, Susan Reynolds porte les coups les plus durs aux vassaux et aux fiefs, parce que sa critique est nourrie d’anthropologie,⁸ et parce qu’à une exception près, ses arguments sont justes. Qui ne s’accordera en effet avec elle pour rejeter les vieilles mythologies de la bande et du don initial du fief, dans tous les cas, par le seigneur, ou pour renoncer aux naïvetés sur le ‘sentiment’ et sur le contrat vassaliques? Mais la critique de Susan Reynolds contre les vassaux et les fiefs tels que les concevaient certains historiens d’antan atteint-elle ceux du moyen âge? Ses arguments, me semble-t-il, nous aident plutôt à nous rapprocher d’eux, à repenser les rites de la vassalité et de la remise de fiefs dans le cadre de l’interaction entre les nobles, au cours des plaids qui jalonnent leurs guerres et en limitent la dureté. Il y a beaucoup d’affectation dans l’‘amour’ d’Hugues de Lusignan pour le comte de Poitiers, mais cela n’empêche pas que l’on ait affaire à un vassal et à son seigneur, au long du *Conventum Hugonis*.⁹

L’argument contestable de Susan Reynolds est celui sur l’absence supposée d’un vocabulaire médiéval précis. Dans la France de l’an mil, pourtant, il y a deux ou trois mots qui dénotent la relation produite par un hommage: on dit ou écrit *homo* dans les contextes où nulle autre précision n’est utile, *miles* pour introduire les idées de service d’armes et d’honneur ensemble, *casatus* quand l’attention se focalise sur le fief. Le mot de *fidelis* n’est pas rare, mais il désigne, plus largement que le vassal, tout homme qui s’est engagé par serment envers un autre et qui lui est ou qui s’affirme loyal. Les textes médiévaux ne se prononcent pas sur la nature

⁷ Robert Fossier, *Enfance de l’Europe, X^e–XII^e siècles*, 2 vols (Paris: Presses Universitaires de France, 1982), II, 953 et 961.

⁸ Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford: Oxford University Press, 1994). Voir les critiques de Stephen D. White, *Re-Thinking*, chapitre 9, et de moi-même: ‘La Théorie Féodale à l’épreuve de l’anthropologie (note critique)’, *Annales HSS*, 52 (1997), 321–41.

⁹ Voir l’édition récente de George Beech, Yves Chauvin, et Georges Pon, *Le Conventum (vers 1030): Un précurseur aquitain des premières épopées* (à laquelle j’emprunte la numérotation des lignes du texte) (Genève: Droz, 1995), ou celle de Jane Martindale, *Status, Authority and Regional Power, Aquitaine and France, 9th to 12th Centuries* (Aldershot: Ashgate, 2005), chap. 9 (à laquelle j’emprunte la traduction anglaise).

publique ou privée de la vassalité, mais ils ont un vrai concept de celle-ci, à travers le mot même d'*hominaticum* (Catalogne) ou d'*hominagium* (Anjou).¹⁰ Et il est habituel que l'hommage, bien plus spécifiquement que le serment de fidélité, aille de pair avec la réception d'un 'bienfait', ou avec la remise d'une dette judiciaire. Quant au terme de 'fief', il n'est pas absent (latin *fiscus*, *fevum*, *feodum*) mais, appartenant davantage à la langue parlée, il est encore dominé, occulté, par *beneficium*. Ce dernier mot ne s'impose d'ailleurs pas seul comme ce sera le cas de *fief* à partir du XII^e siècle: à côté de lui et dans les mêmes sens, prospèrent encore *casamentum*, et *honor*, avec des connotations différentes, voire même *alodum*,¹¹ puisqu'en réalité on envisage souvent le point de vue du seigneur, de ce qui est 'de son fief', dans sa mouvance. La relation vassalique est donc clairement dénotée par quelques mots précis, bien instrumentalisés, et elle paraît familière aux contemporains; même si ses implications ne sont pas toujours indiscutées, elle est étroitement liée à la notion de fief.¹²

Il n'existe pas, en effet, de code écrit de la vassalité: les serments et discours de l'an mil, comme ceux du temps de Charlemagne, se réfèrent à une norme connue de tous. Et de fait il s'agit bien d'un engagement spécialement fort, d'un don de soi¹³ classant le vassal un cran en-dessous du seigneur mais comme lui dans une classe de guerriers plus ou moins nobles, 'la terre' du fief étant possédée, méritée, de par un service d'armes qui, par contrecoup, disqualifie, dévalorise le travail des paysans sur elle. L'hommage des mains, même accompagné d'un baiser du pied comme dans une anecdote fameuse,¹⁴ ne fait-il pas contraste avec celui qu'on

¹⁰ Références, et commentaires pertinents dans François-Louis Ganshof, 'Les Relations', pp. 82–86.

¹¹ *Cartulaire de l'abbaye cardinale de la Trinité de Vendôme* (abrégé ici: *Vendôme*), éd. par Charles Métais, 4 vols (Paris: Picard, 1893–97), I, no. 185, 1067.

¹² Chaque fois, dans Richer de Reims, qu'un hommage est cité, un bienfait apparent ou réel l'accompagne: *Historiae*, éd. par Hartmut Hoffmann, MGH, Scriptores, 38 (Hannover: Hahn, 2000). (De même dans Guillaume de Poitiers, *Histoire de Guillaume le Conquérant*, éd. par Raymonde Foreville (Paris: Belles Lettres, 1952)): exemplaire est en 1058 (I, 37) le cas du comte Herbert II du Maine: 'cherchant la protection du duc Guillaume de Normandie, il vint à lui en suppliant, il se donna à lui par les mains, et il reçut de lui tous ses biens, comme un vassal (miles) de son seigneur'.

¹³ Volontaire, et non contraint, la nuance est importante: on dit souvent 'faire' ou 'choisir' un seigneur.

¹⁴ Dudon de Saint-Quentin, *De moribus et actis primorum Normanniae ducum*, éd. par Jules Lair, Mémoires de la Société des Antiquaires de Normandie, 23 (Caen: Blanc-Hardel, 1865), II, 29, p. 169; également, II, 2, p. 142, cf. aussi, Richer, IV, 11, et au IX^e siècle, le baiser des pieds

prête par la tête et les deniers, à la manière servile?¹⁵ Si, mais en même temps le parallèle conduit parfois à parler de *militaris servitus*, à traiter au besoin le vassal noble comme un serf de rang supérieur. Il n'est pas mauvais, dès lors, de pouvoir appeler le fief un 'honneur' ! A moins que son seigneur ne fasse tout, dans le reste de la relation, pour contrebalancer par des égards amicaux ce que l'hommage a d'humiliant. Car le vassal apparaît comme son obligé : l'hommage des mains a pour contrepartie un 'don' du seigneur, rarement le vrai don d'une terre, plus souvent une autorisation à en hériter et une caution face aux menaces venant des tiers.¹⁶ Cet hommage excuse le vassal s'il combat au service de son seigneur,¹⁷ il aggrave son cas s'il le combat;¹⁸ mais en même temps, il oblige aussi le seigneur¹⁹ à l'aider à maintenir son honneur, à le protéger²⁰ et à avoir des égards pour lui, de sorte qu'un vassal peut dénoncer hautement, dans les plaids, toute maltraitance de la part de ce seigneur. Quant au fief, il relativise l'hommage, puisqu'il devient le

du roi, dans *Ermold le noir: Poème sur Louis le Pieux*, éd. par Edmond Faral (Paris: Belles Lettres, 1964), chant I, vers 213 (p. 20).

¹⁵ Il s'agit dès lors d'une vassalité de rang inférieur, qui veut un travail et non un service d'armes pour prix du 'fief'. Voir mon étude sur 'Le Statut Servile au "premier âge féodal": réflexions et questions', dans *Mélanges de l'École française de Rome: Moyen Âge*, 112 (Rome: École française de Rome, 2000), 535–49.

¹⁶ Le vassal prête un serment, le seigneur fait un don: l'agencement entre ces deux formalités souligne la dissymétrie sociale entre eux. En pratique, cette formule s'adapte à des situations très différentes: il y a des hommages prêtés (*Vendôme*, n. 175) ou proposés (Richer, IV, 91) par un seigneur qui veut faire un geste d'humilité par rapport à un autre, qui à défaut de lui faire un don, renonce à sa vengeance et à la composition qui devrait lui être versée, d'autres hommages sont ceux d'héritiers que le seigneur cautionne comme tels, en augmentant ou amoindrissant leur fief le cas échéant, d'autres encore qui correspondent à un véritable recrutement de guerrier noble (mais le fief semble alors souvent une rente), d'autres enfin qui régularisent une conquête du vassal (aux dépens du seigneur auquel il prête hommage, tels les comtes d'Anjou aux ducs d'Aquitaine).

¹⁷ Eudes de Saint-Maur, *Vie de Bouchard le Vénérable*, éd. par Charles Bourel de La Roncière (Paris: Picard, 1892) (écrite vers 1058, relatant un combat livré en 999), 7 (p. 19): pour entrer dans la bataille, le chevalier Ermenfroi, du château de Corbeil, se soumet au comte Bouchard 'par les mains, humblement'. Il n'était jusqu'ici vassal que du roi, et 'il n'était pas d'usage alors chez les Francs de participer à une guerre hors de la présence et sans l'ordre de son seigneur propre'.

¹⁸ Guillaume de Poitiers, I, 15.

¹⁹ Bien qu'il ne fasse pas de serment en contrepartie de celui du vassal, soulignons-le encore.

²⁰ Comme on le voit dans la *Chronique ou livre de Fondation du monastère de Mouzon*, éd. par Michel Bur (Paris: CNRS, 1989), I, 6: un chevalier, meurtrier d'un autre, doit faire hommage à un puissant (*commendatio*) et lui vendre son alleu, en échange de la protection dont il a un besoin vital (elle est alors en elle-même le bienfait du seigneur).

support concret de la relation: dès lors cette dernière est circonscrite par lui. L'hommage n'est pas censé se rompre, sauf que la perspective d'un fief plus important pour l'un auprès d'un autre seigneur, ou d'un vassal plus utile pour l'autre, servant pour le même fief, peuvent amener l'un ou l'autre à risquer de se mettre en tort sans trop d'état d'âme.

Le problème est en effet de savoir comment ces engagements du seigneur et du vassal se combinent avec l'ensemble de leurs liens sociaux et de leur vie en conflit, en parade et en tractations. Nous ne devons pas les laisser seuls ensemble, ou agglomérer le vassal à une bande grégaire de guerriers grossiers, comme le faisait volontiers la vieille école historique. Sa vassalité (son *hominagium*) ne résume pas à elle seul le profil du vassal: le mot même de *vassus*, *vassallus*, comme *vassal* dans les chansons de geste du XII^e siècle, fait référence à ce que nous appelons 'chevalerie', vaillance noble, comportement honorable et seigneurial, bien plus qu'à la subordination vassalique. Le vassal n'est pas l'homme unidimensionnel qu'on a trop souvent imaginé. Il a souvent plusieurs seigneurs, et ses devoirs et droits face à eux ne sont pas les seules normes ou préoccupations qui le gouvernent et, le cas échéant, le mettent dans l'embarras. Pour autant, sa vassalité n'est pas une obligation anodine. Les historiens d'antan ont sous-estimé la prérogative du seigneur: ils méconnaissaient la noblesse initiale du vassal pour qui l'hommage est en lui-même un vrai signe de sujétion et pour qui le fief est un héritage souvent contesté par d'autres héritiers possibles, face auxquels il a besoin de son seigneur ou à travers lesquels ce dernier peut faire pression sur lui. C'est ce qui ressort de la série de belles sources dans lesquelles on peut puiser des éléments pour la période définie ici comme 'l'an mil' (980–1060): histoires de grands princes comme celles de Richer de Reims, de Dudon de Saint-Quentin, de Guillaume de Poitiers, épisodiquement d'Adémar de Chabannes, chroniques et surtout chartes, notices évoquant les relations de monastères avec leurs voisins nobles, tour à tour donateurs et spoliateurs, protecteurs et incommodes, et enfin, souvent citées, les lettres de Fulbert de Chartres, auxquelles cependant la plupart des historiens récents ont préféré le témoignage du *Conventum* d'Hugues de Lusignan: il est beaucoup plus long et touffu, et par là beaucoup plus instructif et utile à la contextualisation.

Les situations de conflit, avec tensions et résolutions, de débats, avec motifs réels et simulés, doivent être les plus éclairantes si nous parvenons à les comprendre à peu près. Je vais tenter ici de le faire pour deux types de relations: celle entre des princes régionaux (spécialement les comtes de Blois) et le roi, celle ensuite entre le seigneur de Lusignan et le comte de Poitiers. Dans ces deux cas, c'est le vassal qui plaide son bon droit: preuve qu'il éprouve le besoin de se

justifier, dans une société postcarolingienne qui prescrit le loyalisme envers tout seigneur.

Les comtes de Blois, leur honneur et le roi

Richer de Reims se fait l'historien, aux années 990, du siècle écoulé depuis l'avènement de comtes au rang de princes régionaux.²¹ C'est un siècle de discordes, il les déplore mais il en montre aussi les limites: les cités comme les châteaux changent de maître à la suite de pourparlers et de 'trahisons', non d'assauts meurtriers, et de grands discours sur la concorde et la fidélité font un contrepoint non négligeable à l'honneur vindicatif qui oblige en principe un vassal à mourir pour son seigneur.²² Les héros de la vassalité sont des êtres de légende, à deux ou trois générations en amont du temps de Richer. Ils font honneur à l'ensemble d'un 'ordre équestre' ou 'vassalique' (*militaris*)²³ dont les représentants de l'an mil ne sont pas, en fait, aussi courageux, loyaux et désintéressés...

En 1930 et 1937, Robert Latouche a édité et traduit les *Histoires* de Richer, tout en le criblant de critiques dans ses notes: il l'accuse notamment d'avoir donné dans le verbiage et dans l'affabulation.²⁴ Ces verdicts ne sont pas tous infondés, mais ils paraissent aujourd'hui trop péremptoirs. Lorsque Richer reprend (en son livre II, de 936 à 954) l'annaliste Flodoard de Reims, il interpole et extrapole beaucoup, mais est-ce toujours inintéressant? L'élection et la réception de Louis IV d'Outremer, en 936, font par exemple une belle cérémonie royale comme peut en concevoir l'an mil, en y plaçant des serments par lesquels les grands, puis les 'princes des cités' se font les fidèles du roi.²⁵ Ils lui doivent tous une allégeance, et

²¹ Cet auteur a été récemment étudié par: Hans-Henning Körtum, *Richer von Saint-Remi: Studien zu einem Geschichtsschreiber des 10. Jahrhunderts*, Historische Forschungen, 8 (Stuttgart: Steiner, 1985). Hartmut Hoffmann, 'Die Historien Richers von Saint-Remi', *Deutsches Archiv für Erforschung des Mittelalters*, 54 (1998), 445–532; Jason Glenn, *Politics and History in the Tenth Century: The Work and World of Richer of Reims* (Cambridge: Cambridge University Press, 2004).

²² Voir mon étude sur 'La Chevalerie du X^e siècle, vue de Reims', dans *Chevaliers et miracles: La violence et le sacré dans la société féodale*, éd. par Dominique Barthélemy (Paris: Colin, 2004), pp. 9–44.

²³ Richer, I, 5: 'virum militarem [...] ex equestri ordine'; IV, 11 et 28.

²⁴ Richer, *Histoire de France* (888–995), 2 vols (Paris: Belles Lettres, 1930–37).

²⁵ Richer, II, 4 et 5.

toute hostilité de leur part envers lui prend vite allure de rébellion: telle est bien l'idéologie du siècle des discordes, même si le roi ne parvient pas à régler tous les conflits entre eux.

Quant aux gestes et aux paroles de cette allégeance, si Flodoard les décrit avec une sécheresse frustrante et lassante ('il se remit à lui', *se committit*, 'il se fit sien', *eius factus est*²⁶), Richer les imagine en revanche de manière plus suggestive. Il valorise le serment de fidélité, en le citant davantage que la recommandation par les mains, c'est à dire que l'hommage. En cela, il est bien d'un an mil très attentif aux engagements sacralisés, auquel appartient encore Guillaume de Poitiers lorsqu'il relate le serment (et accessoirement l'hommage) d'Harold à Guillaume en 1064.²⁷ Si des historiens modernes se sont interrogés sur le recouper et la différence des deux concepts de 'fidèles' et de 'vassaux', c'est en partie à cause de cette insistance sur le serment. Or la mention de ce dernier n'entraîne pas automatiquement celle d'un bienfait ou 'fief', la fidélité due au roi a quelque chose de 'naturel', on dirait presque avec Susan Reynolds de 'constitutionnel' dans un royaume médiéval. En revanche, Richer de Reims met l'hommage en valeur lorsqu'il sert à créer ou renforcer une allégeance moins évidente a priori: celles des princes bretons et méridionaux au roi,²⁸ celle aussi des comtes des 'pirates' (Normands).²⁹ Et il n'est guère pensable sans la remise formelle d'un don.

A partir de 956, le duc des Francs ('grand duc') est Hugues Capet. Richer de Reims le montre fort de nombreux vassaux, dont la reconnaissance est pour beaucoup dans son élection royale de 987. Mais lui-même, Hugues Capet, a prêté serment de fidélité au roi Lothaire, en s'engageant à le servir (*militia*), et il a reçu de lui son duché (c'est-à-dire son héritage) ainsi que celui de Poitiers (c'est-à-dire une conquête à faire, et qu'il ne fait pas!).³⁰ Les diplômes royaux d'alors ne considèrent-ils pas comme normal qu'un 'fidèle' du roi soit doté par lui de 'bénéfices'? Cette représentation se conserve sans solution de continuité tout au long des X^e et XI^e siècles. Il y a bien une hiérarchie, que les liens féodo-vassaliques tendent à respecter: ils établissent des alliances, des partenariats ou résolvent des tensions entre seigneurs de niveau inégal. Comme l'a bien relevé Michel Bur, on

²⁶ *Les Annales de Flodoard*, éd. par Philippe Lauer (Paris: Picard, 1905), passim (à partir de 943, le terme *recipere* devient fréquent), c'est toujours un vocabulaire rudimentaire de la possession de l'homme par l'homme.

²⁷ Guillaume de Poitiers, I, 43 et II, 12.

²⁸ Richer, I, 64. En I, 4, la Bretagne est dite *voisine et vassale (militans) de la Gaule*.

²⁹ Richer, I, 53; II, 20.

³⁰ Richer, III, 13.

ne sort jamais de ce paradigme, et toute résolution de conflit tend à redire une hiérarchie et une prépondérance du seigneur dans le principe.³¹

Le comte de Blois et de Chartres, Eudes Ier, apparaît dans les *Histoires* de Richer de Reims après l'élection royale d'Hugues Capet, dont il est le vassal.³² Il veut obtenir la petite ville (château) de Dreux, pour prix de son aide à prendre Laon, et il vise, semble-t-il, à relever ce titre de duc des Francs, que Hugues Capet vient d'abandonner lui-même. Le comte des Normands ne vient-il pas, de son côté, d'accéder au rang de duc?

L'épisode le plus développé est la tentative d'Eudes sur Melun, sans doute en 991. Devant les siens, c'est-à-dire en conseil restreint avec 'ceux dont il savait la fidélité sûre', il va droit au fait en évoquant l'intérêt stratégique qu'il aurait à disposer de ce château,³³ ils doivent donc l'aider à s'en emparer. Hugues Capet au contraire tient à l'en empêcher et il a confié Melun, dans ce but, à un autre de ses fidèles, le comte Bouchard. Est-ce que, dès lors, les menées d'Eudes ne constitueront pas une rupture sacrilège de sa fidélité envers le roi? De quoi lui valoir des défections, au-delà du cercle de ses plus proches vassaux... Non, assure-t-il, car il a un droit d'héritier sur ce château qui a appartenu à son aïeul. Cet argument est lancé pour amener le châtelain de Melun à trahir le comte Bouchard et le roi Hugues,³⁴ et il est étayé par un autre, encore plus fort: il obtiendrait d'Eudes de plus grands fiefs! Mais le roi réagit rapidement à la chute de Melun, il y met le siège. Or Eudes s'approche avec son ost, mais il choisit de ne pas l'affronter en bataille de déblocus: il tourne bride, en abandonnant sans vergogne le 'traître' à la vindicte royale. Peu après, en un message au roi, il se justifie 'de tous les reproches qui lui étaient adressés', en soutenant que ce n'était pas s'en prendre au roi, pas offenser sa majesté, que de combattre un autre de ses vassaux: si Eudes avait conquis Melun, ce château serait resté dans la mouvance d'Hugues Capet, puisque Eudes aussi est son vassal. Il redit son droit d'héritier, avant de changer soudain d'argumentation: passant à une posture plus humble, il assure que s'il a commis une faute, il en est tout de même assez puni par son échec, avec le 'deshonneur' qu'il comporte, et il en demande un pardon que le roi accorde.³⁵

³¹ Michel Bur, *La Formation du comté de Champagne, v. 950 – v. 1150*, Mémoires des Annales de l'Est, 54 (Nancy: Publications de l'université de Nancy II, 1977), p. 220.

³² Richer, IV, 40.

³³ Richer, IV, 74.

³⁴ Richer, IV, 75.

³⁵ Richer, IV, 80.

Richer n'a sans doute pas inventé cette argumentation. Et cette argumentation même, qui paraît tout d'abord un peu arrogante, atteste-t-elle tout compte fait d'une inefficacité du lien vassalique? Certes, la thèse est que le roi, le suzerain n'aurait pas le choix de ses feudataires. Mais elle n'est soutenue qu'un moment, en tout cas en parallèle avec une demande de pardon qui sauve la face royale et pourrait être mise au compte d'une sorte de *fair play* d'Eudes. On doit bien entendre que le déshonneur n'est pas pour lui irrémédiable ni fatal. Mais le plus frappant de cette lettre demeure le ménagement mutuel entre vassal et seigneur, dans le cadre d'une pensée conformiste du respect des rangs. Le fait est qu'il y a un besoin de justification du vassal devant les plaids de la noblesse, dès lors qu'il a tenté quelque chose de contraire aux intérêts de son seigneur.

La lettre du fils d'Eudes (le comte Eudes II) au fils d'Hugues (le roi Robert II), en date de 1023, est beaucoup plus célèbre au royaume des historiens modernes.

Elle a été rédigée, semble-t-il, par l'évêque Fulbert de Chartres.³⁶ Michel Bur en a bien explicité le contexte:³⁷ il s'agit d'une affaire capitale pour la formation du comté de Champagne, puisque la mort du comte Robert de Troyes et de Meaux ouvre une perspective d'héritage à son petit-neveu Eudes II de Blois. Le roi Robert a d'abord investi de ces comtés ce 'très fameux fidèle', ensuite il s'est ravisé: de là un conflit, dans lequel le duc Richard de Normandie se propose comme médiateur. La lettre est faite pour la défense des droits d'Eudes, mis en péril par un seigneur abusif. Elle assure qu'il a le droit d'hériter, il n'est pas indigne, il mérite ce 'fief' que son importance fait appeler en latin *honor*. Il a rendu au roi de bons et loyaux services, pour ne pas être spolié: il ne s'agit pas en effet d'une pure largesse du roi, mais d'une confirmation de son patrimoine. Là encore, seule la croyance naïve d'historiens d'antan à l' 'appropriation' graduelle et pernicieuse du fief par le vassal les a menés à dire l'arrogance et la montée en puissance des vassaux, à imaginer une 'crise de la fidélité' vers l'an mil. La lettre d'Eudes II, au roi, sur son *honor* atteste plutôt l'importance de la justification légale, dans une société conformiste d'héritiers qui souhaitent éviter des conflits trop vifs avec leurs seigneurs. Sans doute Eudes n'a-t-il pas, en 1023, une affection sans nuances pour Robert, mais la sincérité, ou le dévouement guerrier jusqu'à la mort ne sont pas ce qu'on lui demande.

³⁶ *The Letters and Poems of Fulbert of Chartres*, éd. par Frederick Behrends, Oxford Medieval Texts, 86 (Oxford: Clarendon Press, 1976). Voir en dernier lieu, les commentaires de Stephen D. White, *Re-Thinking*, chapitres 8 et 13, et les miens dans *L'An mil et la paix de Dieu: La France chrétienne et féodale, 980-1060* (Paris: Fayard, 1999), pp. 476-78.

³⁷ Michel Bur, *La Formation*, pp. 157-71.

Les rois des X^e et XI^e siècle ne sont pas en mesure d'entraîner avec eux les grands dans des expéditions au-dehors du royaume, et ils ne les regroupent autour d'eux qu'épisodiquement, dans des cours chrétiennes couronnées de Noël ou de Pâques. C'est assez cependant pour permettre à l'abbé Abbon de Fleury d'utiliser les textes carolingiens sur le gouvernement par les rois, auxquels leurs fidèles s'associent,³⁸ assez aussi pour faire surgir, ici et là, dans la 'France' proprement dite (au nord de la Loire, à l'est de la Bretagne) la réserve de fidélité au roi,³⁹ même si ce dernier n'intervient pas lui-même dans les principautés régionales, et ne peut les confisquer. La fidélité des princes envers le roi est d'abord négative, c'est un respect effectif, une attention à ne pas se mettre en tort,⁴⁰ et le service qu'ils lui prêtent est minimal, ou circonstanciel. A en croire Guillaume de Poitiers, les comtes de Poitiers, de Blois et d'Angers n'accompagnent pas le roi dans son raid sur la Normandie en 1054 pour obéir à son édit, ils le font seulement pour des motifs d'hostilité personnelle envers son duc.⁴¹

Tout de même, on s'honore en pays de Loire du titre néocarolingien de vassal royal.⁴² Et Richer de Reims, tout en décrivant plusieurs fois les gestes de l'hommage vassalique et du serment qui l'accompagne, évoque aussi des dons royaux, des édits *royaux*, une majesté royale spécifique.⁴³ En sens inverse pourtant, les chroniqueurs des

³⁸ Abbon de Fleury, *Canones*, III, 4 (PL, CXXXIX, col. 478).

³⁹ Le comte d'Anjou Foulques Nerra fait un usage tactique de la fidélité due au roi (ou d'un engagement spécifique à ne pas pactiser avec Eudes Ier de Blois), selon Richer de Reims (IV. 91): il s'excuse de ne pouvoir prêter lui-même hommage au comte de Blois, car cela constituerait une insulte envers le roi. Une réserve de fidélité au roi Robert est mentionnée dans une lettre de Fulbert de Chartres, 9.

⁴⁰ Selon un système de pensée que développe bien Richer, à propos du temps où Hugues Capet n'était encore que duc des francs, sous le roi Lothaire: III, 82 à 84.

⁴¹ Guillaume de Poitiers, I, 29–30.

⁴² Le titre de *vassus dominicus* connaît une certaine vogue en pays de Loire au XI^e siècle, parmi les grands seigneurs de châteaux, tel celui de Beaugency (appelé également *drudus regis*), auxquels il permet de contrebalancer leur allégeance aux comtes de Blois et d'Anjou: Dominique Barthélemy, 'Note sur le titre seigneurial, en France au XI^e siècle', *Archivum latinitatis medii aevi* (*Bulletin Du Cange*), 54 (1996), 131–58 (à p. 154).

⁴³ Ces idées lui survivent: le comte d'Anjou Foulques Nerra est incriminé en 1008 pour 'lèse majesté', en tant que commanditaire du meurtre d'Hugues de Beauvais. débouchent sur un accord et non sur la terrible sanction romaine liée à cette faute: Fulbert de Chartres, lettre no. 13; voir Bernard S. Bachrach, *Fulk Nerra, the Neo-Roman Consul, 987–1040* (Berkeley: University of California Press, 1993), pp. 112–14. En Vendômois aussi, la *lex desertor et rebellis* produit

princes régionaux, soucieux de leur donner des allures de rois plutôt que de vassaux du roi, évitent de mentionner leur hommage, et se plaisent à dire que les rois avaient des égards *amicaux* pour eux.⁴⁴ ainsi Adémar de Chabannes, dans son portrait célèbre du duc d'Aquitaine Guillaume V le Grand (996–1030)⁴⁵ et Guillaume de Poitiers dans son apologie pour Guillaume le Conquérant.⁴⁶

Devrait-on trouver, aux échelons inférieurs de cette hiérarchie que les serments et hommages confortent sans la créer à eux seuls, une dépendance plus étroite des vassaux et des fiefs? Dans la plupart des provinces, nous n'avons guère de quoi diagnostiquer un éloignement des seigneurs châtelains par rapport aux ducs et comtes: les chartes des églises ne nous permettent pas d'en être sûrs.⁴⁷ Nous sommes contraints de nous fier avant tout à un dossier précieux.

Le seigneur de Lusignan, revendicatif et déçu

Les tenants de la mutation de l'an mil, depuis Georges Duby, croient à l'émancipation des seigneuries châtelaines, vers cette date. Cette émancipation est, à vrai dire, peu visible en zone royale, où les troubles sont des querelles de famille, attisées par le comte de Blois, mais non insurmontables (1031–33), et où 'l'irruption des châtelains' dans l'entourage royal (c'est-à-dire au bas des diplômes de Robert le Pieux et de Henri Ier) ne saurait tout de même pas passer pour une marque d'indépendance. Il faut au contraire considérer que les Capétiens du XI^e siècle les

seulement une confiscation (commise) de fief: *Vendôme*, no. 6 (et non une privation de la vie, comme dans le *Code Théodosien*, VIII, 18, p. 11).

⁴⁴ De ces égards par lesquels souvent les seigneurs corrigent le caractère humiliant de l'hommage.

⁴⁵ *Ademari Cabannensis Chronicon*, éd. par Pascale Bourgain, Corpus Christianorum Continuatio Mediaevalis, 129 (Turnhout: Brepols, 1999), III. 41. Au même chapitre, Adémar met une nuance importante entre l'hommage vassalique prêté par le comte d'Anjou (dangereusement envahissant en Aquitaine) au duc Guillaume, et l'amitié dont celui-ci gratifiait le comte d'Angoulême, son principal allié.

⁴⁶ Guillaume de Poitiers, I, 13, bien que Guillaume soit explicitement un vassal (*miles*) du roi Henri Ier (I, 29). mais les torts sont selon lui, bien sûr, du côté du roi: I, 13. En revanche, dans la période d'hostilité entre Geoffroi Martel, comte d'Anjou, et le même roi Henri Ier, Guillaume de Poitiers traite ce comte de 'rebelle': I, 15.

⁴⁷ Ceci vaut d'abord pour le Mâconnais de Georges Duby (cité *supra*, n. 2) où l'effacement apparent du comte de Mâcon tient en fait sans doute à l'assurance croissante de l'abbaye de Cluny, qui traite avec les seigneurs et en rédige ses propres notices.

maîtrisent, dans leur 'principauté royale' autour de Paris et d'Orléans: dans son grand livre, *France in the Making*, Jean Dunbabin rend leur justice à leur 'ability to exploit and administer the demesne, to keep alive Carolingian public rights, to enforce vassalage on castellans and lesser men, to attract the greater to the court'.⁴⁸ Dans la Normandie voisine, en 1035, le duc Robert le Magnifique, à son départ en pèlerinage, assure à son jeune fils de huit ans, Guillaume, les serments vassaliques des principaux seigneurs normands,⁴⁹ et si la minorité, la jeunesse même du futur conquérant sont marquées par des luttes factionnelles, il s'en faut de beaucoup qu'on ait affaire à des révoltes générales: la gravité des rébellions de Gui de Brionne et de Guillaume d'Arques, est plutôt signalée, dans l'histoire de Guillaume de Poitiers, pour justifier la sévérité (relative, il est vrai) du jeune duc à leur égard.⁵⁰ Dans l'Anjou de Foulques Nerra, les droits suzerains du comte sont déjà très forts, à en juger par une série de notices sur la manière dont ils confisquent des fiefs de leurs vassaux en faute contre eux.⁵¹

Reste le Poitou, sur lequel le *Conventum Hugonis* jette quelque lumière. Ce long et difficile document des années 1020 a été utilisé pour la première fois dans une réflexion sur la vassalité par Jacques Flach, qui y trouvait un 'composé bizarre', entre 'l'obéissance passive' et 'la liberté individuelle'.⁵² Récemment, il a été pris pour le grand témoin d'une épreuve de force et de l'avènement des châtelains.⁵³ Et si, au contraire, ce *Conventum* illustre plutôt une contribution de la vassalité et

⁴⁸ Jean Dunbabin, *France in the Making, 843–1180* (Oxford: Oxford University Press, 2000; 1ère éd., 1985), p. 165.

⁴⁹ Rodulfus Glaber, *The Five Books of the Histories*, éd. et trad. par John France (Oxford: Oxford University Press, 1989), IV, 20, p. 204 (conformément à un modèle qui se trouve déjà dans Dudon de Saint-Quentin, IV, 58).

⁵⁰ Guillaume de Poitiers, I, 8–9, p. 23. Voir David Bates, *Normandy before 1066* (London: Longman, 1982).

⁵¹ Bernard Bachrach, 'Enforcement of the Forma Fidelitatis: The Techniques used by Fulk Nerra, Count of the Angevins (987–1040)', *Speculum*, 59 (1984), 796–819.

⁵² Jacques Flach, *Les Origines*, II (1893), 530–31. Mais Flach ne se rend pas assez compte qu'il s'agit d'une plaidoirie à l'usage des tiers, et non d'un pur face à face entre deux hommes.

⁵³ Marcel Garaud, *Les Châtelains de Poitou et l'avènement du régime féodal, XI^e et XII^e siècles*, Mémoires de la Société des Antiquaires de l'Ouest, 8 (1964) (Poitiers: Société des Antiquaires de l'Ouest, 1967), pp. 34–35.

du fief à la cohésion sociale et politique de l'an mil,⁵⁴ en dépit de la prolifération même des fortifications secondaires, qu'il documente au passage ?⁵⁵

Ce memorandum a certainement été rédigé sur l'ordre et sous le contrôle d'Hugues le Chiliarque, qu'aiguillonnaient ses propres vassaux.⁵⁶ Il le justifie, tout en présentant ses griefs contre son seigneur le comte de Poitiers Guillaume — qui est également duc d'Aquitaine. Hugues se trouve en effet, par rapport à ce dernier, dans une situation et dans des embarras qui rappellent de près celle et ceux des comtes de Blois face aux rois. Sa qualité de 'chiliarque', 'chef de mille hommes' selon une expression qui court de la Bible aux chansons de geste, évoque sa valeur chevaleresque, sa capacité à hériter et, comme Eudes de Blois en voulait un du roi, il veut recevoir du comte Guillaume un *honor*, c'est-à-dire un château, ou plusieurs, ou une série de droits et de parts sur des châteaux et leurs dépendances (domaines, châtelainies). Or ce que le comte peut lui remettre ainsi, ce n'est jamais qu'un héritage: il ne fait ou promet jamais de don véritable, il donne seulement sa caution à une revendication, à moins qu'il ne s'engage (ll. 49–50) à ne pas remettre à tel autre de ses vassaux son héritage sans l'avoir contraint à restituer à Hugues une terre dont il l'a spolié. Car c'est entre des 'co-vassaux' de ce comte que la compétition fait rage.

Hugues apparaît comme un fidèle du comte: il se flatte de l'être, en lui montrant son amour et sa fidélité à travers des concessions qu'il fait, des délais qu'il accepte, et d'autres marques de bonne volonté, que ce plaidoyer en sa faveur met seules en relief en les opposant systématiquement aux engagements non tenus pas le comte, à ses paroles blessantes ou trompeuses. L'idéal de la fidélité agit donc bien dans les 'plaidis' châtelains des années 1020, et la suprématie du comte, prince régional, n'y est en aucun cas remise en question. Il est implicite aussi que Hugues a prêté déjà un hommage, allant de pair avec la fidélité, tant le comte dans les moments de tension se plaît à l'humilier à cause de cela: 'Tout ce que je perds, c'est par fidélité pour toi !' Et le comte dit: 'Je ne te demande pas ces hommes pour te

⁵⁴ C'est ce que j'ai dû faire, à Spolète en 1999: Dominique Barthélemy, 'Autour d'un récit de pactes ("Conventum Hugonis")': La seigneurie châtelaine et le féodalisme, en France au XI^e siècle', dans *Il feudalesimo nell'alto medioevo (Settimane ... XLVII)* (Spolète: Centro Italiano di Studi sull'Alto Medio Evo, 2000), pp. 447–95.

⁵⁵ En effet, celles-ci sont érigées en périphérie des grandes seigneuries, dont les 'chiliarques', 'tribuns' ou comtes les contrôlent assez bien, et la 'violence' en se concentrant sur elles, se dilue quelque peu ... Voir notamment la manière dont la cité de Poitiers est neutralisée (l. 279).

⁵⁶ Voir ma critique d'une hypothèse de George Beech: Dominique Barthélemy, 'Du nouveau sur le *Conventum Hugonis*?', *Bibliothèque de l'École des Chartes*, 153 (1995), 483–95.

faire du tort mais parce que tu es à moi pour faire ma volonté: que tous le sachent!' (ll. 71–73). Nouvelle altercation plus tard lorsque, pour régler un conflit sur une partie du château de Civray et nouer une alliance de circonstance, le comte veut que Hugues prête hommage à Bernard de la Marche. Notre chiliarque s'en offusque, car cela le classerait trop nettement en-dessous dudit Bernard. Il refuse donc d'obtempérer, et le comte hausse le ton: 'le comte s'en vint trouver Hugues et lui dit, avec une sorte de colère: Pourquoi ne fais-tu pas une convention avec Bernard? Tu procèdes tellement de moi que, si je te disais de te faire, d'un paysan, un seigneur, tu devrais le faire ... Fais donc ce que je te dis, et si cela te cause du tort, reviens vers moi' (ll. 103–06). On appréciera le 'avec une sorte de colère' (*quasi iratus*) qui souligne bien qu'il s'agit là d'attitudes jouées, appropriées au débat public,⁵⁷ la colère étant peut-être autant destinée à convaincre Bernard de sa bonne foi qu'à intimider Hugues. Et ce dernier s'exécute: 'pour avoir le quart de ce château, il devint le vassal de Bernard', recevant tout de même de lui des otages qu'il remet au comte et se lançant dès lors à l'attaque de Civray avec ses propres hommes, non sans éprouver des pertes, dont il s'estime en fin de compte mal payé.

Le *Conventum* relate beaucoup de conflits et de tractations, portant toujours sur des châteaux ou parts de châteaux. Hugues le Chiliarque passe de nombreuses conventions avec le comte ou d'autres seigneurs: de tous, il est assez mal content et gageons que tous, s'ils avaient la parole, seraient aussi mal contents de lui ! C'est qu'on fait la guerre féodale, ici comme ailleurs, avec prudence et comme en marchant sur des œufs, en s'efforçant de gagner des soutiens par divers marchandages, en chicanant contre son ou ses seigneurs, contre ses adversaires. Y a-t-il pourtant beaucoup de morts d'hommes? Quelques-unes, mais moins que de pillages infligés aux paysans et que de captures de chevaliers, soumis à rançons.⁵⁸

L'hommage apparaît ainsi, dans une interaction complexe, comme une des manières de renforcer une alliance, d'obtenir du seigneur une neutralité bienveillante et la reconnaissance de droits; le comte, par exemple, devrait rendre justice

⁵⁷ Voir le bel article de Stephen D. White, 'The Politics of Anger' (1998), repris dans *Feuding and Peace-Making in Eleventh-Century France* (Aldershot: Ashgate, 2005), no. IV.

⁵⁸ Pillages, l. 188: 'Bernard et les siens causèrent à Hugues et à ses hommes' (en fait, il doit s'agir essentiellement de vengeance *indirecte* sur leurs paysans) 'des dégâts tels qu'ils auraient dû en recevoir plus de 40 000 sous de dédommagement'; rançons, l. 67: 's'il avait bien voulu en accpeter une rançon, il aurait pu avoir 40 000 sous'.

à Hugues ‘comme un seigneur la doit à son vassal’ (ll. 124–25),⁵⁹ et le vassal doit prêter main forte.

Le *Conventum* montre qu’on peut avoir plusieurs seigneurs, en ‘faire’ trois autres (un évêque, deux comtes) avec l’aval ou sur l’ordre du premier.⁶⁰ Chacun de ces hommages ponctuel est accompagné d’un accord sur un fief précis et, implicitement, la relation ne tient que si le fief est effectivement détenu. Par exemple, Hugues le chiliarque n’est le vassal de Foulques Nerra d’Anjou que de façon limitée: ‘Quand je suis devenu ton vassal, je t’ai bien dit que si je pouvais enlever leurs châteaux à mes ennemis, je les leur enlèverais et les tiendrais dans ta fidélité’ (ll. 208–10).⁶¹ En d’autres termes, il met en pratique la théorie même que développait Eudes Ier de Blois dans son message à Hugues Capet, à en croire Richer de Reims.⁶² Et c’est dès 892 qu’une notice des écoles de Saint-Martin de Tours, souvent citée, proportionnait l’intensité du lien entre vassal et seigneur à l’importance du fief.⁶³

Dans quelle condition un vassal peut-il rompre son hommage? Les dernières lignes du *Conventum* nous en donnent un exemple très intéressant — typique ou non? C’est ce qu’on voudrait savoir. L’un des châteaux que l’on se dispute âprement dans le Poitou est celui de Gençay. Il fait l’objet de la onzième et avant-dernière convention relatée. Hugues le rend au comte, en dépit de l’avis de ses propres hommes, et à condition qu’il ne soit pas remis à son ennemi Aimeri de Rancon (ll. 258–60). Or à cette occasion, c’est le droit éminent du comte sur le fief de Hugues qui sert de caution: ‘Hugues reçut son fief (*fevum suum*) en caution et le comte le lui donna, étant entendu que s’il subissait un tort du fait de cette convention, il ne lui devrait plus aucun service à cause de Gençay. Alors le comte le délia de ses serments’ (ll. 262–64) De fait, Hugues a ensuite de quoi s’estimer

⁵⁹ Voir aussi, en écho, à la ligne 243: ‘je lui garderai la foi qu’un seigneur se doit d’avoir envers son vassal’.

⁶⁰ En revanche, ‘faire’ un autre seigneur sans cet accord semble une faute envers le premier: Richer, IV, 91.

⁶¹ Voir aussi la formule de son hommage à Bernard (l. 107), pour le quart d’un château.

⁶² Richer, IV, 80.

⁶³ *Recueil des actes de Robert Ier et de Raoul*, éd. par Jean Dufour (Paris: Belles Lettres, 1978), no. 37. Les chanoines veulent obtenir que le comte Bérenger oblige son vassal *Patericus* à leur rendre justice; embarrassé, Bérenger trouve cet argument (pour une part, de circonstance): ‘il répondit que ce n’était pas seulement son vassal à lui [*suus vassallus*], bien qu’il tienne de lui quelque chose en fief [*beneficium*] mais bien plutôt le vassal de Robert, son ami, car il tenait de lui davantage de fief [*beneficium*]’.

floué dans l'affaire de Gençay comme dans les précédentes. Cette fois, le comte n'y contredit d'ailleurs pas, il parvient seulement à poursuivre encore le dialogue et à gagner du temps. Finalement, 'Hugues vint à la cour du comte, il lui demanda raison pour son droit, et il n'en retira rien. Hugues en fut contristé, et tous purent l'entendre lui retirer sa foi (*defidavit comitem de se*), réserve fait seulement de sa cité et de son corps' (ll. 277–80). Rejeter formellement son seigneur, est-ce là une démarche fréquente? C'est bien difficile de le dire, tant ce document s'avère en tous points d'une rare précision et d'une incomparable richesse. Un rejet se trouve une autre fois attesté (vers 1040), également dans une série de notices exceptionnellement denses.⁶⁴ Remarquable aussi, et tout à fait unique, est la réserve d'infidélité, la limite expressément mise au défi: c'est une sorte de déclaration de guerre (d'inimitié) mais sans toucher aux intérêts vitaux de l'adversaire, c'est dire s'il y a ici toujours, selon l'expression de Max Gluckman, 'peace in the feud and feud in the peace'. Les hostilités qui suivent sont du reste lentes et limitées. Hugues et ses hommes ne font rien tout d'abord, ils attendent que les vassaux du comte se soient emparés d'un fief, après quoi ils ripostent en prenant la tour de Chizé: ils en expulsent les gardiens, apparemment sans trop les abîmer, 'et si Hugues agit ainsi, c'est parce qu'il pensait en avoir le droit, du fait que le château avait appartenu à son père ou à certains de ses parents' (ll. 286–87). Après quoi, on se remet à parler de paix.

Impossible à Guillaume et Hugues de ne pas se réconcilier ensuite. Hugues craint en effet qu'une fois son hommage fait, Guillaume ne lui demande de lui remettre Chizé: il ne serait alors plus en droit de refuser. Comment ne pas se méfier? Le comte joue à ce moment la carte d'une certaine humilité, il propose de s'engager, non par un serment personnel (que son statut ne permet apparemment pas) mais par l'intermédiaire d'un de ses serfs qui porterait pour son compte le fer brûlant du jugement de Dieu: ce serait là un serment par ordalie (ll. 310–11). Hugues se doit de l'en dispenser, avec une courtoisie qu'il espère rentable. Il s'en remet seulement à la grâce de Dieu et à celle de Guillaume, et il prête le nouvel hommage, et le nouveau serment, en prenant soin seulement, puisque l'abandon des vieilles querelles (l. 319) est compris dans cette ultime convention, de les faire

⁶⁴ *Vendôme*, no. 62. De Guillaume de Normandie, son apologiste Guillaume de Poitiers nous dit qu'avec sagesse il détendait les liens progressivement, et non d'un coup: I, 13. Il n'y a donc pas de trace du rituel d'*exfestucatio*, attesté par Galbert de Bruges dans la Flandre de 1127 et 1128, et donc Jacques Le Goff se sert pour proposer une théorie 'structurale' de la vassalité: 'Le Rituel symbolique de la vassalité', repris dans *Pour un autre Moyen Âge* (Paris: Gallimard, 1977), pp. 349–420.

toutes noter par écrit au cas où de nouvelles difficultés adviendraient: et voilà pourquoi nous avons ce texte très précieux, dans lequel apparaissent bien plusieurs aspects des relations féodo-vassaliques, qui seraient sans lui difficiles à imaginer aussi précisément. Il mériterait de compléter dans nos manuels la lettre de Fulbert de Chartres au même comte Guillaume. Cette lettre est un exercice un peu rhétorique, difficile à mettre en contexte,⁶⁵ mais elle témoigne bien à sa manière d'une relation modulable: en effet 'celui qui jure fidélité à son seigneur' se doit de ne pas lui nuire, et on a l'impression tout d'abord que la lettre va s'en tenir à cela, et puis tout de même elle continue par les devoirs positifs d'aide.

L'aide effective de ce seigneur châtelain au comte, son seigneur, consiste à l'accompagner à la guerre contre une autre province, la Gascogne (ll. 167–69).⁶⁶ Cela fait une relation, dans l'ensemble assez comparable avec celle que les *Histoires* de Richer de Reims permettaient d'entrevoir entre les princes régionaux et le roi, ou plutôt plus étroite puisque le contrôle comtal sur les héritages paraît ici assez fort. Hugues le chiliarque ne le remet pas en cause dans le principe, il se plaint seulement d'arbitrages rendus en sa défaveur. En effet, les historiens d'antan ont trop insisté sur le caractère patrimonial du fief, en y voyant une victoire et un atout pour le vassal; mais c'était sous-estimer la fréquence des querelles entre héritiers, car celles-ci sont innombrables, et c'est par elles que règne le comte.

Les 'révoltes' de seigneurs ou de comtes de second ordre contre les princes régionaux du XI^e siècle ne sont dangereuses que lorsqu'il s'agit de parents déclassés des comtes, appuyés par des princes voisins. Encore cet appui n'est-il pas inconditionnel, il cesse à l'occasion de compromis, après des actes de guerre limités.

Dans l'ensemble, le *Conventum* poitevin atteste bien que la vassalité post-carolingienne est une dépendance à la fois réelle et limitée, moins stricte que celle des *milites* romains envers leurs chefs, plus nette en revanche que l'allégeance très conjoncturelle que prêtaient les Germains du temps de Tacite à leurs 'ducs' et 'rois'. Le *Conventum* concorde avec d'autres sources de l'an mil en France, des

⁶⁵ On a voulu qu'elle soit en rapport avec le cas d'Hugues le Chiliarque (Marcel Garaud, *Les Châtelains*, p. 22). N'est-il pas plus probable que le point sensible soit l'hommage de Foulques Nerra, certainement accompagné d'un serment de fidélité?

⁶⁶ Hugues est d'abord réticent, et il argue du risque que représente pour lui, s'il quitte sa seigneurie, l'inimitié de Bernard de la Marche, mais finalement il est bien obligé d'y aller. Les institutions publiques que sont le plaid et l'ost du comte se maintiennent en somme durant le XI^e siècle, mieux que ne le laisse supposer le 'modèle mâconnais'; leur rôle principal n'a jamais été, à vrai dire, d'empêcher une certaine 'oppression' des seigneurs sur les paysans et parfois les églises, par l'instauration de nouvelles coutumes.

Histoires de Richer aux notices de Vendôme, en passant s'il le faut par les serments catalans et languedociens et plusieurs entrefilets de chroniques et d'hagiographies, pour nous confirmer que la vassalité, le fief et leur union sont bien un élément important du débat social et judiciaire entre les nobles de l'an mil, dans les plaids et l'interaction sociale. Comme dans l'Allemagne bien étudiée par Gerd Althoff, ils sont un élément important de la communication politique, même s'ils ne sont pas le seul. Il y a bien ici des codes et des règles qui contribuent à encadrer et à limiter la compétition entre seigneurs de châteaux, et donc à servir le dynamisme et la cohésion d'une classe dominante véritablement postcarolingienne. Et dès lors qu'on a appris à bien contextualiser les débats entre les seigneurs et les vassaux, sur les fiefs et les comportements, on persiste assurément à marquer, comme les historiens de la vieille école, les exigences fortes des vassaux sur leur droit, sur leur honneur et les égards qu'on leur doit et que leur reconnaît leur classe dans son ensemble; mais en même temps, on voit bien qu'ils ne font jamais corps tous ensemble contre leurs seigneurs, ces derniers profitant de la compétition entre eux. Les seigneurs de l'an mil ont un vrai droit de regard sur les fiefs, notamment parce que ces derniers font l'objet de querelles d'héritiers.

Dans ces conditions, si la France de l'an mil ne peut servir de référence absolue à l'étude de toute 'féodalité', ce serait tout de même en fausser gravement la description historique, que de n'y vouloir point reconnaître comme tels des vassaux et des fiefs. Ce serait aussi manquer les grands rythmes de son histoire, que de négliger les mutations des années 880 d'abord, 1100 ensuite, au profit d'une mutation de l'an mil qui n'a pas eu lieu. Vers 880 en effet, a bien commencé le temps des châteaux et des guerres féodales, que nous pouvons dédramatiser mais non ignorer en tant que telles. Vers 1100 ensuite, le développement des gouvernements ecclésiastique, princier, royal, va produire une sorte de réinterprétation administrative des vassaux et des fiefs, dans des optiques essentiellement fiscale et judiciaire. Dans le même temps, l'éthique et l'interaction vassaliques vont céder une partie du terrain à l'idéal et aux manières de la chevalerie proprement dite. Dès les années 1060, les chartes et les chroniques foisonnent en allusions à l'adoubement de jeunes seigneurs par leur suzerain, comte, duc ou roi, qui ainsi leur remet leur héritage en s'assurant un titre nouveau à leur gratitude.⁶⁷

⁶⁷ Voir mon livre sur *La Chevalerie, de la Germanie antique à la France du XII^e siècle* (Paris: Fayard, 2007), chaps 4 et 5.

L'ARISTOCRATIE LANGUEDOCIENNE ET LA SOCIÉTÉ FÉODALE: LE TÉMOIGNAGE DES SOURCES (MIDI DE LA FRANCE: XI^e ET XII^e SIÈCLES)*

Hélène Débax

'Keine sogenannte Quelle sagt uns, was der Feudalismus war (oder nicht war). Das müssen wir selber zu sagen versuchen, als Hypothese, der Kritik preisgegeben'¹

Une intervention sur le Midi de la France dans un colloque sur les espaces scandinaves pourrait paraître déplacée. À certains égards, cependant, sur le plan historiographique, cette région ne se trouve pas dans une situation très éloignée de celle des pays nordiques. Le Midi lui aussi a été longtemps considéré comme une périphérie, à la marge des vieux pays francs. On estimait qu'il n'avait connu les évolutions que tardivement et imparfaitement. Le modèle était non une *kinship society* comme pour les espaces scandinaves, non une société gentilice comme en Espagne du nord-ouest, mais une société d'amis et d'égaux, dominée de très haut par de quasi-rois, les comtes de Toulouse.² Ce qu'il est

* Tous mes remerciements vont à Dominique Baudreu, Jean-Paul Cazes, Florent Hautefeuille, Mireille Mousnier, Didier Panfili, Gérard Pradalié et Laurent Schneider, qui ont eu l'amabilité de m'aider, en particulier pour la cartographie.

¹ Ludolf Kuchenbuch, "Feudalismus": Versuch über die Gebrauchstrategien eines wissenschaftlichen Reizwortes', dans *Die Gegenwart des Feudalismus / Présence du féodalisme et présent de la féodalité / The Presence of Feudalism*, éd. par Pierre Monnet, Natalie Fryde, et Otto Gerhard Oexle (Göttingen: Vandenhoeck und Ruprecht, 2002), p. 323. ('Aucune source ne nous dit ce qu'était le féodalisme ou ce qu'il n'était pas. Cela, nous devons chercher à le dire nous-mêmes, comme une hypothèse livrée à la critique.')

² Elisabeth Magnou-Nortier, *La Société laïque et l'Église dans la province ecclésiastique de*

convenu d'appeler la féodalité classique, c'est-à-dire en simplifiant le modèle de Ganshof, la 'féodalité d'entre Loire et Rhin', a longtemps été considéré comme s'appliquant mal au Midi de la France. Robert Boutruche en 1970 estimait les féodalités méridionales inachevées et épidermiques, or André Debord dans sa synthèse posthume sur l'aristocratie publiée en 2000 affirmait: 'il paraît acquis que la zone la plus précocément féodalisée a été le monde méditerranéen, passée la crise du premier tiers du XI^e siècle'.³ En 30 ans, le retournement est spectaculaire.

C'est qu'entre temps avait paru un certain nombre de monographies décrivant une société méridionale qui avait elle aussi connu une évolution féodale, en Catalogne, en Provence, en Biterrois ou en Languedoc.⁴ Ces nouvelles analyses sociales ont amené à discuter le modèle classique: beaucoup d'éléments de l'étude de Ganshof ne cadraient pas avec les réalités méridionales, mais cela tenait surtout au schématisme de ce petit manuel qui avait rassemblé et présenté comme un tout des éléments disparates et non contemporains les uns des autres. La féodalisation du Midi n'a pu être suggérée que par une réflexion sur ce qu'on pouvait entendre sous le terme de société féodale.

Il va donc s'agir ici de présenter les 'caractères originaux' de la société féodale méridionale aux XI^e–XII^e siècles, une société qui n'est conforme ni au modèle de Ganshof, ni au modèle des feudistes.⁵ Vu l'ampleur du sujet, tout ne pourra être

Narbonne, de la fin du VIII^e à la fin du XI^e siècle (Toulouse: Publications de l'Université de Toulouse-Le Mirail, 1974); Paul Ourliac, 'Réalité ou imaginaire: La féodalité toulousaine', dans *Religion, société et politique: Mélanges en hommage à Jacques Ellul* (Paris: Presses universitaires de France, 1983), pp. 331–44.

³ Robert Boutruche, *Seigneurie et féodalité*, II: *L'apogée, XI^e–XIII^e siècles* (Paris: Aubier, 1970), p. 313. André Debord, *Aristocratie et pouvoir: Le rôle du château dans la France médiévale* (Paris: Picard, 2000), p. 138.

⁴ Pierre Bonnassie, *La Catalogne du milieu du X^e à la fin du XI^e siècle, croissance et mutations d'une société* (Toulouse: Publications de l'Université de Toulouse-Le Mirail, 1975–76). Jean-Pierre Poly, *La Provence et la société féodale (879–1166)* (Paris: Bordas, 1976). Monique Bourin-Derruau, *Villages médiévaux en Bas-Languedoc: Genèse d'une sociabilité (X^e–XIV^e siècle)* (Paris: L'Harmattan, 1987). Gérard Giordanengo, *Le Droit féodal dans les pays de droit écrit, l'exemple de la Provence et du Dauphiné (XI^e–début XIV^e siècles)*, BEFAR 266 (Rome: École française de Rome, 1988). Claudie Duhamel-Amado, *Genèse des lignages méridionaux*, 2 vols (Toulouse: Méridiennes, CNRS et Université de Toulouse-Le Mirail, 2001–07). Hélène Débax, *La Féodalité languedocienne: Serments, hommages et fiefs dans le Languedoc des Trencavel* (Toulouse: Presses Universitaires du Mirail (PUM), 2003).

⁵ Sur la construction du corpus de ces spécialistes du droit féodal, voir: Gérard Giordanengo, 'Les Feudistes (XII^e–XV^e siècles)', dans *El dret comú i Catalunya*, éd. par Aquilino Iglesia Ferreiros (Barcelona: Fundació Noguera, 1992), pp. 67–144.

traité; nous nous attacherons particulièrement aux strictes relations féodo-vassaliques, c'est-à-dire aux questions juridiques et institutionnelles, pour tenter de comprendre les modalités de l'exercice du pouvoir. En raison de la richesse du sujet et de l'abondance des sources, il ne sera question que de l'aristocratie castrale, cette classe de seigneurs, grands, moyens et petits qui contrôlent des *castra*, ou des parts de *castra*. Nous développerons donc non une réflexion générale et théorique, mais un cas régional, pour qu'il soit versé au dossier dans le débat collectif.

Après avoir brièvement présenté la région étudiée, d'un point de vue géographique et historique, nous exposerons la typologie de la documentation qui renseigne sur l'aristocratie castrale du Languedoc aux XI^e et XII^e siècles. Nous exposerons ensuite quelques réflexions sur le fonctionnement du fief et de la vassalité dans cette zone.

La région considérée se situe dans le sud du royaume de France, entre la Garonne et le Rhône, de Toulouse à Nîmes, et entre les Pyrénées et les contreforts méridionaux du Massif central. Bien qu'il appartienne au royaume, ce Languedoc est totalement hors de l'influence effective du roi de France entre les années 940 et la deuxième moitié du XII^e siècle. Les dernières traces de présence de méridionaux à la cour de France ou de lien personnel entre le roi et les représentants locaux du pouvoir datent du milieu du X^e siècle.⁶ Les premières timides interventions capétiennes ne datent que de la deuxième moitié du XII^e siècle, quand Louis VII partit en pèlerinage à Saint-Jacques de Compostelle, avant, bien entendu, la grande intrusion du début du XIII^e siècle, la croisade dite albigeoise.⁷ Les XI^e et XII^e siècles sont donc une période d'absence royale, qu'en est-il des pouvoirs locaux ? Au niveau supérieur, on éprouve un peu de mal à saisir le pouvoir et l'action des comtes.

Les comtes de Toulouse ont une autorité théorique sur le Languedoc, grâce à leur titre de marquis de Gothie: outre Toulouse, Albi, Cahors et Rodez, ils dominent l'ancienne Septimanie wisigothique, les comtés de Nîmes, Agde, Béziers, Lodève et Narbonne. Ils doivent compter avec deux autres dynasties comtales: les comtes de Carcassonne, jusqu'en 1067–68, et les comtes de Melgueil,

⁶ Jean-François Lemarignier, 'Les Fidèles du roi de France', dans *Recueil de travaux offerts à Clovis Brunel*, 2 vols (Paris: École des Chartes, 1955), II, 138–62. La tentative de Robert le Pieux pour renouer avec la partie sud de son royaume dans les années 1020 est un échec politique: Christian Lauranson-Rosaz, *L'Auvergne et ses marges (Velay, Gévaudan) du VIII^e au XI^e siècle, la fin du monde antique?* (Le Puy en Velay: Les Cahiers de la Haute-Loire, 1987), pp. 442–56.

⁷ Le point le plus récent, avec la bibliographie antérieure, se trouve dans: *La Croisade albigeoise* (Carcassonne: Centre d'études cathares, 2004).

dont la lignée s'éteint en 1176. Ces lignées comtales, toutes puissantes au X^e siècle, subissent une nette érosion de leurs capacités d'action au XI^e siècle, menacées par la réorganisation locale des pouvoirs autour des châteaux.⁸ Les comtes ont surtout affaire partout à des vicomtes qui prennent leur autonomie entre X^e et XI^e siècle. Au X^e siècle encore, ces délégués que les comtes ont nommés dans chacun de leurs comtés apparaissent régulièrement dans l'entourage comtal et souscrivent aux actes comtaux. Au XI^e siècle en revanche, ils s'affranchissent de l'orbite comtale et on ne voit plus les comtes intervenir dans les zones contrôlées par les vicomtes.⁹ Ces vicomtes, ce sont les Trencavel installés en Albigeois et à Nîmes, puis à Béziers, Agde, Carcassonne et Razès, et les vicomtes de Narbonne qui tiennent la zone côtière au nord du Roussillon. Dans le sud du Rouergue, on assiste à l'ascension des vicomtes de Millau, qui deviennent comtes au tout début du XII^e siècle. D'autres dynasties, avec ou sans titre, imposent leur pouvoir plus localement, les vicomtes de Minerve (en Narbonnais) ou de Lautrec (en Albigeois), les seigneurs d'Anduze (comté de Nîmes), de Montpellier (comté de Melgueil) ou de Termes (dans les Corbières).

Donc, en Languedoc aux XI^e–XII^e siècles, il n'y a pas de roi, on rencontre des comtes assez évanescents, des vicomtes et des barons, et surtout une floraison exceptionnelle de châteaux et de seigneuries castrales. À partir des années 980 environ, les châteaux se multiplient dans la documentation. En Languedoc, on peut véritablement parler de 'castellisation' ou de 'castralisation' des paysages.¹⁰ Le relief s'y prête: la plus grande partie de la zone étudiée est une région de moyenne montagne ou de plateaux entaillés par de profondes vallées, où les pays sont très cloisonnés. Il n'y a qu'une étroite plaine sur le littoral méditerranéen, et dans le couloir du Lauragais. Partout, sur de petits reliefs, des rebords de vallées ou des pitons rocheux, ont surgi des tours. Le phénomène apparaît très clairement si l'on compare deux cartes: celles des châteaux attestés aux IX^e–X^e siècles et celle des châteaux attestés aux XI^e–XII^e siècles.¹¹ [CARTES] À l'époque carolingienne et

⁸ Hélène Débax, 'L'Aristocratie méridionale autour de 1100', *L'Aristocratie, les arts et l'architecture à l'époque romane*, *Cahiers de Saint-Michel de Cuxa*, Actes des XXXVI^e Journées romanes (Codalet: Association Culturelle de Cuxa, 2005), pp. 7–20.

⁹ *Vicomtes et vicomtés dans l'Occident médiéval*, éd. par Hélène Débax (Toulouse: PUM, 2008).

¹⁰ Joseph Morsel, *L'Aristocratie médiévale* (Paris: Colin, 2004), pp. 88–115.

¹¹ Les cartes ont été composées grâce aux travaux de Duhamel-Amado, *Genèse des lignages méridionaux*; Dominique Baudreu, 'Le Bas-Razès aux XI^e–XII^e siècles: Formes castrales et ecclésiastiques de l'habitat groupé', dans *Histoire et archéologie des terres catalanes au Moyen Âge*, éd.

post-carolingienne, il y a peu de châteaux attestés, entre 5 et 10 environ par comté, et cela, dans une relative abondance de la documentation. J. Belmon a pu dénombrer environ un millier de chartes pour les IX^e et X^e siècles, avec entre autres une bonne dizaine de testaments de membres de familles comtales ou vicomtales dans la deuxième moitié du X^e siècle. En regard, la profusion des châteaux aux XI^e et XII^e siècles est telle qu'elle défie toute cartographie à la même échelle. Dans certaines zones, il est impossible de faire figurer toutes les structures fortifiées attestées: la carte doit être comprise comme une évocation et non comme une réelle géographie des châteaux qui demanderait un niveau de représentation beaucoup plus précis. Par ailleurs, les anciennes structures d'encadrement des populations qu'étaient le *ministerium*, la *vicaria*, le *pagus* ou l'*aice*, disparaissent alors des sources et sont remplacées par le *terminium* ou le *territorium castri*. À la tête de tous ces petits châteaux, on rencontre une multitude de seigneurs pour lesquels on a conservé une abondante documentation: celle-ci va maintenant nous intéresser.

L'essentiel des sources utilisées sont des sources diplomatiques, conservées à la fois dans des cartulaires et à l'état d'originaux.

par P. Sénac (Perpignan: PUP, 1995), pp. 187–228; Jérôme Belmon, *Les Vicomtes de Rouergue-Millau (X^e–XII^e siècles)* (thèse dactylographiée, École Nationale des Chartes, 1991); Bourin-Derruau, *Villages médiévaux en Bas-Languedoc*; Jacqueline Caille, *Medieval Narbonne: A City at the Heart of the Troubadour World* (Ashgate: Aldershot, 2005); Sylvie Campech, 'L'Occupation du sol au Moyen Âge sur le piémont nord de la montagne noire (Tarn)', *Archéologie du Midi médiéval*, 7 (1989), 43–59; Jean-Paul Cazes, *Habitat et occupation du sol en Lauragais audois au Moyen Âge* (thèse de doctorat, Université Toulouse II-Le Mirail, 1998); André Debord, *Châteaux et société dans le Rouergue médiéval (X^e–XIII^e)*, Château-Gaillard, 14 (Caen: Caisse Régionale d'Assurance Maladie de Normandie, 1990), pp. 7–28; Aline Durand, *Les Paysages médiévaux du Languedoc (X^e–XII^e siècles)* (Toulouse: PUM, 1998); Frédéric de Gournay, *Le Rouergue au tournant de l'an mil: De l'ordre carolingien à l'ordre féodal (IX^e–XII^e siècle)* (Toulouse: Méridiennes, CNRS et Université Toulouse-Le Mirail, 2004); Florence Journot, 'Châteaux du Languedoc montagnard', *Archéologie du Midi médiéval*, 10 (1992), 39–62; Mireille Mousnier, *La Gascogne toulousaine aux XII^e–XIII^e siècles: Une dynamique sociale et spatiale* (Toulouse: PUM, 1997); Christian Raynaud, 'Villages disparus dans les Pyrénées audoises: Les mutations médiévales de l'habitat', *Annales du Midi*, 98 (1986), 433–67; Laurent Schneider, 'Dans l'ombre de Montpellier: Espace, pouvoir et territoires dans l'ancien pagus de Maguelone durant le haut Moyen Âge (V^e–XI^e siècles)', dans *Carte archéologique de la Gaule 34/3: Le Montpelliérain* (Paris: Belles Lettres, 2003), pp. 98–112.

La documentation des cartulaires¹²

XI ^e siècle					
	<i>serments</i>	<i>sécurités</i>	<i>inféodations</i>	<i>reprises</i>	<i>reconnaissances</i>
Trencavel	96	5	3	7	
Montpellier	15	1	1		
Maguelone					
Agde		1			
Béziers			4		
Saint-Sernin			1		
Aniane				1	
Gellone			3	5	
Lagrasse			2		1
Douzens					
HGL	9	7	2		
Total XI^e	120	14	16	13	1

¹² Trencavel: cartulaire inédit, Société archéologique de Montpellier, MS 10; Montpellier: A. Germain, *Cartulaire des Guilhem de Montpellier: Liber instrumentorum memorialium* (désormais LIM) (Montpellier: Publications de la Société archéologique de Montpellier, 1884–86); Maguelone: J. Rouquette et A. Villemagne, *Cartulaire de Maguelone* (Montpellier: Louis Valat, 1912–27); Agde: O. Terrin, *Cartulaire du Chapitre d'Agde* (Nîmes: Société d'histoire du droit et des institutions des anciens pays de droit écrit, 1969); R. Foreville, *Le Cartulaire du chapitre cathédral d'Agde* (Paris: CNRS, 1995); Béziers: J. B. Rouquette, *Cartulaire de Béziers, Livre Noir* (Paris: Valat, 1918–22); Saint-Sernin: M. C. Douais, *Cartulaire de l'abbaye de Saint-Sernin de Toulouse* (Paris: Picard; Toulouse: Privat, 1887); P. et T. Gérard, *Cartulaire de Saint-Sernin de Toulouse* (Toulouse: Les Amis des Archives, 1999); Aniane: abbé L. Cassan et E. Meynial, *Cartulaire des abbayes d'Aniane et de Gellone, Cartulaire d'Aniane* (Montpellier: Martel aîné, 1900); Gellone: P. Alaus, abbé L. Cassan, et E. Meynial, *Cartulaire des abbayes d'Aniane et de Gellone, Cartulaire de Gellone* (Montpellier: Martel aîné, 1898); Lagrasse: E. Magnou-Nortier et A.-M. Magnou, *Recueil des chartes de l'abbaye de Lagrasse, I* (Paris: Comité des Travaux Historiques et Scientifiques, 1996); C. Pailhès, *Recueil des chartes de l'abbaye de Lagrasse, II* (Paris: Comité des Travaux Historiques et Scientifiques, 2000); Douzens: P. Gérard et E. Magnou, *Cartulaire des Templiers de Douzens* (Paris: Bibliothèque nationale, 1965); HGL: Dom Cl. Devic et Dom J. Vaissète, *Histoire Générale de Languedoc* (Toulouse: Privat, 1872–1902).

XII ^e siècle					
Trencavel	201	41	63	20	8
Montpellier	103	14	27	14	11
Maguelone	20	1	12	5	11
Agde		3	3		4
Béziers	1				2
Saint-Sernin			4	2	3
Aniane	5		5	13	
Gellone		2	4	4	3
Lagrasse	2	2	1	1	
Douzens					2
HGL	42	14	16	13	12
Total XII ^e	374	77	135	72	56

TOTAUX	494	91	151	85	57
--------	-----	----	-----	----	----

Les cartulaires sont très nombreux en Languedoc. On connaît maintenant assez bien leurs dates et leurs modalités de composition grâce aux travaux de Pierre Chastang, grâce aussi au colloque qu'a publié l'École des chartes sur les cartulaires méridionaux.¹³ Le tableau composé à partir de leur dépouillement exhaustif dénombre les actes qui renseignent sur le fief et sur le lien féodo-vassalique. On peut souligner que la grande originalité du Languedoc est d'avoir conservé deux magnifiques cartulaires laïques, celui des Guilhem de Montpellier et celui des Trencavel. Remarquons que ce sont ces sources laïques qui fournissent la très grande majorité des occurrences. Le dépouillement parallèle des cartulaires ecclésiastiques montre que les procédures féodales ne sont pas inconnues des évêques ou des abbés, mais beaucoup moins pratiquées. Le premier corpus, Maguelone, est à mettre un peu à part car cette compilation d'actes — qui n'est pas un véritable cartulaire — concerne à la fois les évêques et le chapitre, mais aussi les comtes de Melgueil. Agde, Béziers et Saint-Sernin de Toulouse sont des cartulaires canoniaux. Aniane, Gellone et Lagrasse sont trois gros fonds d'archives

¹³ Pierre Chastang, *Lire, écrire, transcrire: Le travail des rédacteurs de cartulaires en Bas-Languedoc (XI^e–XIII^e siècles)* (Paris: Comité des Travaux Historiques et Scientifiques, 2001); *Les Cartulaires méridionaux*, éd. par Daniel Le Blévec (Paris: École des Chartes, 2006).

de trois anciennes abbayes bénédictines, deux cartulaires et un chartrier. Le dernier cas est un test fait sur un cartulaire templier, celui de la commanderie de Douzens, proche de Carcassonne. En dernière ligne, on trouve l'inventaire d'un certain nombre de textes épars, publiés au XVIII^e siècle dans la monumentale compilation, l'*Histoire générale de Languedoc*, de dom Devic et dom Vaissète (actes publiés à partir de sources aujourd'hui disparues, concernant essentiellement les comtes de Toulouse, les comtes de Foix, et les vicomtes de Narbonne, pour lesquels on n'a pas conservé de fonds propre d'archives). Ce tableau pourrait être complété grâce au cartulaire des comtes de Barcelone qui ont contrôlé à certains moments les comtés de Carcassonne, Razès, Rodez, les vicomtés de Milau et de Carlat et le Gévaudan.

Les données fournies par les cartulaires peuvent être comparées et contrôlées grâce à un grand nombre d'originaux, conservés pour la plupart aux Archives nationales dans le Trésor des chartes des rois de France.¹⁴ Ce sont des archives issues des comtes de Toulouse, des vicomtes de Nîmes et de nombreuses petites seigneuries sous leur domination. Ces originaux très nombreux — plusieurs centaines assurément — n'ont pas été exhaustivement recensés, mais plusieurs seront utilisés ponctuellement. Ici aussi, il faudrait compléter le dépouillement grâce aux originaux des archives comtales barcelonaises qui sont en grande partie encore inédits.¹⁵

Une première observation d'ensemble peut être faite à propos de ces chiffres bruts: le lien féodo-vassalique est révélé de façon très majoritaire par les sources laïques. Le serment pour un château ou son inféodation ne sont pas des types d'actes inconnus des institutions ecclésiastiques, mais on n'en a de témoignage que lorsque cette institution peut être représentée par un homme seul, un évêque ou un abbé. Quelques textes ont donc pu être glanés dans des corpus d'actes épiscopaux ou abbaciaux. Les structures collectives comme les chapitres, ou bien pour d'autres raisons, celles qui se sont organisées tardivement, au XII^e siècle, comme les Templiers ou les Hospitaliers, ne reçoivent pas de serment et contrôlent d'ailleurs très peu de châteaux. Le test sur les Templiers de Douzens est significatif, et pourrait être corroboré par les autres fonds documentaires templiers ou hospitaliers. Quand ces ordres nouveaux se sont installés, les cellules banales et

¹⁴ Paris, Archives nationales, Trésor des Chartes, J 300 à J 335.

¹⁵ Une première publication: Gaspar Feliu et Josep Maria Salrach, *Els pergamins de l'Arxiu comtal de Barcelona de Ramon Borell a Ramon Berenguer I (981-1076)* (Barcelona: Fundació Noguera, 1999).

castrales étaient organisées, et les réseaux constitués: ils eurent beaucoup de difficultés à s'insérer au niveau de la seigneurie castrale.

Les chartes pertinentes pour cerner le lien féodo-vassalique peuvent être ordonnées en une typologie souple, autour des deux pôles que constituent les serments et les inféodations.

C'est une des grandes spécificités des régions méditerranéennes, de la Provence à la Catalogne et du Cantal au Languedoc que d'avoir conservé de très nombreux textes de serments pour des châteaux — pas seulement la mention du fait qu'un serment a été prêté mais le contenu-même des engagements. Il s'agit d'un type d'acte tout à fait nouveau au XI^e siècle. Environ 500 serments ont pu être dénombrés dans le corpus des cartulaires pour les deux siècles envisagés, mais ce chiffre pourrait être pratiquement doublé en prenant en compte les actes catalans et provençaux. Voici l'un de ces textes, un serment pour le *castellum* de Roquefort-sur-le-Sor (Tarn), prêté à un vicomte Trencavel, avant 1030:

De ista hora in antea no decebra Ugo filius Ermengarz Atonem filium Gauciane de illo castello qui vocatur Rocafort qui est in ribera de Sor, ni de ipsas turres, ni de ipsas fortizas que ibi hodie facte sunt aut in antea facte erunt, nec ipse Ugo, nec homo nec femina pro suum ingenium nec pro suum consilium, ni nolli tolra, ni nolli devedara ipse Ugo ad ipsum Atonem, ni ab forfacto ni sine forfacto, et si est homo vel femina qui ipsum castellum Rocafort tollat o devedad Atonem filium Gauciane, Ugo filius Ermengard ab illo homine vel ab illa femina societatem non tenra, ni finem no fara, in contra dampnum de ipso Atone, intro recuperatum habeat Ato ipsum castellum de Rocafort, in adjutorium li erit Ugo ad ipsum Atonem sine ulla deceptione, et si ipse Ugo ipsum castellum recobrarre potuerit, in potestate Atone lo metra sine inganno et sine lucro, sicut in isto pergamenno superius scriptum est, si o tenra et si o atendra ipse Ugo filius Ermengard in contra Atonem filium Gauciane de ipso castello de Rocafort, fors quantum ipse Ato len absolvra ad ipsum Ugonem suo gradiente animo sine forcia.¹⁶

Dans ces serments, l'essentiel est qu'un homme s'engage envers un autre à propos d'un château. Il lui promet de ne pas le tromper, de ne pas lui enlever le château, de le lui rendre, et de lui fournir une aide. Les termes de la promesse sont ancrés dans la réalité matérielle du *castrum*. Un exemple à peine postérieur et tout à fait comparable peut être pris dans la famille des seigneurs de Montpellier: il s'agit d'un serment pour le *castrum* du Pouget (Hérault), prêté vers 1068–90:

De ista hora in antea, ego Girundes filis Advenia non decebrai Vilelmum filium Ermenjardis de ipso castro quod vocatur Pojet, nun li tolrai ni len tolrai, ni li vedarai ni len vedarai, de illas fortizas que ara i son ni adenant i erun, ni hom ni femena per meun ingen ni per meu art ni per meu unsel. E si hom era u femena quel ti tulgues u ten tulgues,

¹⁶ *Cartulaire des Trencavel*, acte 49, fol. 12^r.

cum illis finem nec societatem non aurai al daun de Vilelmo suprascripto ad adjuderai ad Vilelmu suprascriptum usquequo habuisset recuperatum; et cum illo et sine illo adjudar len ai par fidem et sine inganno et rendrai lol per achelas vez que men cumonra per se u per sun mes u per sus misos sine suo inganno et sine sua deceptione e del comoniment num vederai.¹⁷

Ces actes sont informés d'un point de vue diplomatique et sont rédigés dans une langue très marquée par la langue vernaculaire, l'occitan: on peut penser qu'elle témoigne assez fidèlement de ce qui pouvait être réellement dit. On possède en effet des actes contemporains comme des chartes de donation, des ventes ou des testaments qui sont rédigés en latin et qui respectent globalement le formulaire diplomatique. Cela veut dire que la forme particulière des serments est une forme délibérée, que l'on ne peut expliquer par la méconnaissance des formulaires et encore moins par un oubli du latin.¹⁸ Cette langue très proche de l'oralité montre que la féodalité languedocienne est une féodalité pragmatique et intériorisée, qui n'est pas imposée de l'extérieur, ni calquée sur des modèles normatifs — comme les *Libri Feudorum*, qui d'ailleurs n'existent pas encore.

Deux éléments ont jusqu'à présent empêché d'apprécier la spécificité de ces serments et de leur donner une juste place dans la compréhension du fonctionnement de l'aristocratie méridionale. Ces serments pour un château ont été rapprochés à tort de quelques serments conservés pour le X^e siècle qui n'ont strictement aucun rapport, sauf leur nature sacramentelle.¹⁹ Les serments pour un château, tels que les deux présentés ci-dessus, sont une forme nouvelle au XI^e s, les premiers conservés sont les onze serments au vicomte Aton II d'Albi (Trencavel) ou à son frère (entre 990 et 1030), les trois à Bérenger, vicomte de Narbonne (à partir des années 1020), et un serment à l'évêque de Rodez (à l'extrême fin du X^e siècle). Un deuxième élément a généré le brouillage des catégories: ces serments pour un château ont été jugés répétitifs et tous identiques, et de ce fait ils ont souvent été édités de façon tronquée (avec de multiples 'etc.' dans l'*Histoire générale de Languedoc* qui en a été le principal éditeur). Cela a entraîné une confusion avec une autre catégorie de serments que l'on rencontre aussi

¹⁷ A. Germain, *LIM*, acte 484.

¹⁸ Voir à ce propos: Philippe Martel, 'Les Chartes en occitan du XII^e siècle. Une anomalie?', *Langues, dialectes et écritures: Les langues romanes en France*, éd. par Hervé Guillotel et Jean Sibile (Paris: Institut d'études occitanes, 1993), pp. 17–29.

¹⁹ Comme par exemple le serment du bayle de l'abbaye de Camon en 950, ou bien le serment aux chanoines de Brioude des environs de l'an mil, qui s'apparente très fortement aux serments de la Paix de Dieu (voir E. Magnou-Nortier, *La Société laïque*).

fréquemment dans la documentation languedocienne, les sécurités. Dans ce que l'on peut appeler les sécurités, il n'y a pas d'engagement pour un château. Celui qui jure promet simplement de ne pas attaquer la personne de l'autre, ou ses biens: il s'agit d'une sécurité personnelle, un serment qui ressortit aux catégories de l'alliance. À la différence du serment pour un château, la sécurité n'instaure aucune hiérarchie et elle est bien souvent réciproque. Elle peut aussi sceller des alliances offensives (on promet d'aider l'autre contre quelqu'un). Dans le contexte de la grande guerre méridionale du XII^e siècle, on conserve des sécurités entre tous les comtes, vicomtes et grands seigneurs du Midi, au gré des alliances et des ligues créées, pour ou contre Toulouse, pour ou contre Barcelone. La confusion a été accentuée par le fait que parfois de telles sécurités viennent en introduction d'un serment pour un château. Celui qui jure promet d'abord de ne pas attaquer la personne de l'autre, puis il promet de lui rendre un château. Un seul exemple sera présenté, un serment pour les *castella* de Lunas (Hérault), prêté à Frotaire, frère d'Aton II, avant 1014:

De ista hora in antea non decebra Deusde filius Adalaiz Froterium filium Gaucia de sua vita ni de sua membra que in corpus suum portat et in corpus suum se tenet per que ille o perda, ni non fara ni non consentira sua presione a suo dampno suo sciente, ni nol decebra ni nol devedara ni nol tolra illos castellos de Lunatis ni illas turres ni illos muros ni illas fortizas que hodie i sunt et in antea erint, ni Deusde ni hom ni femna per suo consilio ni per suo consilio ni per suo ingenio nec per sua consencia, et si homo est aut femna qui Froterio tollat ipsos castellos suprascriptos aut ipsas turres aut ipsas fortizas, Deusde cum illo homine aut cum illa femina qui hoc fecit societatem non tenra ad dampno de Froterio suo sciente, usque recuperatum habeat ipsum castellum, nisi quantum Froterius illum absolvera sine forcia, et in adjutorium erit Deusde de illos aut de illas qui hoc fecerint ad Froterio sine sua deceptione, et si Deusde recuperare potuerit ipsum castellum, in potestate Froterii lo tornara sine lucro et sine ulla deceptione Froterii.²⁰

Si l'on élabore une typologie détaillée de tous ces serments languedociens et si on considère les textes *in extenso*, on ne peut plus affirmer que les serments pour un château sont de simples pactes de non agression qui ne comprendraient que des obligations négatives. On y trouve toujours, dès les premiers textes conservés, une promesse très claire de fournir un *adjutorium*, une aide militaire, qui parfois peut être détaillée de façon très précise, comme dans ce serment pour Arzens (Aude), vers 1074–1100:

De ista hora in antea ego Petrus qui fui filius Ermerit fidelis ero ad te Ermengard filia que fuisti Rangarz per drictam fidem sine enganno aisi com debet esse ad suum seniore cui

²⁰ *Cartulaire des Trencavel*, acte 464, fol. 179^r.

manibus ses comandaz, et de ista hora in antea non decebrei ni not tolrei ni not vedarei aquel castel qui factus est ni er in alode de Arzenco, ni de las turs ni dels murs ni de las fortizas qui ara i sunt ni adenant factas i serant, ni nols te tolra ni ten tolra, ni nols te vedara ni ten vedara homo nec femina ab meum gen ni ab meo consilio, et per quantas ves tu men comonras per te ipsam aut per tuos missos, in tua postad lo tornarei sine lucro de tuo avere et sine tua deceptione, et si est homo aut homines, femina aut feminas quil te tollat ni ten tollat, vetet aut vetent, finem nec societatem non aurei ab illas neque ab illos ad tuum dampnum me sciente, usque ipsum castrum qui hodie factus est in alode de Arzens vel in antea erit recuperatum habeas, et *adjutor ten serei* sine tuo inganno ab ti et sine ti usque recuperatum habeas ipsum castrum, et si recuperare eum potuero, in tua potestate lo tornarei sine lucro de tuo avere et sine tua deceptione. *De ista hora in antea adjutor ten serei de totos illos homines et de totas illas feminas de que tu comoniraz per te ipsam aut per tuum missum aut per tuos missos qui tolran tuos fevos nec tuos alodes ni ten tolran, et de illo adjutori non n'enganerai ni mal non ten menarei.* Sicut superius scriptum est, si to tenrei tot et to atendrei ego Petrus suprascriptus ad te Ermengard suprascriptam, excepto quantum tu men absolveras tuo graziente animo sine forcia me sciente.²¹ (C'est nous qui soulignons)

Et surtout, un élément est au centre de l'engagement et en constitue véritablement l'objet: ces textes contiennent tous la promesse de rendre le château, comme dans tous les exemples détaillés ci-dessus, ou comme dans cet autre serment pour le *castrum* de Blanchefort (Aude, vers 1074–1129):

Juro ego Willelmus Raimundi filius Ledor a ti Bernardo Atoni filio Ermengardis et tibi Cecilie et filiis vestris Rogerio et Raimundo de ista hora in antea non decipiam de castro de Blancafort, la tor ni las tors, lo mur nils murs, ni las forcas que ara i sunt ne antea factas erunt, nol te tolrei ni ten tolrei, nil te vedarei ni ten vedarei, et *per quantas vegadas tu men comonras per ti ni per tun message, cum forfacto et sine forfacto, lor reddrei et del comoniment no men desvedarei, no men diffugirei,* et si nuls hom ou femna, homines vel femine tibi tollerent o ten tolliant, adjutor ten seria ab ti et sine ti senes engant, et si recobrar lo podia, *in tua potestate tornar lia* sine lucro de avere aut de honore. Sicut in ista carta scriptum est et legi et intellegi potest sine inganno, si to tenrei et to atendre per Deum et hec sancta.²² (C'est nous qui soulignons)

Ce type de serment pour un château instaure donc une hiérarchie: celui qui prête serment reconnaît une autorité supérieure à la sienne sur le *castrum* qui est l'objet de l'engagement. Le château est un château jurable (on prête serment pour lui) et rendable (celui qui prête serment le détient, mais seulement tant que le seigneur supérieur ne lui demande pas de le rendre).²³

²¹ *Cartulaire des Trencavel*, acte 287, fol. 93^v.

²² *Cartulaire des Trencavel*, acte 203, fol. 63^r.

²³ Sur l'importance de la 'reddibilité' du château, voir Ch. L. H. Coulson, 'Rendability and

Dans la deuxième moitié du XII^e siècle, la forme générale des serments change quelque peu lorsque la forme diplomatique de la charte est réutilisée dans la mise par écrit des serments. Les formulations se font plus précises, voire bavardes, mais le fond des engagements est le même: la promesse de rendre le château à toute semonce et la promesse de fournir une aide militaire. Les textes se présentent alors comme celui-ci, qui est un serment pour La Livinière (Hérault, en 1176):

Anno Christi incarnationis M^oC^oLXXVI^o, rege Lodovico regnante. Notum sit omnibus hoc audientibus quod ego Geraldus de Lavineria et ego Willemus de Carre et ego Bermundus de Campo filii Marie juramus tibi domino Rogerio vicecomiti Biterris filio Saure castrum de Lavineria videlicet turres et forcias omnes et fortalezas quecumque modo ibi sunt et in antea facte fuerint, et quocienscumque castrum illud vel aliquas forcias vel fortalezas de ipso castro per te vel per tuum nuncium nocte vel die recipere volueris, illud tibi nullo modo prohibebimus nec prohibere faciemus et statim in tua potestate sine omni occasione et sine inganno illud mittemus, et nullo modo castrum illud vel aliquid de illo tibi auferemus, et si fuerit homo vel femina, homines vel femine qui tibi castrum illud vel aliquid de illo auferant, cum illo vel cum illa vel cum illis societatem nullo modo habebimus nisi pro castro recuperando, cum omni nostro posse illos vel illas guerreiabimus usquedum castrum illud habeamus recuperatum, et quando castrum illud recuperatum habebimus, statim sine omni mora in tuo posse illud mittemus sine omni lucro honoris et avari quod a te non requiremus. Sicut superius diximus ita tenebimus et observabimus ut melius dici vel intelligi potest ad tuum honorem et utilitatem atque tuorum per hec IIII sancta evangelia. Hujus rei sunt testes [8 noms], Bernardus notarius supradicti domni Rogerii jussione omnium supradictorum hanc cartam scripsit in mense marcii.²⁴

Dans tous ces serments, l'engagement est bien une fidélité promise pour un château, castrum ou castellum et qui instaure une hiérarchie. On ne rencontre cependant jamais le terme de fief dans un serment. Pour le trouver, il faut se tourner maintenant vers l'autre grande catégorie de textes qui a été distinguée, les inféodations et les reprises en fief.

Le Midi de la France a conservé les plus anciennes mentions du mot fief dans la documentation, dès l'extrême fin du IX^e ou le début du X^e siècle. Je ne prendrai pas en compte ces attestations précoces: elles sont très stéréotypées et apparaissent dans des clauses de donation où il est interdit de donner en fief. Elles mériteraient une étude à part entière. À partir du XI^e siècle, les occurrences de *fevum* ou *feudum*

Castellation in Medieval France', dans *Château Gaillard VI* (Caen: Caisse Régionale d'Assurance Maladie de Normandie, 1973), pp. 59–67.

²⁴ *Cartulaire des Trencavel*, acte 311, fol. 101^r.

se multiplient. Claudie Amado en a relevé une bonne quarantaine uniquement pour la plaine de Béziers au XI^e siècle.²⁵ On voit apparaître dans la documentation des donations en fief. Le fief désigne alors tout type de tenure qu'elle soit aristocratique ou paysanne. Pour cette étude, je n'ai pris en compte que les textes mentionnant un fief sur un *castrum* ou *castellum* pour m'en tenir au niveau de l'aristocratie. Dans une étude générale de la société féodale, il faudrait bien entendu intégrer toutes les autres attestations. Si l'on s'en tient à l'aristocratie castrale, les fonds documentaires offrent deux types de textes: tout d'abord des donations en fief ou inféodations. Elles se présentent sous le formulaire classique de la donation, avec le verbe *dono*, *cedo*, *concedo* ou *laudo*, mais ensuite la façon de donner est qualifiée: *ad feudum*, *ad fevum*. On ne donne jamais *un* fief, on donne un château *en* fief, comme par exemple dans cette inféodation de Brusque (Aveyron, vers 1027–77), effectuée par un frère du vicomte Aton II, qui est évêque de Nîmes:

In nomine Domini. Ego Froterius episcopus dono et laudo per fidem et sine inganno tibi Ademarum Corvesinus et posteritati tue ut habeas et teneas tu vel tui de me ad fevum vel de meis ad meum servitium vel veram fidelitatem de me vel de meis scilicet quod totum habeo vel habere debeo in castro quod vocatur Brusca vel in ejus mandamentum ipsius castri.²⁶

Dès les premières inféodations conservées, la concession n'est absolument pas précaire, mais au contraire héréditaire; c'est explicitement dit dans le texte pour Brusque (ci-dessus: '*et posteritati tue*'), ou dans un acte d'inféodation du *castellum* de Calvisson (Gard) par le vicomte Bernard Aton IV, en 1095, 1100, ou 1106:

In nomine Domini. Scriptura memorialis de dono quod fecit Bernardus Ato vicecomes et uxor sua Cecilia Elziardo de Castriis et infantibus quos de legali uxore habuit, castellum quod Calvuzon nominatur, excepta parte Decani, donavit Bernardus Ato vicecomes et uxore sua Cecilia ad fevum ad totas honores [...]. Istam donationem fecit Bernardus Ato et uxor Cecilia Illiziardo de Castrias in die festivitatis Sancti Andree, in cambra Raimundo Cantarella in presentia [4 noms]. Facta est carta ista feria VI^a, luna I^a.²⁷

On ne peut détailler ici toutes les conditions qui accompagnent ces donations en fief; quand elles sont précisées, on trouve l'obligation de prêter serment — ce qui est nommé le serment de reddition, *de redditione sacramentum* — et la promesse d'aide, c'est-à-dire exactement les clauses contenues dans les textes de serment; très

²⁵ Amado, *Genèse des lignages méridionaux*, I, 155–75, et surtout 418–26.

²⁶ *Cartulaire des Trencavel*, acte 474, fol. 185^r.

²⁷ A. Germain, *LIM*, acte 368.

souvent s'y ajoute aussi une albergue, un droit de gîte limité à quelques *milites*, généralement entre cinq et dix. Si l'on n'avait conservé que ces textes bruts, on pourrait en conclure à une réelle concession du seigneur qui donne en fief. Mais il se trouve que, dans un grand nombre de cas, il est possible de mettre en relation ces textes de donation en fief avec deux autres types de textes, ce qui nous engage à modifier l'interprétation que l'on peut faire du processus féodal.

Un certain nombre de dossiers mieux documentés permet de reconstituer un mécanisme en trois temps pour l'entrée en fidélité. Tout d'abord (logiquement et chronologiquement), le seigneur d'un château donne son château en alleu; ensuite le seigneur supérieur le lui rend en fief; enfin, le seigneur supérieur reçoit un serment pour ce même château. Une telle reprise en fief a été opérée en 1085, 1091 ou 1096 pour le *castellum* de Caissargues en Nîmois:

Hec est carta donacionis quam fecit Ugo Berengarius et uxor sua Aimildis et infantes illorum ad Ermengardam vicecomitissam et Bernardum Atonem filium suum et ad illum qui de illo exhibit qui vicecomes erit de Nemauso civitate vel ad filiam que vicecomitissa erit similiter de Nemauso. Hic Ugo suprascriptus et uxor sua et infantes illorum donant ad Ermengardam vicecomitissam et ad filium suum partem suam quam habent in castello de Caxanicis et totos retornos et convenientias quas ibi Ugo Berengarius habet et obvenire ei ibi sunt *ad alodem* et totum suum alodem ubicumque eum habeat quem modo habet vel in antea illi advenire est, in tale vero racione quod ipsa Ermengardis vicecomitissa vel Bernardus Ato filius suus vel filius suus qui vicecomes sit de Nimis vel filia que vicecomitissa sit de Nimis donet *ad fevum* hunc honorem suprascriptum *et ad beneficium* ad Ugonem Berengarius et ad uxorem suam et ad infantes infantum suorum usque in perpetuum ad to[t]as onores.²⁸ (C'est nous qui soulignons)

Sur un même parchemin, on éte ici recopiées la donation en alleu et la restitution en fief. Le serment correspondant, copié sur une autre feuille, est aussi conservé mais a été totalement déclassé dans le fonds d'archives — ce serment est en tous points comparable à ceux qui ont été vus plus haut.²⁹ Un autre exemple est plus étonnant d'un point de vue archivistique, une reprise en fief du château de Bernis le 14 mars 1101. La donation en alleu et la restitution en fief sont copiées dans le cartulaire des Trencavel, mais le serment correspondant n'y a pas été copié: il est conservé à l'état d'original dans le Trésor des chartes.³⁰ Cela entraîne à penser que, lorsqu'on ne possède pas les trois actes d'une reprise, on peut craindre des pertes documentaires. Dans certains cas en effet, on n'a pas conservé les trois étapes du

²⁸ Paris, Archives nationales, J 322, 81.

²⁹ Serment correspondant: Paris, Archives nationales, J 304, 98.

³⁰ Donation en alleu et restitution en fief: cartulaire des Trencavel, acte 565, fol. 220^v; serment correspondant: Paris, Archives nationales, J 322, 94.

processus mais seulement deux (par exemple, on conserve la donation et la restitution mais on a perdu le serment; ou bien on a une donation en alleu puis un serment). Ce dernier cas de figure peut être illustré par le cas du castellum de Castries (Hérault) en 1095:

Breve donationis que fecit Ramun, filii Viola, et uxori sua Gersende, filia Froiles, en Raimundo et en Bertrando filius suus. E Raimundus et Bertrandus suprascriptus, filii Garsendis, dona[n]t castellum de Castrias **ad alo** a Dalmaz, filium Aizivella et de ipsas fortizas que ibi sunt et adenantea factas erunt per fidem et sine enganno cum consilio Raimo et Garsenz, in presentia [3 noms]. *Actum est hoc V idus septembris, anno XXXV regnante rege Philippo.*

Serments correspondants:

Audis tu Dalmas filius Aizivella ego Raimundus filius Garsendis lo castello de Castrias, las fortizas que ibi sunt et in antea facte erunt, ego non las te tolrai, ni ten tolrai... in tua postat lo tornaria ...

Audis tu Dalmas filius Aicivella ego Bertrandus filius Garsendis lo castel de Castrias, las fortizas que ibi sunt et in antea ibi erunt factas, ego non las ti tolrai, ni ten tolrai... in tua postat lo tornaria ...³¹

Parfois, ce n'est pas une donation qui inaugure la procédure, mais une vente: on peut alors parler de reprise en fief monnayée, comme le cas du château de Montaignu en Albigeois vers 1030–60 ou du château de Termes en 1118.³²

Tout cela incite à penser que les aléas de la conservation des sources rendent assez illusoire pour nous de décider dans tous les cas s'il s'agit d'une reprise en fief ou d'une véritable inféodation. Quand on n'a conservé qu'un seul des textes, que peut-on dire ? Une inféodation seule ou un serment isolé peuvent être les seules pièces subsistantes d'un processus de reprise en fief. Ou bien si l'on ne conserve que la donation en alleu, il est difficile de croire que les seigneurs châtelains se sont entièrement défaits de leurs droits sur le château; bien souvent, d'ailleurs, on retrouve des serments à la génération postérieure. Dans ces circonstances, il semble impossible de distinguer radicalement les deux types documentaires, inféodation et reprise. D'autant plus qu'un autre phénomène vient ajouter à la complexité: on a parfois conservé plusieurs reprises en fief successives sur un même

³¹ Respectivement: A. Germain, *LIM*, actes 383, 384, et 385.

³² Montaignu (Tarn): cartulaire des Trencavel, acte 46, fol. 11^r; Termes (Aude): cartulaire des Trencavel, acte 190, fol. 60^r.

château.³³ Par exemple, le château de Ségats en Albigeois est repris en fief des Trencavel en 1124 et en 1144. On a vu plus haut le cas de Bernis en 1101: une nouvelle reprise en fief est effectuée en 1154. Chez les Guilhem de Montpellier, il y a aussi des reprises en fief successives pour Popian, le Pouget ou Castries.

De telles reprises en fief successives pourraient paraître absurdes si l'on considérait la cession de l'alleu comme une transaction foncière dans la tradition romaine. On ne pourrait pas donner à nouveau ce que l'on n'a plus, ce qui a déjà été donné à la génération antérieure. Cependant, les textes ne disent pas que les seigneurs châtelains donnent l'alleu, mais qu'ils donnent en alleu. Ce n'est pas le contenu de la donation qui est qualifié d'alleu, mais la modalité de celle-ci: donner en alleu semble vouloir dire entièrement, complètement, avec tous les droits et tout le pouvoir. Une reprise en fief ne se distingue finalement d'un simple serment que par une sorte de solennité particulière; la reprise en fief n'est qu'une façon particulièrement solennelle de reconnaître l'autorité du seigneur supérieur. Elle peut être renouvelée à chaque génération.

Un autre élément pourrait nous aider à comprendre les successions de reprise, mais malheureusement l'histoire politique du Languedoc aux XI^e–XII^e siècles est assez mal connue dans ses détails. Plusieurs de ces reprises en fief sont en effet renouvelées après un épisode de revirement politique, ce que nous appellerions une trahison (un *engan* ou une *bauza*, disent les textes). Le cas le plus évident est celui de Bernis déjà évoqué: on a conservé entre les deux reprises en fief des Trencavel, de 1101 et 1154, une reprise en fief du comte de Toulouse en 1138. On peut reconstituer un scénario plausible: les seigneurs de Bernis étaient dans l'orbite des Trencavel; ils se sont alliés en 1138 à leurs ennemis de Toulouse dans une circonstance de la grande guerre méridionale dont le détail nous échappe; puis dans une période d'apaisement, ils sont revenus dans l'alliance Trencavel en 1154. On peut se demander combien d'autres péripéties de ce type restent dans l'ombre; elles permettraient de mieux comprendre ces répétitions de reprises en fief.

Ces analyses conduisent à proposer quelques réflexions sur le fonctionnement de l'aristocratie castrale languedocienne. À partir du XI^e siècle, les sources montrent des familles seigneuriales qui détiennent des châteaux, qu'elles ont vraisemblablement construits. À un certain moment, ces seigneurs castraux trouvent intérêt à reconnaître l'autorité d'un seigneur supérieur, ou bien, dans certains cas,

³³ Voir l'analyse de Fredric L. Cheyette, 'On the *fief de reprise*', dans *Les Sociétés méridionales à l'âge féodal: Hommage à Pierre Bonnassie*, éd. par H. Debax (Toulouse: Méridiennes, CNRS, et Université Toulouse-Le Mirail, 1999), pp. 319–24.

ils y sont contraints: il s'agit bien souvent du résultat d'un rapport de force. La reprise en fief — que ce soit la première ou un renouvellement, peu importe, il est impossible de les distinguer — l'inféodation ou le serment manifestent l'engagement d'une nouvelle génération au service du seigneur supérieur, engagement essentiellement centré sur le château et la promesse d'aide militaire. Il est toujours clairement juré que le château sera rendu à toute semonce du seigneur. Entre deux semonces, le châtelain est bien le seigneur du château; en revanche si on le lui réclame, il est obligé de le rendre.

Les textes de reprise en fief montrent aussi la force de ces lignages seigneuriaux. Les seigneurs castraux entrent dans la dépendance d'un seigneur supérieur, mais ils ont la possibilité de lui imposer un certain nombre de contraintes, du moins dans le cas des lignages les plus puissants. La reprise en fief manifeste bien un transfert du pouvoir sur le château, mais ce transfert peut être soumis à des conditions: la plus courante est qu'il est interdit au seigneur supérieur de remettre ce pouvoir qui vient de lui être reconnu à qui que ce soit d'autre que ses descendants. Les formulations de ces contraintes ou conditions peuvent varier: à Caissargues, il est interdit au vicomte de céder le château repris en fief à quiconque d'autre qu'un successeur qui serait vicomte de Nîmes.

In tale vero conveniencia donat hunc honorem Ugo Berengarius et uxor sua et infantes sui ad vicecomitissam et ad Bernardum Atonem filium suum quod ipsa Ermengarda vel Bernardus Ato filius suus *vel ipsi qui vicecomites erunt de Nîmis per sugcedemento vel filia que vicecomitissa erit per sugcedemento, donare neque vindere neque inpignorare neque aliquo modo incobolare alicui homini vel femine possit, neque ad sanctos neque ad sanctas*. Et si aliquis vicecomes vel aliqua vicecomitissa hoc fecerit, hic honor suprascriptus revertatur ad Ugonem Berengarium vel ad proximos suos ad alodem sine blandimento ullius hominis vel femine. Hanc donacionem ideo facit Ugo Berengarius et uxor sua et infantes sui ad vicecomitem et ad vicecomitissam ut eum et suos manuteneant et totum suum honorem. Facta carta ista in die mercurii XIII kalendas julii, regnante Philipo rege [signa ...]³⁴ (C'est nous qui soulignons)

À Calvisson, l'exemple paraît encore plus significatif puisqu'il s'agit formellement d'une inféodation: le vicomte se voit imposer le fait qu'il ne pourra pas transférer le pouvoir à un autre seigneur:

cum tali conveniencia quod Bernardus Ato aut uxor ejus Cecilia *non mitant alium dominum super Eliziardo extra se et heredes suos*. Istam donationem fecit Bernardus Ato et uxor Cecilia Illiziardo de Castrias in die festivitatis Sancti Andree, in cambra Raimundo

³⁴ Suite du texte cité plus haut, référence à la n. 29.

Cantarella in presentia [4 noms]. Facta est carta ista feria VI^a, luna I^a.³⁵ (C'est nous qui soulignons)

Cela signifie clairement que le vicomte devra rester le seigneur direct et qu'il lui est interdit d'intercaler un degré dans la hiérarchie de la fidélité sur le château. Et surtout à Caissargues, il est bien dit que, si le vicomte dérogeait à la règle qui lui est imposée, les seigneurs qui effectuent la reprise en fief récupéreront leur château en alleu. À la fin du XII^e siècle, quand les chartes deviennent plus détaillées et plus précises, la même idée est exprimée de façon encore plus claire: il est explicitement interdit d'introduire un seigneur intermédiaire, sinon la reprise en fief serait caduque et le bien donné retournerait à son précédent statut, une détention en alleu:

Ego Bernardus de Muro Vetulo et ego Berengarius et ego Bermundus nos tres fratres simul per nos et per Gaucelinum fratrem nostrum et heredes nostros bona fide et sine dolo cum hac carta donamus et tradimus nunc et in perpetuum pro alodio tibi domino Rogerio vicecomiti Biterris et heredi vel heredibus tuis qui villam sive civitatem Biterris habuerint et quicquid habemus vel aliquo modo habere debemus in castello de Muro Vetulo et in ejus terminis et inde facimus tibi hominum ego Berengarius et ego Bermundus. Et ego Rogerius predictus accipio vos fratres pro hominibus et fidelibus et dono vobis omnibus prenomminatis fratribus et trado et heredibus vestris in perpetuum per me et heredes meos ad feudum honoratum ad omnes honores totum honorem vestrum predictum quem mihi dedistis pro alodio in castello de Muro Vetulo et in ejus terminis. Pro quo feudo facietis mihi et heredibus meis singulis annis tantummodo alberga quinque militum et promitto quod donum predictum quod mihi de vestro fecistis non dabimus ego vel heredes mei alicui vel aliquibus hominibus seu feminabus, nisi tamen illi vel ille heredum nostrorum qui villam sive civitatem de Biterris habuerint, *nec aliquem hominem vel feminam medium vel mediam in hoc dono umquam vos ponemus*, et si forte alicui homini vel femine ego vel heredes mei de predicto honore vestro vel de hoc quod inde vobis habemus fecerimus donum, quod vos honorem vestrum libere et sine vinculo hominii, sicut habebatis, habeatis, et *totum donum predictum ad pristinum statum reducatur*.³⁶ (C'est nous qui soulignons)

La relation féodale est donc un statut instauré, soumis à des conditions, nullement pérenne. Le fief n'est fief que tant que perdure le lien entre les deux protagonistes du serment, de l'inféodation ou de la reprise. Guilhem V de Montpellier, avant de partir pour la conquête de Majorque, en 1114, peut ainsi en guise de *donatio pro anima* rétrocéder en alleu des châteaux qu'il avait inféodés: s'il meurt en Espagne, les seigneurs castraux redeviendront alleutiers.

³⁵ A. Germain, *LIM*, acte 368.

³⁶ *Cartulaire des Trencavel*, acte 452, fol. 172^r.

Illa vero castella, videlicet Frontinianum, Monbasen et Popianum cum omni alodio quod acaptavi et adquisivi cum ipsis castellis ubicumque sit, et Cornunsec et Montemferrarium cum omni alodio quod in eis et in eorum terminio habeo, *reddo, solvo et guirpisco per alodium omnibus illis qui per manum meam ad fevum habent*, eis et eorum successorum.³⁷
(C'est nous qui soulignons)

Sur la question du fief et de la vassalité, quelques conclusions émergent de ces réflexions. Il semble qu'il y a très peu de fiefs véritablement donnés par le seigneur supérieur; en ce qui concerne l'aristocratie castrale pour le moins, le fief ne peut se penser comme une concession du seigneur. Le fief n'est pas une unité de propriété, un terroir ou un espace, c'est une relation, un lien institué.³⁸ Donner ou recevoir en fief, c'est établir une relation hiérarchique sur un château. Cet état de fait éclaire une formulation étonnante qui paraît dans tous les serments pour un château: le fidèle s'engage pour ce qu'il a, mais aussi pour ce qu'il aura dans le château.³⁹ La promesse s'applique par avance aux constructions futures. Le fief est bien l'expression d'une relation de fidélité, dont le *castrum* est la base matérielle. Cela permet de comprendre l'absence du mot 'fief' dans les serments. Le serment est toujours simplement fait pour le château, *castrum* ou *castellum*. Ce château n'est pas un fief, il est tenu en fief; et le retour à une détention allodiale est toujours possible, comme nous venons de le voir. Le serment est la cérémonie qui instaure la relation féodale. Bien plus, celui qui jure prête toujours pour le *castrum*, or on sait parfois pertinemment qu'il n'en détient qu'une petite partie (par exemple, on a souvent plusieurs serments contemporains pour un même château, ou bien on a une reprise en fief pour la moitié, le tiers, une part du château,⁴⁰ alors

³⁷ Testament de Guilhem V: *Cartulaire de Maguelone*, acte 38, à la p. 779 (Frontignan, Montbazin, Popian, Cournonsec, et Montferrier, aujourd'hui dans l'Hérault). La même pratique, que l'on pourrait qualifier 'après moi, le déluge', est attestée dans la vicomté de Narbonne: dans des circonstances difficiles pour elle, la vicomtesse Ermengarde 'achète' en 1193 l'aide militaire d'un seigneur châtelain, Ermengaud de Fabrezean, en abandonnant après sa mort le serment et la reddition qu'il était tenu de faire pour son *castrum* au seigneur de Narbonne. Fabrezean redeviendra donc un alleu (texte cité en annexe V de l'article de Jacqueline Caille, 'Ermengarde, vicomtesse de Narbonne (1127/29–1196/97): Une grande figure féminine du Midi aristocratique', dans *La Femme dans l'histoire et la société méridionales (IX^e–XIX^e siècle)* (Narbonne: Fédération Historique du Languedoc méditerranéen et du Roussillon, 1995), p. 42.

³⁸ Voir notre thèse, Débax, *La Féodalité languedocienne*, pp. 144–48.

³⁹ Voir les serments ci-dessus: *de ipsas turres ni de ipsas fortizas que ibi hodie facte sunt aut in antea facte erunt* (textes cités aux notes 20, 21, 22, et 24).

⁴⁰ Voir le cas de Caissargues, ci-dessus.

que le serment correspondant mentionne uniquement le *castrum* ou *castellum* en bloc). Le seigneur châtelain ne peut pas être fidèle pour une moitié ou un tiers de château, il doit défendre le château tout entier. Ce *castrum* pour lequel on prête serment joue donc essentiellement comme une sorte de fiction juridique qui sert de base à la fidélité; ce *castrum* peut être considéré comme une unité de compte de la fidélité.

Qu'en est-il de la vassalité ? Le mot 'vassal' n'apparaît jamais en Languedoc, où on trouve *homo* ou *fidelis*, mais pas *vassallus*; ce qui est généralement compris sous le terme de vassal existe cependant en Languedoc. On peut dire que la vassalité est le lien personnel instauré au moment où la relation féodale est conclue, entraînant droits et devoirs. Dans le Languedoc des XI^e–XII^e siècles, la vassalité ne préexiste pas à l'instauration du fief. Être vassal n'est pas une réalité abolue, mais toujours relative à un château. Tous les seigneurs châtelains d'une certaine importance ont plusieurs châteaux et souvent plusieurs seigneurs pour leurs différents châteaux. Il peut y avoir aussi plusieurs seigneurs supérieurs pour le même château. Même au plus haut niveau de l'aristocratie, les Trencavel par exemple ont pour seigneurs les comtes de Toulouse à Albi, Nîmes, Agde et Béziers et les comtes de Barcelone pour Carcassonne et Razès. Les Guilhem ont pour seigneurs au moins le comte de Melgueil, l'évêque de Maguelone, le vicomte Trencavel et le comte de Barcelone. À l'inverse, un vicomte, par exemple, n'est pas le seigneur supérieur dans toute sa vicomté. Pour reprendre l'exemple des Trencavel, ils n'ont réussi à contrôler qu'une petite partie de la vicomté de Nîmes autour de la cité, alors que la région des Cévennes est dans la domination des seigneurs d'Anduze-Sauve. Mais par ailleurs, les Trencavel contrôlent les châteaux dans le sud-ouest du Rouergue où ils concurrencent la domination des vicomtes de Millau ou des comtes de Rouergue. Cela donne une image de réseaux de fidélité enchevêtrés et coalescents, mais aussi tangents. En Languedoc, la métaphore de la pyramide féodale n'a aucune efficience.

La complexité est encore accrue par le fait que ces seigneurs ne contrôlent que très rarement la totalité d'un château: partout il y a des groupes de frères, de cousins, de parents. En effet, le droit successoral est demeuré égalitaire jusqu'au XII^e siècle au moins. À chaque génération, on partage les droits sur les châteaux. Bien évidemment, ces divisions n'ont pas vocation à se multiplier à l'infini; il y a aussi sans cesse, de façon concomitante, des disparitions de branches sans héritiers, des déchéances, des réunifications. L'aristocratie castrale a généralement des fractions de droits dans plusieurs châteaux, et chaque château connaît sa propre situation de seigneurie. Cet état de fait entraîne inmanquablement des conflits

de fidélité, quand deux seigneurs supérieurs sont en guerre, par exemple: ces conflits sont réglés au coup par coup, par des rapports de force ou par des négociations. Il n'y a pas d'institution équivalente à la ligesse, mais la souplesse du serment et de ses clauses modulables permet d'introduire très fréquemment une clause de réserve de fidélité: on prête serment à quelqu'un pour un château, sauf contre tel ou tel. Ce sont des réseaux de fidélité enchevêtrés, mais aussi hiérarchisés.

L'hommage doit sembler jusqu'ici bien absent à l'historien familial des descriptions classiques. Pourtant, le Languedoc est la région qui fournit les attestations parmi les plus anciennes de *hominium*, *hominaticum* ou *homenesc* (à partir d'environ 1035). Un des serments retranscrit ci-dessus fait aussi apparaître la fameuse clause d'origine carolingienne '*sicut homo debet esse seniori suo*'. Il est à remarquer que cette clause est parfois traduite en occitan et comme digérée par la pratique locale: *aisi com debet esse ad suum senioreu cui manibus ses comandaz*.⁴¹ Une inféodation pour Castries à la fin du XI^e siècle dit que le fidèle doit être 'l'homme des deux mains'. Une autre inféodation du côté de Muret en Toulousain vers 1060–1090 dit 'l'homme les mains jointes'. On a donc d'assez fréquentes mentions d'hommage à partir du troisième tiers du XI^e siècle. Mais l'hommage ne semble pas être systématique. Il se peut que les textes entraînent à sous-estimer la part de l'hommage, car il s'agit d'un rite qui est fait et qui n'a pas besoin d'être dit, ni décrit: les actes pourraient donc ne le mentionner qu'incidemment.

Mais, plus globalement, on peut s'interroger sur la nécessité de l'hommage dans le lien féodo-vassalique. F. L. Ganshof avait fait de la trilogie hommage-serment-investiture une sorte de dogme. Or il est certain qu'il n'y a pas d'investiture, ni de rite d'investiture en Languedoc. À sa place, on trouve de très nombreuses chartes d'inféodation ou de reprise en fief qui décrivent la concession, son contenu et les conditions qui sont mises à la tenure du fief. Quant à l'hommage, c'est une cérémonie parmi d'autres; la prestation de serment elle-même est pourvue d'un rituel codifié et complexe.⁴² On trouve des inféodations avec et sans hommage, sans qu'il y ait de différence dans les contraintes imposées au vassal. Par ailleurs, dans l'Occident tout entier, l'hommage peut s'appliquer à bien d'autres objets qu'à

⁴¹ Voir ci-dessus le serment pour Arzens.

⁴² Voir notre article: Hélène Débax, 'Le Serrement des mains: Éléments pour une analyse du rituel des serments féodaux en Languedoc (XI^e–XII^e siècles)', *Le Moyen Âge*, 1 (2007), 9–23.

la relation féodale et il est investi de bien d'autres contenus que l'entrée en vassalité, que l'on pense à l'hommage en marche ou à l'hommage de paix.⁴³

Nous présenterons un dernier texte pour illustrer la singularité des réalités languedociennes: une controverse de 1122 sur le château de Brissac (Hérault).

Hec est carta difinicionis super controversiis que fuerunt inter Guilelmum abbatem secundum Gellonensis cenobii et Assalit de castro Breixach. Abbas enim dicebat quod supradictus Guilelmus Assaillith **debebat facere ei non solum hominum set etiam jurare fidelitatem pro feudo quem ab eo tenebat**. Guilelmus vero Assaillit hominum quidem profitebatur set sacramentum fidelitatis negabat. [Pons, frère de Guilhem, vient témoigner] *Confessus est in placito sacramentum fidelitatis debere fieri a domino de Breixac abbati Gellonensi pro feudo quem ab ipso tenebat, et etiam idem Pontius paratus fuit illud sacramentum fidelitatis facere propria manu. Unde Guilelmus Assaillit, adquiescens veritati, juravit propria manu fidelitatem supradicto abbati.*⁴⁴

L'hommage est donc un rite qui peut intervenir dans la relation féodo-vassalique, mais qui n'est pas consubstantiel à cette relation. En Languedoc au moins, un serment pour le fief suffit.

La société languedocienne des XI^e–XII^e paraît bien être une 'société féodale'. Le lien féodal détermine des réseaux et des hiérarchies à l'intérieur de l'aristocratie castrale. Il n'est nullement contradictoire avec l'existence d'autres liens, en particulier de liens de parenté, qu'elle soit charnelle ou spirituelle.⁴⁵ On observe en Languedoc une continuité de la classe dirigeante depuis ce que l'on peut connaître de l'aristocratie de l'époque carolingienne jusqu'à l'époque féodale. Cela ne veut pas dire exactement une continuité biologique. Ceux qui peuvent construire des tours et des châteaux au XI^e sont les héritiers ou les descendants des grandes familles qui avaient le pouvoir au IX^e ou au X^e, autant que l'on puisse en juger. Il n'y a pas d'anarchie, ni d'anarchie féodale. Au contraire le lien féodal a permis de reconstituer des hiérarchies. Mais tout a changé. Au XI^e siècle, le pouvoir émane du château, il est fondé sur le château. La transition ne s'est pas opérée dans une courte phase de crise violente, comme en Catalogne.⁴⁶ Le bouleversement n'en est

⁴³ Voir Klaus Van Eickels, 'Homagium and amicitia: Rituals of Peace and their Significance in the Anglo-French Negotiations of the Twelfth Century', *Francia*, 24 (1997), 133–40; Paul Hyams, 'Homage and Feudalism: A Judicious Separation', dans *Die Gegenwart des Feudalismus / Présence du féodalisme et présent de la féodalité / The Presence of Feudalism*, éd. par Monnet, Fryde, and Oexle, pp. 13–49.

⁴⁴ *Cartulaire de Gellone*, acte 364; suivi par le serment pour le château: acte 365.

⁴⁵ Voir à ce propos Jean-Pierre Devroey, *Puissants et misérables: Système social et monde paysan dans l'Europe des Francs* (Bruxelles: Académie royale de Belgique, 2006).

⁴⁶ Voir Bonnassie, *La Catalogne* et 'Du Rhône à la Galice: Genèse et modalités du régime

pas moins profond. L'aristocratie se restructure au XI^e siècle dans une juxtaposition de segments de fidélité fondés sur le fief-*castrum*. Ce qui a changé radicalement, c'est le mode de circulation du pouvoir à l'intérieur de cette aristocratie. Dans le contexte féodal, le pouvoir n'est plus délégué comme il pouvait l'être dans le cadre carolingien et post-carolingien, désormais il ne peut être que partagé.⁴⁷ Et c'est bien la fonction des inféodations et des reprises en fief que d'entériner ce partage.

féodal', dans *Structures féodales et féodalisme dans l'Occident méditerranéen (X^e–XIII^e siècles)* (Rome: École française de Rome, 1980), pp. 17–55.

⁴⁷ Je reprends ici l'heureuse formule de Thomas Bisson, "The "Feudal Revolution"", *Past and Present*, 142 (1994), 36–37.

ESTABLISHING BONDS: FIEFS, HOMAGE, AND OTHER MEANS TO CREATE TRUST

Gerd Althoff

Discussions in recent years have made medievalists aware of how little definite knowledge we possess of that phenomenon that falls under the heading of *Lehnswesen* — I use consciously the German term — a phenomenon, we give every new student to believe, is central for understanding the Middle Ages.¹ And in fact, we do have to rethink the importance this phenomenon had for the functioning of medieval orders and for the establishment of relationships between medieval people. Furthermore, one can even debate whether the institution of *Lehnswesen* is appropriate as a central concept for characterizing an era — but what designation of an era is not debatable?

Nevertheless, I am no proponent of the thesis that the entire conceptual world that we subsume under the concept of feudalism was only a later construction and that until the twelfth century, feudalism — in the sense of a network of interpersonal relationships — had no great importance or did not even exist at all. In my opinion, it most certainly did exist and had an essential influence on the functioning of lordship. It cannot be considered in isolation, however, but must be discussed in the context of all the other processes and techniques with which

¹ See Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (New York: Oxford University Press, 1994), and the subsequent international debate which is documented by Susan Reynolds, 'Afterthoughts on *Fiefs and Vassals*', in *The Haskins Society Journal*, 9 (1997), 1–15, and Brigitte Kasten, 'Beneficium zwischen Landleihe und Lehen — eine alte Frage, neu gestellt', in *Mönchtum — Kirche — Herrschaft 750–1000*, ed. by Dieter R. Bauer and others (Sigmaringen: Thorbecke, 1998), pp. 243–60.

people in the Middle Ages sought to engender the obligation to help and support. Without this obligation rulership would not be conceivable nor would survival be possible in a society in which the right of the stronger generally prevailed quite unhampered.

In what follows I would like to try to demonstrate some characteristics of the feudal bond especially in the earlier centuries of the Middle Ages, when its existence is particularly in dispute. For this reason I present the feudal bond specifically as one of several others in which the obligation of reciprocal support dominated. I will concentrate on the highest social level in which bonds of this kind can be observed, namely the relationships between kings and their highest-ranking magnates. This is useful not least because in these cases, a lot of information about the context in which feudal bonds arose and existed has come down to us. This information can be found in considerable density in contemporary narrative sources, which I thus use to a greater degree than others have done in their studies.²

Yet all the same I see my observations less as an argument against their theses than as a contribution to the question of how lordship in the early and high Middle Ages functioned in the first place. It is of course not possible to develop this argument systematically in one paper, but like many other scholars, I continue to assume that ruling in the early and high Middle Ages was only possible when it was based on direct personal bonds, founded upon either kinship, friendship, or lordship.³ Like anyone else wishing to practice dominion, every king had to surround himself with groups of helpers who were prepared to support him and thereby give his claim to dominion the necessary muscle. But this kind of support and help was generally not given gratis. Rather, it was much more the case that principles of mutual give and take held sway, principles of *do ut des*. Principles of give and take seem to me basic for the understanding of personal bonds in the Middle Ages in general.

² Therefore I offer a perspective which differs from the perspective that Susan Reynolds assumed in her study. See Gerd Althoff and Barbara Stollberg-Rilinger, 'Rituale der Macht im Mittelalter und Früher Neuzeit', in *Die neue Kraft der Rituale*, ed. by Alex Michaels (Heidelberg: Winter, 2007), pp. 141–77.

³ See Gerd Althoff, *Verwandte, Freunde und Getreue: Zum politischen Stellenwert der Gruppenbildungen im früheren Mittelalter* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1990). English translation: *Family, Friends and Followers: Political and Social Bonds in Early Medieval Europe*, trans. by Christopher Carroll (Cambridge: Cambridge University Press, 2004).

But let us start with a question: which persons were obliged to support a medieval lord or king in his claims to dominion? A passage from the *Historia Welforum* illustrates very well the problem at hand: '[Duke] Welf told his family, friends, and followers [*fideles*] of the injustice done to him and got them to come to his assistance with the greatest willingness.'⁴ Three groups of persons are named here, upon whose help one could rely when they were convinced of the justice of one's own cause: family, friends, and followers. The following is especially concerned with the importance of the *fideles*.

Before I show this, it should be said that my comments are based on observations and source material from the history of the empire from the tenth to the twelfth centuries. Strictly speaking my findings are valid only for this time and place.

One general comment is also important for understanding the following argument: no lord could simply demand or expect such help; rather he had to convince family, friends, and even followers that his cause was justified, and this took place by means of counsel on the problem at hand. In the groups in question, therefore, *auxilium* was preceded by *consilium*, by means of which consensus over the collective future course of action was produced.⁵ In present-day German medieval studies — and elsewhere — the process of producing consensus is considered so central to the understanding of rulership that the kingship of the high Middle Ages has been characterized as 'consensual lordship'.⁶ Many times over, in fact, kings since the Carolingian era emphasized that their rule was upheld

⁴ *Historia Welforum*, ed. by Erich König, Schwäbische Chroniken der Stauferzeit, 1 (Stuttgart: Kohlhammer, 1938), cap. 30, p. 60: 'Gwelfo enim illatam sibi iniuriam amicis, cognatis et fidelibus suis exponens omnium animos in adiutorium sui cum optima voluntate ascivit.' The title of my book on family, friends, and followers is based on this passage (see the footnote above).

⁵ See the classic Heinrich Mitteis, *Lehnrecht und Staatsgewalt: Untersuchungen zur mittelalterlichen Verfassungsgeschichte* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1958; repr. Weimar, 1933), esp. pp. 59–61; François L. Ganshof, *Was ist das Lehnswesen?* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1989), pp. 90–92; Jürgen Hannig, *Consensus fidelium: Frühfeudale Interpretationen des Verhältnisses von Königtum und Adel am Beispiel des Frankenreiches*, Monographien zur Geschichte des Mittelalters, 27 (Stuttgart: Hiersemann, 1982), pp. 205–07.

⁶ Bernd Schneidmüller, 'Konsensuale Herrschaft: Ein Essay über Formen und Konzepte politischer Ordnung im Mittelalter', in *Reich, Regionen und Europa in Mittelalter und Neuzeit. Historische Forschung 67: Festschrift für Peter Moraw*, ed. by Paul-Joachim Heinig (Berlin: Duncker & Humblot, 2000), pp. 53–87.

by *consensus fidelium*.⁷ One should not disparage these statements as an obscuration of the real power relationships. For what happened when a king sought to exempt himself from the obligation of procuring this *consensus fidelium* can be seen vividly, for example, in the case of King Henry IV: in his time, the *fideles* met without the king and produced a consensus both without and against him.⁸ From this perspective — and only from this perspective — the nearly unbroken chain of meetings can also be explained, at which, throughout the entire Middle Ages, the kings and their *fideles* in the empire assembled.⁹ They did not shun the considerable effort of the numerous personal meetings precisely because the producing of consensus through counsel was the basis of every exercise of rulership.

Kingship, like other lordship, was thus based upon consent and, dependently, the help of persons who had a bond to the king different from those based on family and friendship. And it is certainly not incorrect to assume that the circle of these *fideles* was considerably larger than that of the king's *cognati* or *amici*. The *fideles* and their *fides* were thus decisive for the strength of the kingship.

But what can we say about the quality and character of the bond of these *fideles* to the king? According to statements in the sources, dominant among these *fideles* were persons who were also referred to as *proceres*, *magnati*, *nobiles*, *duces*, and *comites*, as well as many other comparable terms. The *fideles* were without a doubt normally members of the ruling classes.

And their bond to the king was quite manifestly grounded upon a ritual act. *Manus ei dantes, fidem pollicentes* is one of the formulations with which expression was repeatedly given to the fact that with a '*commendatio*', a *hominium* with an *inmixtio manuum*, a bond was symbolically grounded in which *fides* should reign. In addition this would be verbally promised with an oath: 'I will act in the future as a *homo* has to act properly in relation to a *dominus*.'¹⁰ It is nearly the same

⁷ Hannig, *Consensus fidelium*, pp. 205–07.

⁸ See the recent study, Gerd Althoff, *Heinrich IV: Gestalten des Mittelalters und der Renaissance* (Darmstadt: Wissenschaftliche Buchgesellschaft, 2006), esp. pp. 89–91, 144–46, 257–59.

⁹ See generally *Deutscher Königshof, Hoftag und Reichstag im späteren Mittelalter*, ed. by Peter Moraw, *Vorträge und Forschungen*, 48 (Stuttgart: Thorbecke, 2002); Werner Paravicini, *Die ritterlich-höfische Kultur des Mittelalters*, *Enzyklopädie deutscher Geschichte*, 32 (Munich: Oldenbourg, 1999), pp. 65–67.

¹⁰ Ganshof, *Lehnswesen*, pp. 77–79.

formulation that friends also used when they sealed their friendship with an oath.¹¹

The existence of a ritual act such as this seems to me to be an important indication that among contemporaries knowledge prevailed of what this act expressed and which obligations it established. It is one of the characteristics of the medieval period that obligations were primarily entered into with ritual acts. That which was given expression by means of symbolic action counted as a promise of future behaviour. It would be possible to produce a broad spectrum of examples to demonstrate this point, but I shall not present any here because, as some German scholars have noted, I have already presented an exhaustive amount elsewhere.¹²

Rather, by means of a few examples from a short time period around the turn of the millennium, I shall show in which contexts this *commendatio* appears and the nature of the bond it establishes. It will come as no surprise that I have chosen examples in which this *commendatio* exists in a more or less direct connection with the bestowing of fiefs. The granting of land should be seen, in other words, as the return service — the countergift — with which a lord rewarded a promise of allegiance. It is the contribution that he brings into the relationship besides his *fides* and grace. I shall thus try to show with these examples that the *commendatio* and the promise of allegiance, on the one hand, and the granting of fiefs, on the other, were indeed two components of an integrated process that bound the magnates to the king and the king to the magnates.

First example: when the Saxons recognized Henry II as king in Merseburg in the year 1002, Thietmar of Merseburg describes the event as follows: ‘All those who had served the previous emperor performed the *commendatio* with the king and promised faithful help upon their oath.’¹³ Thietmar inserted into this sentence: ‘except Liudger’ and so underlined the refusal of the *commendatio* by one single count, who, based on previous incidents, could expect nothing good of

¹¹ See Claudia Garnier, *Amicus amicis — inimicus inimicis: Politische Freundschaft und fürstliche Netzwerke im 13. Jahrhundert*, Monographien zur Geschichte des Mittelalters, 46 (Stuttgart: Hiersemann, 2000), p. 11; Gerd Althoff, *Amicitiae und pacta: Bündnis, Einung, Politik und Gebetsgedenken im beginnenden 10. Jahrhundert*, MGH, Schriften, 37 (Hannover: Hahn, 1992), pp. 24–25.

¹² Gerd Althoff, *Die Macht der Rituale: Symbolik und Herrschaft im Mittelalter* (Darmstadt: Primus, 2003), passim.

¹³ *Thietmari Merseburgensis episcopi Chronicon*, ed. by Robert Holtzmann, MGH, SSrG, NS, 9 (Berlin: Weidmann, 1935), v, 18, p. 241: ‘Omnes, qui priori imperatori servierant, Luidgero solo remanente, regi manus complicant, fidele auxilium per sacramenta confirmant.’

Henry. All the Saxon magnates thus established their relationship to the new king by means of a *commendatio* accompanied by a promise of loyalty and help. There is initially no mention of the new granting of fiefs in this connection. But immediately thereupon Thietmar relates that in one case there was a dispute about the granting of a new fief:

Boleslaw [meaning the Polish duke Boleslaw Chrobry] was very eager to receive Meissen castle, even if it would cost him an enormous sum of money. But since this was not in the interest of the empire, he of course had no success with the king and just managed to have it granted to his brother-in-law Gunzelin, while he himself received the regions of Lausitz and Milzener Land. My nephew, Count Henry, when he could, had interceded for him very eagerly, gladly, and with friendship.¹⁴

In analysing the context it becomes clear that the issue here is the reallocation of the fief of Margrave Ekkehard of Meissen, which was necessary because he had been slain in 1002. Boleslaw and Gunzelin were relatives of the slain margrave, and with the assistance of other close companions like Count Henry, entered claims to the fief and were additionally prepared to pay a lot of money for it. Feudal relations were thus highly contested if vassals died and succession became a problem. This is probably the reason why Thietmar specifically mentions only the problem of the restructuring here, and not the fact that all the others kept their fiefs.

Second example: in the following year 1003 Thietmar reports a very similar conflict between Henry II and Boleslaw Chrobry over a question of fiefs. Boleslaw had conquered Bohemia and Henry II requested that Boleslaw take the land from him as a fief:

He sent envoys to Boleslaw with the offer that if he would receive the land he had recently occupied according to the old lawful custom and by means of his grace, and would serve him in all loyalty, then he would fulfill his desire for it, otherwise he would oppose him with arms.¹⁵

¹⁴ *Thietmari Merseburgensis episcopi Chronicon*, v, 18, p. 241: 'Bolizlaus autem Misnensem urbem tantummodo innumerabili pecunia acquirere satagebat et, quia oportunitas regni non erat, apud regem optinere non valebat, vix impetrans, ut hec fratri suo Guncelino daretur, redditus sibi Luidizi et Miltizieni regionibus. Hunc Heinricus comes, nepos meus, oppido diligens, quocumque modo potuit, libenter et amicabiliter eum adiuuabat.' See Gabriele Rupp, *Die Ekkehardiner, Markgrafen von Meissen, und ihre Beziehungen zum Reich und zu den Piasten* (Frankfurt am Main: Lang, 1996), pp. 165–67.

¹⁵ *Thietmari Merseburgensis episcopi Chronicon*, v, 31, pp. 255–56: 'Itaque, quod opportunum tunc maxime sibi videbatur, dissimilatis omnibus, que eis acciderant, nuncios ad Bolizlaum misit, mandans ei, si terram nuper a se occupatam de sua gracia, ut ius antiquum poscit, retinere sibi que

Henry II thus saw Bohemia as a territory that one could not simply conquer, but which had to be granted by him and for which the recipient had to serve him *fideliter*. In this, the King referred to a *ius antiquum* that demanded the enfeoffment.

Both of the cases described mention a connection that existed between the land granted by the king and the obligation to *fidele servitium*. And while there may have been differences of opinion and conflicts over this royal prerogative, namely with Boleslaw Chrobry, this does not change the observation that Henry II had very clear ideas about his *ius antiquum* and was prepared to defend this right with arms.

I shall intentionally remain in the years around the turn of the millennium and also focus on Saxon examples, which are handed down by Thietmar and the *Annals of Quedlinburg*, in order to make clear how dense the records are with events that we can interpret as enfeoffments or as conflicts between king and magnates over enfeoffments. It is no coincidence that the next examples also deal with conflicts which, nonetheless, are each amicably settled in very similar ways. And in this the leading role was played again by ritual acts like the *commendatio* and the ritual obligation to *fidele servitium* before the granting of the fief.

The first case concerns Henry the Quarrelsome, who in 986, after an unsuccessful attempt to wrest the kingdom from his underage relative Otto III, was invested with the duchy of Bavaria in the following manner:

When the royal child Otto the third came to Frankfurt, [Henry] came there also and duly humbled himself in order to avoid the penalty for having elevated himself improperly. Humble in outfit and carriage, both hands folded, before the eyes of the entire crowd and in the presence of the imperial women, he did not blush to surrender himself as vassal (*miles*) to the royal boy whom he had taken prisoner as an orphan and whose empire he had violently seized as his own. In true faithfulness, he promised to serve him in the future, demanded nothing for himself other than his life and then pled for mercy.

In this way he achieved his reinstatement in ducal dignity, and he was accepted not only as *amicus* but as *amicissimus* by the imperial women who were acting as regents.¹⁶

in omnibus fideliter vellet servire, se eius voluntati in hiis assentire, sin alias, se armis illi velle contraire.' Concerning the invasion of Bohemia by Boleslaw, see Rupp, *Die Ekkehardiner*, pp. 186–88.

¹⁶ *Die Annales Quedlinburgenses*, ed. by Martina Giese, MGH, SSrG, 72 (Hannover: Hahn, 2004), a. 985, pp. 474–75: 'Veniente in Frankanafurd rege infante tertio Othone ibidem et ipse adveniēns humiliavit se iuste, quo poenam evaderet elationis iniustae, regique puerulo, quem orbatum captivaverat, cuius regnum tyrannice invaserat, praesentibus dominis imperialibus, quas

But with the demonstrative act of subordination in Frankfurt Henry the Quarrelsome had apparently not yet made enough amends, for the historian Thietmar of Merseburg additionally reports that at the celebration of the following Easter in Quedlinburg the four dukes publicly served the royal child by assuming the courtly offices: Henry the Quarrelsome functioned in this regard as sewer.¹⁷ The choice of Quedlinburg as location was symbolic, for it was there that Henry had had himself publicly celebrated as king. When desired, it was thus possible to reestablish the old order by means of ritual of inversion.

The conclusion of peace between Otto III and Henry the Quarrelsome thus consisted of a number of ritual acts with which we are already familiar: *commendatio*, verbal promise of service, and symbolic performance of service, in this case at the royal table. In this way Henry symbolically gave expression to his future behaviour with respect to the king, a relationship of service and subordination. In return — as countergift — he received the royal *gratia* and his *ductoria dignitas*, that is, his former position was returned to him. He was once again *miles* of the king, which one can certainly translate as vassal. In addition his relationship to the royal ladies, whose relative he was after all, was characterized as that of an *amicissimus*. The three main forms of medieval personal relationships appear in this way side-by-side, complementing and reinforcing one another.

Next case: the conflict over kingship that broke out in the year 1002 between the Bavarian Duke Henry and the Swabian Duke Hermann was resolved in the same way. When Henry had asserted himself as King Henry II after a number of battles, Duke Hermann came ‘submissive, driven by pious regret’ to Henry at Bruchsal and there became his ‘true vassal [*miles*] and friend and was so accepted in his position as duke of Swabia by the new king’.¹⁸ By the next Christmas in

regni cura penes erat, avia, matre et amita regis eiusdem/infantis, humilis habitu, humilis et actu, totius in aspectu populi ambabus in unum complicatis manibus militem se et vera ulterius fide militaturum tradere non erubuit, nil paciscendo nisi vitam, nil orando nisi gratiam. At dominae, quarum, ut diximus, cura regnum regisque regebatur infantia, tanti viri summissa deditione admodum gratulabundae — quia piorum moris est, non solum mala pro bonis non reddere, sed etiam pro malis bona rependere — digno eum honore susceptum, gratia fideli donatum, ductoria itidem dignitate sublimatum, deinde non tantum inter amicos, sed etiam inter amicissimos, uti ius propinquitatis exigebat, debito dilectionis venerantur affectu.’

¹⁷ *Thietmari Merseburgensis episcopi Chronicon*, IV, 9, p. 140: ‘Celebrata est proxima paschalis sollemnitas in Quidelingeburg a rege, ubi quattuor ministrabant duces, Heinricus ad mensam, Conrad ad cameram, Hecil ad cellarium, Bernhardus equis prefuit.’

¹⁸ *Thietmari Merseburgensis episcopi Chronicon*, V, 22, p. 247: ‘Post hec Heremannus dux, matris mee avunculi filius, divina, ut predixi, compunctione Kalendis Octobris Brusele regi humiliter presentatur. Misericorditer eius gratiam impetravit et, in beneficio et in omnibus iusti

Frankfurt he humbly served the king and received the friendly treatment befitting his rank. And even if the source, Thietmar of Merseburg, does not describe the ritual actions in detail, the sequence of humble appearance, investiture, friendship, and humble service almost certainly allows one to imagine the ritual actions being similar to those in the case of Henry the Quarrelsome.

This assumption is supported by an additional case, in which Thietmar of Merseburg describes the ritual actions more comprehensively. This is the case of the ending of the conflict between King Henry II and Boleslaw Chrobry, which took place in the year 1013:

On the day before Pentecost, Boleslaw also appeared [in Merseburg], secured by hostages who had been left at home. He was received in a grand manner. On the holy day itself he became a vassal [*miles*] through the folding of hands and after giving the oath he served the king as sword-bearer, while the latter walked to church under the crown. On Monday he appeased the king by presenting him with great gifts from himself and his consort, then out of royal generosity, he received much better and even greater presents in return as well as the longed-for fief [*benefitium*], and he released his hostages honourably.¹⁹

The picture presented here is that the ritual of investiture ended a long-lasting conflict — in which Heinrich II had not been able to subject the Poles by means of military campaigns. It is exactly this stalemate that the ritual mirrors. Apparently it had been negotiated by Boleslaw's son Mieszko, who had previously been with Henry II.²⁰ It consisted of a conclusion of peace with recognition of the King's seigniorship. This recognition would be lent expression symbolically through the *commendatio* but just as much through the service as sword-bearer. Presents and greater presents in return likewise symbolized the vertical relationship. The subordination was cleverly concealed in the service as sword-bearer, since this

desiderii satisfactionem persolvens, excepto Argentine dampno, quod idem iussu et consilio regis de sua proprietate et abbaciam in eadem urbe sitam reparavit, miles et amicus eius fidus efficitur.' Concerning this course of events see Lüdger Körntgen, *In primis Herimanni ducis assensu*, Zur Funktion von D. H. II. 34 im Konflikt zwischen Heinrich II. und Hermann von Schwaben, *FmSt* 34 (Berlin: de Gruyter, 2000), pp. 159–85; Stefan Weinfurter, *Heinrich II. (1002–24): Herrscher am Ende der Zeiten* (Regensburg: Pustet, 1999), pp. 53–54.

¹⁹ *Thietmari Merseburgensis episcopi Chronicon*, VI, 91, p. 382: 'In cuius vigilia Bolizlavus cum securitate obsidum apud se relictorum venit et optime suscipitur. In die sancto manibus applicatis miles efficitur et post sacramenta regi ad aecclesiam ornato incedenti armiger habetur. In II. Feria regem magnis muneribus a se et a contectali sua oblati placavit deindeque regia largitate his meliora ac multa maiora cum beneficio diu desiderato suscepit et obsides suos cum honore et laetitia remisit.'

²⁰ *Thietmari Merseburgensis episcopi Chronicon*, VI, 90, pp. 380–81: 'Et interpositis diebus paucis Miseco, Bolizlavi filius, cum magnis veniens muneribus, regis efficitur et fidem cum sacramento firmat. Dehinc cum honore magno remittitur et, ut iterum veniret, delectatur.'

could also easily have been seen as an honour; if so, however, it would not have been fully understood.²¹ But this ambiguity was almost certainly consciously accepted in order to make the compromise satisfactory for both sides. And at the very end Boleslaw got his longed-for fief. So the enfeoffment was a crucial moment in the whole procedure.

The three cases of Henry the Quarrelsome, Hermann of Swabia, and Boleslaw Chrobry related here concerned the reintegration of high nobles into the ruling group after conflicts with the king. In all three cases this integration was carried out by means of public ritual acts in which the former opponent became *miles* of the king by the *inmixtio manuum* and publicly performed symbolic services for him. This occurred, as in many other cases, in that they either served him at table or publicly carried before him an insignia of rulership such as a sword, a shield, or a banner. The fact that in each case at the conclusion of these public services they received either their ducal position or specifically a *benefitium* allows us to understand *miles* here to mean vassal and to see the feudal bond as the new or renewed basis of the bond between these magnates and the king. Interestingly, in two of the cases the relationship is additionally characterized by the term *amicus*. This should not be a cause for concern, for it is also well known from other cases that the feudal bond was complemented and reinforced through friendship or also kinship. Especially in the periods of crisis of the ninth and tenth centuries kings bound important magnates to them by means of all three kinds of bonds to ensure their fidelity as much as possible.²²

In the cases presented here, the high nobles' feudal bond to the king was restored following conflicts. One could supplement these with cases in which opponents of the king made peace with the ruler but did not have their fiefs returned to them. The history of the eleventh and twelfth century is especially rich with such cases.²³ One could also present cases in which kings granted special friends their fiefs as their *alods* as a sign of their special favour, in all probability to establish that subordination and the obligation to service was not the basis of the relationship but rather friendship alone. This is testified to, for example, by

²¹ Referring to the supposed honorary posts and duties, which are to be understood primarily as symbolic acts of subordination, see Gerd Althoff and Christiane Witthöft, 'Les Services symboliques entre dignité et contrainte', *Annales HSS*, 58 (2003), 1293–1318.

²² For examples, see Althoff, *Verwandte*, pp. 97–112.

²³ See Adelheid Krah, *Absetzungsverfahren als Spiegelbild von Königsmacht: Untersuchungen zum Kräfteverhältnis zwischen Königtum und Adel im Karolingerreich und seinen Nachfolgestaaten* (Aalen: Scientia, 1987), *passim*.

Ekkhard of Meissen, in whose obituary Thietmar of Merseburg inserted the praise that, because of the exemplary manner of his conduct, his lord (Otto III) had granted him the greatest part of his fief as his own.²⁴ So one could continue to prove that the bonds of the *fideles* of higher rank to the kings were established by acts of subordination on the one hand and giving fiefs on the other.

But I would like to address another aspect even more extensively, one that seems to me especially suited to making contemporary ideas of *Lehnswesen* comprehensible. These are the fictions that were recorded, for example, in the twelfth century in the circle of the Welf family, and which make clear which ideas of their feudal bond to the king dominated among the Welfs. They considered the feudal bond to be a restriction of their freedom and also had an impressive story on hand of how this restriction could have come about. As the unknown author of the *Historia Welforum* relates at the very beginning of his narrative, their ancestors originally had 'standing before kings in their possessions and honors, refused even the Roman Emperor *hominium* and trusting in their own power, defended all of their borders without outside help with great courage'. But then, according to the narrative, one ancestor named Henry, without the knowledge of his father, went to the emperor and initially entered into a *summa familiaritas* with him. But in the end, on the advice of the other princes and especially in accordance with the emperor's own wish, he performed *hominium* and *subiectio*, for which he received from the emperor as fief (*beneficium*) four thousand hides of land in the Bavarian highlands.²⁵ But his father viewed his nobility and his

²⁴ *Thietmari Merseburgensis episcopi Chronicon*, v, 7, p. 228: 'Huius vitae cursum quam probabiliter egit, qui apud dominum suimet beneficium maximam partem acquisivit in proprietatem!'

²⁵ *Historia Welforum*, cap. 1, p. 4: 'Unde et in tantum ditati sunt, ut, divitiis et honoribus regibus praestantiores, ipsi quoque Romano imperatori hominium facere recusabant; et viribus propriis confisi, omnes terminos suos per se magna industria et fortitudine defendebant.' *Historia Welforum*, cap. 4, p. 8: 'Hic itaque Heinricus, cum ad militares annos pervenisset et suae voluntatis compos fieret, ignorante patre ad imperatorem se contulit. Cumque illi summa familiaritate sociaretur et totius imperii vires, terminos eius circueundo et pertranseundo, cognosceret, tandem consilio principum et maxime ipsius imperatoris instinctu hominium ei et subiectionem fecit et in beneficio quatuor milia mansuum in superioribus partibus Baioariae ab eo suscepit. Quod cum pater eius percepisset, ratus nobilitatem suam et libertatem nimis esse declinatam, ultra quam credi possit consternatus animo, dolorem suum omnibus caris suis exposuit et assumptis duodecim ex illis infra montana ad villam quae dicitur Ambirgou, regalibus aedificiis et possessionibus ditissimis relictis, secessit et ibi non amodo visurus filium suum consenuit.' See Bernd Schneidmüller, *Die Welfen: Herrschaft und Erinnerung (819–1252)* (Stuttgart: Kohlhammer, 2000), pp. 112–14.

freedom as so irredeemably damaged by this enfeoffment that he retreated into the mountains with twelve close friends and never saw his son again.

These are surely statements of noble self-understanding projected backwards onto the time of Louis the Pious, which need not have had a direct factual background, but instead represent targeted formulations of memory fragments. But they present the process of an enfeoffment as being so obviously the decisive basis of the relationship of a member of the high nobility to an emperor that this process must have been generally familiar and obvious to twelfth-century contemporaries as an ancient form of bond. Otherwise the impact of this story, so central to Welfian self-understanding, would completely miss its efficacy.

In a comparable manner the Norman historian Dudo (mid-eleventh century) described very pointedly the feudal bond of the tenth-century Duke Rollo with King Charles the Simple. Rollo apparently performed the *commendatio*, but only reluctantly, since none of his ancestors — as he argued — had ever done anything like this. In return the king gave him his daughter Gisela to wed and in addition Normandy as his property *in alodo*. But then Rollo refused to bend his knee and kiss the king's foot in the course of the enfeoffment ritual, as he was apparently supposed to do. He did accommodate Frankish requests by ordering one of his warriors to act as his proxy, but the warrior yanked the king's foot up to his mouth without bending his neck, upon which the king fell from his throne.²⁶ The story

²⁶ *Dudonis Sancti Quintini, De moribus et actis primorum Normanniae ducum*, ed. by Jules Lair, *Mémoires de la Société des Antiquaires de Normandie*, 3 (Caen: le Blanc-Hardel, 1865), II, 28–29, p. 169: 'Statim Francorum coactus verbis, manus suas misit inter manus regis, quod nunquam pater ejus, et avus, atque proavus cuiquam fecit. Dedit itaque rex filiam suam, Gislam nomine, uxorem illi duci, terramque determinatam in alodo et in fundo, a flumine Eptae usque ad mare, totamque Britanniam de qua posset vivere. Rolloni pedem regis nolenti osculari dixerunt episcopi: "Qui tale donum recipit, osculo debet expetere pedem regis." Et ille: "Nunquam curvabo genua mea alicujus genibus, nec osculabor cujuspiam pedem." Francorum igitur precibus compulsus, jussit cuidam militi pedem regis osculari. Qui statim pedem regis arripiens, deportavit ad os suum, standoque defixit osculum, regemque fecit resupinum. Itaque magnus excitatur risus magnusque in plebe tumultus.' See Hermann Kamp, 'Die Macht der Zeichen und Gesten bei Dudo von Saint-Quentin', in *Formen und Funktionen der Öffentlichkeit im Mittelalter*, ed. by Gerd Althoff, *Vorträge und Forschungen*, 51 (Stuttgart: Thorbecke, 2001), pp. 125–55; Klaus van Eickels, 'Domestizierte Maskulinität: Die Integration der Normannen in das westfränkische Reich in der Sicht Dudos von St-Quentin', in *Gender-diskurse und Körperbilder: Eine Bilanzierung nach Butler und Laqueur*, ed. by Ingrid Bennewitz and Ingrid Kasten, *Bamberg Studien zum Mittelalter*, 1 (Münster: Lit, 2002), pp. 97–134; Ingmar Krause, *Konflikt und Ritual im Herrschaftsbereich der Frühen Capetinger: Untersuchungen zur Darstellung und Funktion symbolischen Verhaltens*, *Symbolische Kommunikation und gesellschaftliche Wertesysteme*, 13 (Münster: Rhema, 2006), pp. 47–49.

has a wonderful punchline but also testifies to the fact that the course of events in the enfeoffment of a member of the high nobility was extremely well known in the eleventh century.

I shall let these examples serve to show that in the fictions of noble self-understanding enfeoffment played an important role. They also demonstrate an awareness that the subordination accepted in such a bond represented a problem. *Cognatio*, *amicitia* or even *summa familiaritas* represented more desirable bonds for the nobles to have with the king. And even when many fictions are hidden in such notions, this does not reduce the value of such stories for the purposes of my argument, precisely because fictions can reveal much more about a time than the facts that give rise to them. And they tell us how important the phenomenon that we call *Lehnswesen* must have been!

To sum up I would like to emphasize that the findings I have attempted to illustrate here on the basis of a few examples could also have been shown by many others. What can be deduced from them? We have observed ritual acts of the *commendatio* and symbolic services performed for kings in specific situations by members of the high nobility. These acts would be accompanied by verbal statements with which *fides* would be promised with an oath. As for the king's return service, we learn that the high-ranking nobles received either a *benefitium* or the reinstatement of their former position. Sometimes it was also said that the king took the person into his *gratia* or that they received this *gratia* back.

From these observations I would conclude, as many before me have done, that in these cases the process of investiture is being described, which by its nature took place predominantly when a king newly acceded to the throne or when relations were reestablished after a conflict. The fact that from the tenth century onward there is frequently no longer mention of a concrete fief, especially during the investiture of members of the ruling classes, indicates that the lands had already been in the hands of the noble families for generations. Thus the actualization of the feudal bond apparently became concentrated in the *commendatio*. Interestingly, symbolic services were added to this primarily when conflicts had made it especially necessary to give evidence of one's willingness to provide service. On the other hand, I am not surprised that the readiness of the *fideles* to support kings with all strength decreased noticeably from century to century, because most of the *fideles* had not received their fief personally but had inherited it from their fathers.

In any case, the feudal bond was the bond that many or all members of the ruling classes maintained to the king and had to maintain if they wanted to participate in political interplays of power. For only this kind of bond opened the way to participation in the councils and colloquia in which one could have influence over the king. In order to understand the medieval system of rulership, however, it is important to bear in mind that the feudal bond was not the closest and certainly not the most important bond with the king. *Agnatio*, *cognatio*, *amicitia*, and even *familiaritas* rated higher and promised more influence in the fields of political power. In addition, it was characteristic of the hierarchy of the ruling group that the individual kinds of bonds did not appear singly but a number of them could be and were bundled together. Thus the *secundus a rege* or the *familiarissimus* was regularly both relative and friend, but not least also a *miles*. Ultimately, all of these bonds were a matter of being able to rely on help and support in every possible situation, without fear of disappointment. It was for certain a sensitive instrument that was being played by the kings and lords, for every privileging, honouring, distinguishing, and favouring of the one man affected the interests of the others. It must not have been easy to keep the *fideles* loyal and happy. But this is another story!

IMPOSING FEUDALISM ON ANGLO-SAXON ENGLAND: NORMAN AND ANGEVIN PRESENTATION OF PRE-CONQUEST LORDSHIP AND LANDHOLDING

John Hudson

Introduction

The idea for this paper was born when I was working on my edition and translation of the twelfth-century *History of the Church of Abingdon*.¹ Its account of the Anglo-Saxon period employed twelfth-century vocabulary and conceptions of lordship and landholding.² My analysis developed as I worked more directly on Anglo-Saxon lordship and landholding. I became very interested in distortions that might arise through reliance on the material contained in the account of Anglo-Saxon landholding in *Domesday Book* of 1086, material that was filtered through Norman and post-Conquest assumptions. I wondered whether I would be able to argue that the assumptions revealed by an analysis of texts from Norman and Angevin England would be of a sort often called feudal.

I have examined a variety of types of source in a variety of fashions. At some points I discuss vocabulary at considerable length, but this is only a first step and a limited one. Use of the Latin word *feudum* or the Old French *vassal*, for instance, cannot helpfully be said to prove the existence of feudalism. I therefore

¹ *Historia ecclesie Abbenodonsis*, ed. and trans. by John G. H. Hudson, 2 vols (Oxford: Clarendon Press, 2002–07). I would like to thank Rob Bartlett, George Garnett, and Stephen Baxter for comments on drafts of this paper. The debt to my former tutor, Susan Reynolds, is both great and obvious.

² See below, pp. 126–27.

also look at the assumptions underlying the words, and the social relations that they represent.

I begin with the presentation of the Anglo-Saxon period in general histories written in the twelfth century. Next I move on to supposed Anglo-Saxon practice in texts more closely concerned with legal matters, notably jurisdiction, an issue not central to Susan Reynolds's book on feudalism, but crucial in discussions of the subject by legal historians such as Maitland and in the debate over the *mutation féodale*. Finally I turn to the reign of the Conqueror and join various historians currently looking at the nature of *Domesday Book's* record of Anglo-Saxon landholding and lordship and of the process of transfer to Norman lords.

Latin and Vernacular Historians of the Twelfth Century

The great works of Latin history from twelfth-century England say little of the subject that concerns me, being generally uninterested in pre-Conquest landholding or lordship relationships, certainly below the royal level. Henry of Huntingdon used the word *barones* in places where an Old English text would probably have referred to *thegns*.³ William of Malmesbury stated that Guthrum, following his conversion, received from King Alfred the provinces of the East Anglians and Northumbrians 'so that he should govern well by hereditary right under the fidelity of the king [*sub fidelitate regis*] those that he had acquired by robbery [*peruaserat latrocinio*]'. However, the phrase 'sub fidelitate regis' is a very general one, perhaps tendentiously translated in the recent edition as 'in fealty to the king'.⁴

³ Henry, Archdeacon of Huntingdon, *Historia Anglorum*, v, 16, ed. and trans. by Diana E. Greenway (Oxford: Oxford University Press, 1996), p. 304. See also, e.g., *The Waltham Chronicle*, cc. xvi, xvii, ed. and trans. by Leslie Watkiss and Marjorie Chibnall (Oxford: Oxford University Press, 1994), p. 34. Cf. *The Chronicle of John of Worcester*, ed. by R. R. Darlington and P. McGurk, trans. by J. Bray and P. McGurk, 3 vols (Oxford: Oxford University Press, 1995–), II (1995), e.g., 346–48, 478, translating the *Anglo-Saxon Chronicle's* thegn as 'minister'.

⁴ William of Malmesbury, *Gesta regum Anglorum*, II, 121, ed. and trans. by Roger A. B. Mynors, Rodney M. Thomson, and Michael Winterbottom, 2 vols (Oxford, 1998–99), I (1998), 184–85. For 'fidelitatem iurare', see also *Chronicle of John of Worcester*, ed. by Darlington and McGurk, e.g., II, 400 (*ASC*, version D, s.a. 947, 'getreowsoden'), 470 (*ASC*, s.a. 1012, 'bugon to tham cynge'), 472, (*ASC*, s.a. 1013, 'bugon').

More productive sources are the histories written in French. Geoffrey de Gaimar wrote a *History of the English*, resting upon the *Anglo-Saxon Chronicle*.⁵ Barons are everywhere in his Anglo-Saxon England.⁶ The word has connotations of virtue as well as status, and was sometimes contrasted with felon in a rhymed pair.⁷ In addition, there were 'chevaliers',⁸ as well as the occasional 'vassal'.⁹ There are also several uses of the word *fie* and associated forms with reference to land.¹⁰ For example, it is stated of King Eadwine that 'all Wessex was his *fied*'.¹¹ Edward the Elder is said to receive Mercia 'en fiez' when his sister made him heir of it.¹² Here the word has no sense of subordination. In some other cases, however, the lands are said to be held from others.¹³ We also hear very occasionally of holding

⁵ In addition to the following analysis, one could also look at other words such as 'seigneurie': e.g., Geffrei Gaimar, *L'Estoire des Engleis*, ed. by A. Bell, Anglo-Norman Text Society, 14–16 (Oxford: Blackwell, 1960), ll. 2340, 3918, 4174.

⁶ Gaimar, *L'Estoire des Engleis*, ll. 269, 750, 805, 976, 1176, 1259, 1304, 1790, 1791, 1831, 1866, 1877, 1898, 2362, 2395, 2406, 2448, 2455, 2548, 2552, 2591, 2607, 2684, 2741, 2945, 2985, 3192, 3368, 3621, 3671, 3832, 3867, 3905, 4249, 4286, 4373, 4442, 4449, 4561, 4908, 4910, 4920, 4932, 5112; see, e.g., ll. 5325, 5371 concerning the post-Conquest period. The prevalence of barons in Gaimar's text is not immediately obvious if one relies on the English translation in the late nineteenth-century Rolls Series edition, where the word is variously translated as 'baron' — Geffrei Gaimar, *Lestorie des Engles*, ed. and trans. by T. Duffus Hardy and Charles T. Martin, 2 vols (London: Longman, 1888–89), ll. 271, 752, 807, 978, 979, 1178, 1261, 1902, 4567, 4914; 'thane' — ll. 1870, 2611, 2745, 3198, 3374, 3375, 3627, 3677, 3840, 3875, 3911, 4448, 4455, 4916, 4926, 4938, 5118, 5401; 'ealdorman' — ll. 1794, 1795, 2399, 2552; 'lord' — ll. 1835, 1881, 2032, 2366, 2410, 2459, 2556, 2595, 2688, 2949, 2991, 4255, 4292, 4379; 'nobleman' — l. 1306; and 'captain' — l. 2452; for 'la barunie' being translated as 'the lords', see l. 4370. In almost all of these instances I would favour consistency of translation, as I might when 'baron' is used for a woman's husband; see Gaimar, *L'Estoire des Engleis*, l. 260. More difficult for the preacher of consistency of translation is reference to St Augustine of Canterbury as 'le bon barun'; Gaimar, *L'Estoire des Engleis*, l. 1057; see also l. 1046 for 'Augustin le barun'.

⁷ See, e.g., Gaimar, *L'Estoire des Engleis*, ll. 1175–76, 1831–32. For 'barun' indicating quality, note also, e.g., ll. 3338, 3963.

⁸ See Gaimar, *L'Estoire des Engleis*, ll. 427, 645, 735, 2986, 3359, 3627, 3744, 3781, 4930.

⁹ See Gaimar, *L'Estoire des Engleis*, ll. 2640 (translated in the Rolls Series, l. 2644, as 'man'), 5270 (translated in the Rolls Series, l. 5276, as 'warrior'). The word appears to have had no particularly technical sense for Gaimar.

¹⁰ See Gaimar, *L'Estoire des Engleis*, ll. 1350 ('deshherited, toleit sun fied'), 2267, 4316.

¹¹ Gaimar, *L'Estoire des Engleis*, l. 2310; note also l. 3602 ('ne fust feffed').

¹² Gaimar, *L'Estoire des Engleis*, l. 3490.

¹³ See Gaimar, *L'Estoire des Engleis*, ll. 2296 ('Des quels autres teneient fied'), 3550 ('De fei

in chief,¹⁴ of manors,¹⁵ and of seisin.¹⁶ Lordship ceremonies are also mentioned: homage,¹⁷ fealty,¹⁸ and defiance or diffidation:

I defy you, and give all back to you.
I do not wish to hold anything from you.
Your homage I give back to you.
Never will I hold anything from you.¹⁹

Thus Gaimar uses much of the vocabulary that we associate with post-Conquest England in his treatment of the Anglo-Saxon period, and there is no marked change in his vocabulary when he moves from pre- to post-Conquest England. In this sense he is projecting back later assumptions concerning lords and land.

Nevertheless, it may then be asked if such projection was peculiar to treatment of the Anglo-Saxon period. Here one may usefully turn to another of the French vernacular histories, Wace's *Roman de Brut*. This is primarily concerned with Arthurian Britain, but does later deal with events in the Anglo-Saxon period. Again we find 'barons' and 'chevaliers' and 'vassals' among the Anglo-Saxons.²⁰ Kings have manors, people do homage to the king.²¹ Just as in Gaimar's passage concerning defiance, cited above, groups of words cluster in a way revealing of the concepts and phenomena they represent. Oswi, King of Northumbria, met Cadwallon, King of England south of the Humber, 'and gave him much gold and silver; he submitted to his power [*baillie*], became his man, did him fealty, and accepted [*recunut*] his kingdom from him, and Cadwallon entrusted his fief to him'.²²

tenir bien l'aseürent'), 3857 ('Puis enveiat sun fieü saisir'), 3872–73 ('Chascun de li grant fieü teneit, | Del feu sun pere erent chazez').

¹⁴ Gaimar, *L'Estoire des Engleis*, l. 4315 ('Danes la tint en chief de Deu').

¹⁵ Gaimar, *L'Estoire des Engleis*, l. 1002.

¹⁶ Gaimar, *L'Estoire des Engleis*, l. 2175; note also l. 5060.

¹⁷ Gaimar, *L'Estoire des Engleis*, ll. 805, 2681, 5001, 5017, 5236.

¹⁸ Gaimar, *L'Estoire des Engleis*, ll. 726–32, 751, 1974, 3713.

¹⁹ Gaimar, *L'Estoire des Engleis*, ll. 2679–82: 'Jo te desfi e tut te rent, | De tei ne voil tenir neient, | Tun humage ci te rendrai, | Ja mais de tei rien ne tendrai.' For defiance, see also ll. 760–61.

²⁰ Wace, *Roman de Brut*, ed. and trans. by Judith Weiss (Exeter: University of Exeter Press, 1999), ll. 13885, 14369, 14547.

²¹ Wace, *Roman de Brut*, ll. 14404, 14426.

²² Wace, *Roman de Brut*, ll. 14510–14; note also ll. 14637–38.

However, the same vocabulary is used for the British period. Again there are 'barons', 'chevaliers', and 'vassals'.²³ There are fiefs, some explicitly held from a lord, gifts 'en fieu', and verbs based on the noun 'feu' or 'fieu'.²⁴ There are also mentions of fealty and of homage,²⁵ the latter sometimes linked to landholding.²⁶ Interestingly, such vocabulary is much more common than in Wace's Latin precursor, Geoffrey of Monmouth.²⁷ For example, the men mentioned in Geoffrey's phrase 'conuocato [...] procerum suorum consilio' become in Wace 'Ses ducs, ses princes, ses barons | E tuz ses homes'.²⁸

Overall, then, it can be said that some twelfth-century historians were very willing to use the vocabulary of their own day to describe the past and to project back their own cultural and social assumptions. However, they do not treat the Anglo-Saxon differently from other periods. To find more particular treatment of that period, one needs to move on to other sources, which have special practical concerns: trying to understand the law of the past and trying to establish rights through the past.

Translators of Anglo-Saxon Laws

In the twelfth century, considerable efforts were made to preserve knowledge of Anglo-Saxon law and one part of this process was to translate the vernacular written laws into Latin. Various attempts survive, the most important going under the names of *Quadripartitus*, from the start of the twelfth century, the *Instituta Cnuti*, and the *Consiliatio Cnuti*, both probably to be dated to Henry I's reign.²⁹ Translations of laws of Cnut also appear in sections of the *Leis Willelme*,

²³ See, e.g., Wace, *Roman de Brut*, ll. 259, 318, 776, 890, 903, 1611, 3983, 5991, 12478.

²⁴ See Wace, *Roman de Brut*, ll. 4370, 5048, 7293, 9765, 10159, 12525–26, 13470; verbs: ll. 7631, 10171, 10591.

²⁵ See Wace, *Roman de Brut*, ll. 2353, 10129, 13139–40, 13360.

²⁶ See Wace, *Roman de Brut*, ll. 9699–9700, 9885–86.

²⁷ See Geoffrey of Monmouth, *Historia regum Britannie*, I: Bern, Burgerbibliothek, MS 568, ed. by Neil Wright (Woodbridge: Brewer, 1984), e.g., p. 63 for a reference to 'in fidelitate sua', p. 87 for a reference to 'barones'. There are considerably more references to 'milites', e.g., pp. 20, 22, 37, but this, unlike *baro*, is a classical word.

²⁸ Geoffrey of Monmouth, *Historia regum*, p. 4; Wace, *Roman de Rou*, ll. 259–60.

²⁹ See Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, I: *Legislation and its Limits* (Oxford: Blackwell, 1999), pp. 236–43, 404–06.

written in French probably in the middle of the twelfth century.³⁰ In such texts one might again expect to see the imposition of later assumptions onto the Anglo-Saxon material. In fact what is most notable is the limits of any such imposition. The translator who produced the work known as the *Quadripartitus* sometimes simply retained the Anglo-Saxon term 'bocland' in his Latin text, although he did provide a gloss, 'terra testamentalis'.³¹ The Old English *thegn* becomes a *tainus* in the same work.³² On other occasions an unusual Latin word is used rather than paraphrasing the Old English in common twelfth-century Latin vocabulary.³³ The same translator and others happily render the Old English *blaford* as *dominus*, which is an obvious translation, but also render *landblaford* or *landrica* as *dominus terre*, an otherwise unusual phrase in twelfth-century texts.³⁴

Other words had an obvious twelfth-century equivalent which, whilst seen by historians as differing from their Old English precursors, may not have involved any distortion of sense in these contexts. Thus the Old English *heregeat* in Cnut's laws — indicating the payment made on the death of a man — becomes in the *Quadripartitus* the Latin *releuatio*, in the *Leges Willelmi* the Latin *releuium*, in the *Leis Willelme* the French *relief*. The *Consiliatio Cnuti* uses the very unusual word *exercituaia*, whilst the *Instituta Cnuti* retain the Old English 'heregeat'.

On occasion we see a rather greater struggle to produce a translation that helps to explain the text. A reference to *bocland* in Cnut's laws becomes 'in hereditate sua terram' in the *Quadripartitus*, 'habet in alodio (id est bocland) suo' in the *Instituta Cnuti*, and 'in sua libera terra' in the *Consiliatio Cnuti*.³⁵ Another such

³⁰ See Wormald, *Making of English Law*, pp. 407–09.

³¹ *VI As*, 1. 1, *Die Gesetze der Angelsachsen*, ed. and trans. by Felix Liebermann, 3 vols (Halle: n. pub., 1903–16), I (1903), 173; see also *I Ew*, 2, *Gesetze*, I, 140–41. Abbreviations for laws are those used by Liebermann in his *Gesetze der Angelsachsen*. Bookland was land exempt from many services, owned heritably or perpetually, and also normally alienable.

³² See, e.g., *II Cn*, 71. 1–3, *Gesetze*, I, 358–59.

³³ See, e.g., *VI As*, 11, *Gesetze*, I, 182, 'terrarius' for 'gelandod'.

³⁴ See, e.g., *II As*, 10, *III Eg*, 7. 1, *I Atr*, 3. 1, *I Cn*, 8. 2, *II Cn*, 31, 37, *Gesetze*, I, 156–57, 204–05, 220–21, 292–93, 334–35, 338–39. Note *V As*, 2, *Gesetze*, I, 168–69, where *dominus terre* appears but not as a translation of *landblaford*.

³⁵ *I Cn*, 11, *Gesetze*, I, 294–95. On *alodium*, see also George S. Garnett, *Conquered England* (Oxford: Oxford University Press, 2007), pp. 28–29. *Alodium* was not a word used in surviving genuine Anglo-Saxon charters. It is used in *Domesday Book*, apparently to describe Anglo-Saxon bookland. On *alodium* in Normandy, see Emily Zack Tabuteau, *Transfers of Property in Eleventh-Century Norman Law* (Chapel Hill: University of North Carolina Press, 1988), pp. 102–06. On 'libera terra' and bookland, see also Garnett, *Conquered England*, p. 29, n. 214. Cf. *The Harley*

reference becomes ‘*terram testamentalem ... (que Anglice dicitur bocland)*’ in the *Quadripartitus*, ‘*alodium*’ in the *Instituta Cnuti*, and ‘*liberam terram*’ in the *Consiliatio Cnuti*.³⁶ Some translations, particularly outside the *Quadripartitus*, may be seen to introduce later ideas or vocabulary. In one case when the *Quadripartitus* and the *Consiliatio Cnuti* render *landrica* as *dominus terre*, the *Instituta Cnuti* gives ‘*domini cuius in capite terra est*’.³⁷ Overall, however, the introduction of the post-Conquest vocabulary of the sort we saw in Gaimar and Wace is not common, even if the *Leis Willelme* and *Leges Willelmi* do in the context of heriots make the king’s thegns of Cnut’s laws into ‘barons’, the lesser thegns into ‘vavassours’.³⁸

Other legal texts were not translations but still presented themselves as records of pre-Conquest law. Thus the *Leges Edwardi Confessoris*, probably dating from the second quarter of the twelfth century, claimed to be the product of an enquiry by the Conqueror into the laws of King Edward. These included statements, for example, concerning barons who had their own courts in which ordeals might be held. It may be unlikely that in Anglo-Saxon England lords held their own courts, certainly courts with jurisdiction above that of the hundred. They did not, therefore, have the type of court that would hold trials by ordeal. In this instance the ‘record’ of the laws of King Edward is probably imposing post-Conquest practice, and introducing significant seigniorial justice to pre-Conquest law.³⁹

Historians of Monastic Lands

With such texts we are moving from translation to composition, and this leads to our next set of sources: the twelfth-century historians concerned with monastic lands. I will concentrate on two histories, from Ely and from Abingdon. The Ely example, the *Liber Eliensis*, is particularly interesting as part of its Latin account of the Anglo-Saxon period is based on a lost late tenth-century text, or perhaps

Latin-Old English Glossary, ed. by Robert T. Oliphant (The Hague: Mouton, 1966), p. 208, for the Harley glossary giving ‘*bocland uel landrice*’ as translations of ‘*fundos*’.

³⁶ *II Cn*, 13, *Gesetze*, I, 316–17 (and see n. 15 on p. 317); note also *II Cn*, 77. 1, *Gesetze*, I, 364–65, where the *Instituta* and the *Consiliatio* use the same translation as at *II Cn*, 13, but the *Quadripartitus* uses ‘*terram hereditariam*’.

³⁷ *I Cn*, 8. 2, *Gesetze*, I, 292–93.

³⁸ *Leges Willelmi* / *Leis Willelme*, 20. 1–2, *Gesetze*, I, 596–97.

³⁹ *ECf*, 9–9. 3, *Gesetze*, I, 633.

texts, in Old English. This section, which also has a separate manuscript existence, is known as the *Libellus Æthelwoldi*, referring to the tenth-century refounder of Ely, St Æthelwold. The earliest manuscript probably dates from 1139x40, and the instigation of the translation is attributed to Hervey, bishop from 1109 to 1131.⁴⁰ Given its basis in Old English, it is notable that the vocabulary of the *Libellus* is similar to that of other twelfth-century monastic histories.⁴¹ *Relevatio* is used to refer to heriot before the Conquest.⁴² There are occasional mentions of barons and of manors.⁴³ One chapter tells of a disputant going to a powerful man, doing him homage, and promising to sell him some land at whatever price he chose, in return for support in his dispute.⁴⁴ Similar language appears in the portion of the *Liber Eliensis* that is not based on the *Libellus*; this may suggest that the composer of the *Libellus* felt himself able to use a consistent Latin vocabulary, rather than being tightly bound by his vernacular source.⁴⁵

The Abingdon *History* also includes an account of pre-Conquest homage to the church and abbot, for an estate that was subsequently lost. This loss may explain the *History*'s efforts to emphasize the bond between tenant and abbatial lord:

a certain rich man named Thorkell, by the witness and advice of Earl Harold, did homage to the church of Abingdon and Abbot Ordric concerning himself together with his land which is called Kingston [Bagpuize, Berkshire]. Indeed, it was then [*illo in tempore*] permitted to any free man to do so, so that the lordship of the aforesaid village would be dependent on the perpetual right of this church.⁴⁶

⁴⁰ *Liber Eliensis*, ed. by Ernest O. Blake, Camden 3rd ser., 92 (London: Royal Historical Society, 1962), p. xxxiv.

⁴¹ Note also, e.g., the use in *Liber Eliensis*, II, 11a, p. 89, of the phrase 'maius rectum', a phrase characteristic of post-Conquest land adjudication.

⁴² *Liber Eliensis*, II, 27, p. 101.

⁴³ Barons: *Liber Eliensis*, II, 16, 18, p. 93. Manors: *Liber Eliensis*, II, 8, 37, pp. 81, 111. Note also *Liber Eliensis*, II, 19, p. 95, for 'desaisitus', again a word characteristic of post-Conquest land law.

⁴⁴ *Liber Eliensis*, II, 32, pp. 106–07: 'Vt uidit tamen quod contra episcopum suis uiribus non sufficeret, petiit Wlstanum fecitque sibi homagium ac promisit illi Eie ad uendendum pro tanto pretio, quantum sibi placeret, quatenus contra episcopum Æthelwoldum manuteneret eum quia episcopus appellabat eum de gaxis ecclesie, quas ille et Herulfus cum sacrilegio extulerant.'

⁴⁵ See, e.g., *Liber Eliensis*, II, 54, p. 125, for 'barones regis' and 'homagium'; II, 97, pp. 166–67, for 'manerium'.

⁴⁶ *Historia ecclesie Abbdonensis*, I, 222. Thorkell's identity is not certain, and there is a problem in reconciling the *History*'s account with that of *Domesday Book*, I, fol. 60^v. The latter has

Particularly interesting here is that, despite use of the post-Conquest term hom-age, elements of pre-Conquest landholding practice seem to have been perceived as different from those of the present: 'it was *then* permitted'.⁴⁷

Apart from these instances, there is little clear evidence of the monastic chroniclers imposing twelfth-century vocabulary or assumptions on pre-Conquest landholding and lordship practices involving laymen. In part this reflects their concerns.⁴⁸ There may have been less pressing need to update accounts of relations with the laity, as opposed to those involving gifts to the church. Thus there is no equivalent to the frequent use in some texts of the phrases 'in liberam elemosinam' or 'in puram et perpetuam elemosinam' with reference to grants to the church, phrases more characteristic of the post- than the pre-Conquest period, or perhaps better the post- rather than the pre-Gregorian.⁴⁹ However, in the area of jurisdiction, the writers took pre-Conquest grants of 'sake and soke', which may only have transferred the profits of justice, to convey rights of court-holding.⁵⁰

Henry de Ferrers holding Kingston which, it states, Stankell had held 'in the time of King Edward'. The assessment was five hides. *Domesday Book*, I, fol. 61^r, attributes to William son of Ansculf another four hides at Kingston. This land, assessed at five hides, had been held by Thorkell from King Edward in that king's time. Most likely either the *History* or *Domesday* confused the estates or their holders' names; alternatively, Thorkell may have had some relationship to Stankell's lands not recorded in *Domesday*. For homage, see also an addition in the later version of the *History*: 'In his time King Alfred gave the village called Appleford to a loyal man of his named Deormod, for his service and homage, and, as that king's charter witnesses, he granted to him that he might appoint whomsoever he wished as his heir'; *Historia ecclesie Abbdonensis*, I, 274.

⁴⁷ Note also the Ely example of a man bringing land to his new lord, above, p. 126.

⁴⁸ See also, e.g., the *Chronicon abbatae Ramesiensis*, ed. by William D. Macray (London: Longman, 1886).

⁴⁹ See, e.g., *Chronicon abbatae Ramesiensis*, pp. 116 ('in liberam elemosinam'), 151 ('in liberam elemosinam et quietam'), 153 ('in elemosinam liberam', 'in puram elemosinam'). Addition of the phrase 'in puram et perpetuam elemosinam' is routine in the descriptions of gifts to the church in the early thirteenth-century version of the Abingdon *History*, although not in the late twelfth-century version. 'In puram et perpetuam elemosinam' appears only in spurious Anglo-Saxon charters; Peter H. Sawyer, *Anglo-Saxon Charters: An Annotated List and Bibliography* (London: Royal Historical Society, 1968; rev. by Susan E. Kelly, <<http://www.trin.cam.ac.uk/chartwww/esawyer.99/esawyer2.html>> [accessed 7 June 2007]), nos 68, 370, 391, 746, 804, 1016, 1190. The phrase 'in elemosinam' is not very common in the portion of the *Liber Eliensis* devoted to the Anglo-Saxon period; see, e.g., *Liber Eliensis*, II, 73, p. 143. For genuine pre-Conquest uses of 'in elemosinam', see Sawyer, nos 206, 1438.

⁵⁰ *Historia ecclesie Abbdonensis*, I, 198–200, a writ of the Confessor together with Latin

Their difficulties of interpretation would later be matched by those of modern historians.

Forgers of Charters

The monastic historians had as one of their purposes the preservation of the rights and the claims of their churches. Similar interests lie behind the forgery of charters. Here, however, the forger would usually be intent on hiding differences from original documents. It was a careless Crowland forger who made the only repeated use of the word *feudum* in the corpus of supposed Anglo-Saxon charters.⁵¹

Rather than landholding, however, my main concern here is the devolution of royal justice to lords. Recent research argues strongly that any such devolution gave lords at most rights over jurisdiction equivalent to that of the lowest royal court, the hundred.⁵² Even then, royal officials were not necessarily excluded completely from courts held by lords. It was after the Conquest that the major jurisdictional liberties developed, and they came to be backed with forged Anglo-Saxon documents. In some cases the forgery may only have amounted to the addition of a clause to a genuine writ, for example the specification that royal officials were not to interfere with the lord's privilege:

King Edward greets in friendly fashion Bishop Hereman and Earl Harold and Godric and all his thegns in Berkshire. And I inform you that Abbot Ordric and all the congregation in the monastery of Abingdon, by my grant and gift, are to have and possess freely

translation. See also the definitions given in *Chronicon Monasterii de Abingdon*, ed. by Joseph Stevenson, 2 vols (London: Longman, 1858), II, 282 (an Abingdon text, known as *De abbatibus*): 'sake (id est conflictus), et socne (id est assaltus), et them (id est compellationem), et infangethof (id est fur in dominio suo captus)'. Note also the vocabularies in Roger of Howden, *Chronica*, ed. by William Stubbs, 4 vols (London: Longman, 1868–71), II (1869), 242; *Liber Rubeus de Scaccario*, ed. by Hubert Hall, 3 vols (London: HMSO, 1896), III, 1032–39; cf. the versions of the terms in the *Leges Edwardi Confessoris*, *ECf*, 22, *Gesetze*, I, 647–48.

⁵¹ Sawyer, nos 189, 200, 213, 538, 1190. See D. Roffe, 'The Historia Croylandensis: A Plea for Reassessment', *English Historical Review*, 110 (1995), 93–108 (pp. 104–08), for the context of the forgeries. See also *Registrum Malmesburiense*, ed. by John S. Brewer and Charles T. Martin, 2 vols (London: Longman, 1879–80), II (1879), 317.

⁵² Patrick Wormald, *Legal Culture in the Early Medieval West* (London: Hambledon, 1999), 'Lordship and Justice in the Early English Kingdom: Oswaldslow Revisited', chap. 12, pp. 313–32.

Horner hundred, in their own power for ever more. And thus that no sheriff or court-reeve may have any soke or court there without the abbot's own order and grant.⁵³

In other instances they are large scale charters, such as that supposedly of King Edgar included in the house history of Glastonbury and covering a wide range of judicial rights from the common sake and soke to rights much rarer even in the twelfth century, for instance *utfangentheof* — the power to hang one's man if he was caught in theft, wherever the offence was committed.⁵⁴

Such forgeries clearly were imposing twelfth-century views on the Anglo-Saxon past. However, in some cases they may have been spelling out what had also been true in that past; it cannot be proved that before 1066 there were no hundred courts from which royal officials were excluded. Sometimes forgeries may have been making absolute what had been merely usual practice in the past, for example that royal officials had not generally attended some hundreds. More likely, though, is that at least some of the documents represent an updating, deliberately misleading or not, to fit current needs. Thus the Abingdon writ excluding royal officials from Horner hundred may have been put together in the context of a dispute in Henry I's reign.⁵⁵ Here we have the supposed Anglo-Saxon past being presented in twelfth-century terms for twelfth-century purposes.

Domesday Book

I move back finally to the late eleventh century. Instead of people who were looking back on an Anglo-Saxon past known from traditions and documents, we now encounter those dealing with the aftermath of Conquest. Many questions could be raised, for example whether, as Susan Reynolds has suggested, the arrangement of *Domesday Book* had a crucial effect on the idea of a hierarchy of

⁵³ Sawyer, *Anglo-Saxon Charters*, no. 1066 (= *Historia ecclesie Abbendonensis*, ed. by Hudson, p. 200; *Charters of Abingdon Abbey*, ed. by Susan E. Kelly, 2 vols (Oxford: Oxford University Press for the British Academy, 2000–01), no. 149, *Anglo-Saxon Writs*, ed. and trans. by Florence E. Harmer (Manchester: Manchester University Press, 1952), no. 5.) *Charters of Abingdon Abbey*, p. 575, concludes that 'it is impossible to establish whether [this document] is a genuine writ to which an exclusionary clause has been added, or whether it is a later fabrication perhaps based in part on a genuine writ of the Confessor concerned with some other transaction.' For other forged charters with exclusion clauses see, e.g., Sawyer, *Anglo-Saxon Charters*, no. 1094.

⁵⁴ Sawyer, *Anglo-Saxon Charters*, no. 783; see also, e.g., nos 250, 499, 1030.

⁵⁵ *Historia ecclesie Abbendonensis*, I, clix, II, 230–32; Wormald, 'Lordship and Justice', p. 326.

tenure,⁵⁶ or whether *Domesday* took its particular form because of pre-existing notions of hierarchy. However, my analysis here must be more limited.

A brief consideration of *Domesday*'s presentation of jurisdiction continues the analysis undertaken in the previous section. Central to views of privatized royal justice before 1066 has been the *Domesday* account of the Bishop of Worcester's privileged area of three hundred hides known as Oswaldslow:

From these the bishop of that church has, by an arrangement of ancient time, all renders of jurisdiction [*socharum*] and all customary dues there belonging to his demesne sustenance, both the king's service and his own, so that no sheriff can have any claim [*querelam*] there, either in any plea [*placitum*] or in any other case [*causa*] whatever. The whole county testifies to this.⁵⁷

That this was recorded in *Domesday Book* shows that the commissioners accepted it as a legitimate view of the Anglo-Saxon past. However, there are strong reasons to doubt its truth. Evidence was probably provided by supporters of Worcester.⁵⁸ Moreover, the formulae used to record the Bishop of Worcester's *Domesday* holdings are, in Stephen Baxter's words, 'both unique in *Domesday Book* and uniquely favourable to the bishop'.⁵⁹ The entry may have been dictated by the Bishop himself, a final way of reinforcing his victory in his long-standing disputes with sheriffs, lords, and the abbots of Evesham. He thereby ensured the triumph of a particular view of the Anglo-Saxon past that survived long into the twentieth century.

My second area of concern is more complicated and involves post-Conquest claims to land and post-Conquest understanding of the various forms of lordship in pre-Conquest England. Setting aside relationships with the unfree, three forms of lordship co-existed in late Anglo-Saxon England. There was tenurial lordship, notably involving land held by lease. There was jurisdictional lordship, often referred to as soke, where payments arising from any offences committed by the man went to the soke-holding lord. And there was personal lordship, often referred to as commendation, where the lord had various obligations and rights concerning his man, but not based on tenure or jurisdiction. The Norman form of lordship, at least in post-Conquest England, seems to have been simpler,

⁵⁶ Susan Reynolds, *Fiefs and Vassals* (Oxford: Oxford University Press, 1994), p. 345.

⁵⁷ *Domesday Book*, I, fol. 172v.

⁵⁸ Wormald, 'Lordship and Justice', p. 322.

⁵⁹ Baxter, 'Lordship and Justice'; see also Stephen Baxter, 'The Representation of Lordship and Land Tenure in *Domesday Book*', in *Domesday Book*, ed. by Elizabeth Hallam and David Bates (Stroud: Tempus, 2001), pp. 73–102, esp. pp. 83–92.

concentrating personal, tenurial, and jurisdictional lordship in one bond.⁶⁰ It is possible that Normans found the Anglo-Saxon arrangements hard to understand or that the simplification of lordship in England was in part a product of the Norman settlement, or both.⁶¹

The process of land redistribution after 1066 highlighted the problem of the interpretation of Anglo-Saxon lordship. One key way in which lands were passed to a Norman lord was to give him the possessions of one or more Anglo-Saxons who had held on the day when King Edward the Confessor was alive and dead; these Anglo-Saxons were referred to as *antecessores*.⁶² However, the complex nature of Anglo-Saxon lordship made identification of *antecessores* difficult. Was the *antecessor* the landholder, or his lord, and if the latter, his lord by commendation, by tenure, or by jurisdiction? No consistent answer was found, and the problem led to hundreds of disputes apparent in *Domesday*.⁶³ I will now look at the form of the *Domesday* record, and then the entries and especially the claims recorded in it. One must, in the process, bear in mind possible differences between the views of 1086 landholders, largely Normans; the commissioners, again incomers;⁶⁴ and the groups who gave information to the commissioners and provided testimony in disputes, many of whom were English.

The information for *Domesday* was gathered by groups of commissioners, each dealing with one of seven circuits into which the realm was divided. The documentation that the circuit visits generated then went through a process of

⁶⁰ Men in post-Conquest England could still, of course, have lordship relationships with more than one lord.

⁶¹ David Bates, *Normandy before 1066* (London: Longman, 1982), pp. 64, 121–22, 180, plays down the role of devolved banal lordship in pre-1066 Normandy.

⁶² This was regarded as the last day of justified tenure; see Garnett, *Conquered England*, esp. pp. 9–33.

⁶³ See Garnett, *Conquered England*, pp. 27–30; Stephen Baxter, *The Earls of Mercia: Lordship and Power in Late Anglo-Saxon England* (Oxford: Oxford University Press, 2007), and ‘Lordship and Justice in Late Anglo-Saxon England’, in *Early Medieval Studies in Memory of Patrick Wormald*, ed. by Stephen Baxter and others (Farnham: Ashgate, 2009); Robin Fleming, *Kings and Lords in Conquest England* (Cambridge: Cambridge University Press, 1991), pp. 107–44; Fleming, *Domesday Book and the Law* (Cambridge: Cambridge University Press, 1998), pp. 74–75.

⁶⁴ For identified commissioners, see D. Roffe, *Domesday: The Inquest and the Book* (Oxford: Oxford University Press, 2000), pp. 123–24: Remigius, Bishop of Lincoln, Earl Walter Giffard, Henry de Ferrers, Adam brother of Eudo the king’s steward, S — possibly Samson, William de St Calais, Bishop of Durham, Osmund, Bishop of Salisbury.

compression to produce the final surviving record, itself divided into two parts, one known as Great Domesday, covering the bulk of the country, the other a less compressed record known as Little Domesday, covering Essex, Suffolk, and Norfolk. There are significant differences in the form of the final records for the different circuits. These differences include their treatment of Anglo-Saxon lordship, an issue on which they appear to have received no guidance from the 'terms of reference' that are preserved in an Ely text.⁶⁵ Stephen Baxter has written that

Those for circuit VI concentrated on soke but ignored commendatory lordship; those for circuit I evaded the issue by using ambiguous formulations which elided different forms of pre-Conquest lordship; those for circuit IV appear to have given up altogether and said almost nothing about pre-Conquest lordship. However, the commissioners for circuits III and VII appear to have developed a formulaic convention which made it possible to distinguish between commendation, dependent land tenure and soke in various combination.⁶⁶

These varying responses confirm that dealing with Anglo-Saxon lordship was a problem.

Many entries, particularly in Little Domesday, state that the *antecessor* had commendation, or — more pointedly — had only commendation.⁶⁷ On occasion the contrast with the current lord's rights is made more explicit. Stratton, Norfolk, appears amongst the lands of Robert fitzCorbucion in 1086, its tenant being a man named Humphrey. There were seven free men, and seventeen acres, over whom the *antecessor* had commendation and which Humphrey had 'for land [*pro terra*]'.⁶⁸ The implication appears to be that commendation to the *antecessor* was not in itself sufficient to establish the Norman successor's title to hold the land.

This view is backed up by other instances where it is stated that the *antecessor* had had only the commendation of the man, with another having the soke.⁶⁹ Such

⁶⁵ The 'terms of reference' given in the *Inquisitio Eliensis* asked only 'quomodo uocatur mansio; quis tenuit eam tempore Regis Eadwardi'; *Select Charters and Other Illustrations of English Constitutional History*, ed. by William Stubbs, 9th edn (Oxford: Clarendon Press, 1913), p. 101.

⁶⁶ Baxter, 'Lordship and Justice'; see also Garnett, *Conquered England*, pp. 29–30.

⁶⁷ See, e.g., *Domesday Book*, II, fols 190^r–^v, 439^r.

⁶⁸ *Domesday Book*, II, fol. 260^r. Note also *Domesday Book*, II, fol. 405^v, for a man having been commended to the *antecessor* but the Norman lord-holding 'in dominio'.

⁶⁹ See, e.g., *Domesday Book*, II, fols 163^v, 190^v, 226^v, 238^v, 311^r, 344^r, 391^r, 409^r.

entries may record settled situations, but at least on occasion they record disputes, and were recognizable as so doing. In Norfolk many entries containing just such formulations appear at the end of the account of the county, grouped as ‘invasiones’.⁷⁰ It thus is clear that rivals were basing their claims to land on different forms of lordship, notably commendation and soke.⁷¹

Let us move on to more explicit accounts of disputes.⁷² A notable case concerns Norfolk lands and men of Hermer de Ferrers:

The hundred witnesses concerning these that his *antecessor* had no custom except commendation, and offers proof [*iudicium*] concerning this. A man of Hermer offers proof that his *antecessor* had all customs in the time of King Edward, except for the soke of St Etheldreda [i.e. the church of Ely], and that he could sell his land. They have given pledges concerning this.⁷³

Here Hermer is apparently admitting that commendation did not provide sufficient title and basing his claim additionally on his *antecessor*’s receipt of all customs and full control of the land, whilst dismissing soke as a necessary prerequisite. The men of the hundred’s testimony seems to have differed from that of Hermer’s man not in terms of a better understanding of Anglo-Saxon lordship but simply of factual knowledge.

If the division of soke from commendation caused problems, so too did the separation of commendation from matters of tenurial lordship. Norman lords appear sometimes to have based their claims to land on their acquisition of men commended to their *antecessores*.⁷⁴ In one case the Bishop of Thetford ‘seized [*inuasit*]’ land on the basis of his predecessor’s commendation over the landholder in the time of King Edward, but the land had belonged to the monastery of St Benet of Holme for food, and the landholder had not been able to give or sell the land.⁷⁵ Use of the word *inuasit* indicates that the Bishop was not considered to

⁷⁰ *Domesday Book*, II, fols 273^v–280^r. Note also the presence of this formulation in the entry for Bishop William of Thetford under the heading ‘Concerning encroachments of the same fee [*De inuasionibus eiusdem feudi*]’; *Domesday Book*, II, fol. 197^r.

⁷¹ Note also problems arising from divided commendation on top of the separation of soke and commendation; *Domesday Book*, II, fols 327^v–328^r, states that ‘in Stanton Walter de Caen holds from Robert Malet one free man, of whom his *antecessor* had half the commendation and St Edmund half the commendation and sake and soke’.

⁷² Note also, e.g., *Domesday Book*, I, fols 211^v, 238^v.

⁷³ *Domesday Book*, II, fol. 208^r. ‘*Iudicium*’ probably indicates an offer to undergo ordeal.

⁷⁴ See, e.g., *Domesday Book*, II, fols 188^v–189^r, 260^v–261^r.

⁷⁵ *Domesday Book*, II, fol. 201^r.

have proper title; St Benet of Holme had greater right, although *Domesday* enters the land amongst those of the Bishop of Thetford.

Still other entries, notably in Lincolnshire, suggest problems arising from the separation of soke from tenurial lordship.⁷⁶ Amongst the *clamores*, the disputes, recorded in Lincolnshire appear, for example, statements that

Ivo de Taillebois claims six bovates of land against [*super*] the king. The men of the county say that he ought to have the land, and the king the soke.

Hugh son of Baldric claims a half bovat of land in Brocklesby. The men of the riding say that the land ought to be his, the soke Norman's, through their *antecessores*.

Norman d'Arcy claims three bovates of land against [*super*] Drogo in Normanby. The wapentake says that the land ought to be his, and the soke Drogo's.⁷⁷

Again claimants appear to have been using an Anglo-Saxon *antecessor* who possessed one form of lordship to justify their claim to all aspects of lordship.

Finally there are disputes that relate to the tenurial lordship in Anglo-Saxon England. An Anglo-Saxon landholder might have very extensive control, for example freedom to alienate, or much more restricted control, for example when holding a lease.

In this hundred [Fordinbridge, Hampshire] and in this manor [*Clattyng*] Picot holds two and a half virgates from the king. Vitalis held it in alod [probably bookland] from King Edward as a manor. [...] William de Chernet claims this land, saying that it belongs to the manor of South Charford, Hugh de Port's fee, through inheritance from his *antecessor*. And he has brought as his testimony concerning this the better men and the old men of the whole county and hundred; and Picot has brought against it as his testimony villagers [*uillani*] and common people [*uili plebe*] and reeves, who are willing to maintain by oath or by judgment of God that he who held the land was a free man, and could go with his land where he wished.⁷⁸

⁷⁶ From outside Lincolnshire see, e.g., *Domesday Book*, II, fol. 397^v, on Haverhill, Suffolk: 'all these men could sell and give their lands, but Wihtgar had in the time of King Edward both sake and soke, apart from the six forfeitures of St Edmund.'

⁷⁷ *Domesday Book*, I, fols 375^v, 375^r, 376^v, respectively. Note generally fols 375^v–377^v.

⁷⁸ *Domesday Book*, I, fol. 44^v. The passage continues in interesting fashion: 'But William's witnesses refuse to accept law except that of King Edward until it be determined by the king.' See also *Domesday Book*, I, fol. 10^r: 'Ansfrid holds Badlesmere from the bishop [of Bayeux]. [...] The abbot of St Augustine's claims this manor because he had it in the time of King Edward, and the hundred testifies for him. But the son of the man states that his father could turn where he wished, but with this the monks do not agree.'

It seems, therefore, that the dispute stemmed from Hugh de Port's reliance on his *antecessor's* title to the land, title that was in question because of the possibility that Vitalis had been able to alienate the land. Again there is no sign that the witnesses of the two parties differed in the quality of their understanding of Anglo-Saxon lordship, merely in their opinion as to the facts. However, it is notable that the *Domesday* record introduces an element of tenure into the holding of bookland that does not appear in the Anglo-Saxon evidence: 'Phitelet tenuit in alodio de rege Edwardo pro manerio.'

How, then, are we to interpret this material? Could some not understand the distinctions between different forms of Anglo-Saxon lordship, were the complexities fully understood but exploited by claimants, or did the problems differ between individual disputes? Unfortunately I am yet to come to a firm conclusion. It is impossible to tell whether the opinions of the county, riding, and wapentake in the Lincolnshire cases just cited differ from those of the claimants in terms of understanding of lordship or of simple view of the facts. The sheer number of the difficulties arising from the process of settlement may well suggest rival claims arising from a genuine belief in title established by just one form of antecessorial lordship. On occasion, moreover, *Domesday* seems particularly dismissive of claims based on no form of antecessorial lordship,⁷⁹ perhaps indicating that claims on some antecessorial basis could not be so easily rejected. On the other hand, we know that Normans attempted to claim land on the basis of leases held by their claimed *antecessores*, and leases should not have confused them;⁸⁰ acquisitiveness not misunderstanding characterizes such seizures. Other entries suggest an awareness that it was royal gift, not commendation to an *antecessor*, which gave title. Robert Malet's holding of Kilverstone, Norfolk, was recorded as containing one sokemen of the king, with sixty acres of land, 'whence Robert's *antecessor* had only commendation, and he claims the land by gift of the king'.⁸¹ Such an awareness of the proper basis of title makes it seem likely that at least some claims arose from deliberate exploitation of the complexities of Anglo-Saxon lordship.

⁷⁹ See, e.g., *Domesday Book*, II, fol. 447^v (where the naming of the current tenant as 'Malus uicinus', 'evil neighbour' could be significant).

⁸⁰ See, e.g., the dispute over Fyfield, Berkshire, recorded in *Historia ecclesie Abbendonensis*, I, 224, *Domesday Book*, I, fol. 60^v, and discussed in John G. H. Hudson, 'The Abbey of Abingdon, its *Chronicle*, and the Norman Conquest', *Anglo-Norman Studies*, 19 (1997), 181–202 (p. 196).

⁸¹ *Domesday Book*, II, fol. 153^v.

It could also be significant that another man who probably distorted *Domesday's* record of the Anglo-Saxon past to strengthen his position in the Norman present was Baldwin, Abbot of Bury St Edmunds. In Suffolk, it was not normal for men to owe soke to their commended lord. The most notable exception, Stephen Baxter has shown, comes in the holding of Bury, where over 90 per cent of commended men also owed the abbot soke; commonly they also owed customary dues and could not give or sell their land without the abbot's consent.⁸² All three forms of lordship were thus said to have been combined in the time of King Edward, as they would be after 1066. This situation could result from the strength of the abbot's lordship in his privileged Suffolk holdings, or from Abbot Baldwin's personally powerful position under the Confessor. However — as in the similarly exceptional case of the church of Worcester — the formulae for the relevant entries are peculiar to this holding, so again the abbot's account may have formed the basis of the *Domesday* entry. Could it be that Wulfstan and Baldwin, survivors of the Conquest, were able to get away with their accounts of supposed pre-Conquest lordship not merely because they were peculiarly knowledgeable, but because they understood the differences between pre- and post-Conquest conditions better than did the *Domesday* commissioners?

Domesday offers many other aspects that could be analysed for the purposes of this paper. One might examine patterns of entries in which lands are said to have been held 'de' or 'sub' a lord in the time of King Edward, or to have been held 'in alodio' or 'in feudo', phrases not used in the pre-Conquest period.⁸³ Other words might also be examined. The word *manerium* was new in post-Conquest England, and apparently had not been used in pre-Conquest Normandy.⁸⁴ Similarly, like other historians of Anglo-Saxon England, I have talked about commendation as a term for personal lordship. Again, however, the word was not used in this sense in England before 1066.⁸⁵ Was its use in *Domesday* a simple translation of the Old English 'mannræden' or did it cover a variety of terms? Has historians' adoption of the *Domesday* term led them to treat as one what may have

⁸² See Baxter, 'Lordship and Justice', and also 'Representation of Lordship and Land Tenure', p. 93, and col. 36 in his tables at pp. 95–102.

⁸³ See, e.g., *Domesday Book*, I, fols 23^r, 44^v, 59^r; also II, fol. 439^r.

⁸⁴ I owe this point to C. P. Lewis and his unpublished paper, 'What Was a Domesday Manor?'. *Recueil des actes des ducs de Normandie*, ed. by Marie Fauroux (Caen: Caron, 1961), no. 224, uses *manerium* for England but not Normandy. See, e.g., *Domesday Book*, I, fol. 208^r, for *Domesday* use of *manerium* concerning pre-Conquest England.

⁸⁵ For Normandy, note *Recueil*, no. 229.

been decidedly diverse forms of personal lordship?⁸⁶ How far, then, do these innovations in terms of vocabulary represent the imposition of Norman assumptions, how far were they generated by the processes of land transfer and lordship imposition, how far by the need to translate vernacular testimony into Latin, and how did their use colour the record of the Anglo-Saxon past?

Conclusion

In the context of recent debates on feudalism, my aim in this paper has been twofold: first, to re-examine another element of the medieval evidence; second, to seek to uncover a set of assumptions about landholding and lordship. In the latter area, I am interested in the degree to which people who were not professional lawyers had in their heads a set of assumptions which could be imposed on another society, be it in the past or the present. Such a question is particularly interesting in the context of the history of the British Isles, not only because of the events of 1066 in England but also because of the introduction of Normans and other Frenchmen, together with their landholding practices, to Scotland and elsewhere. It has been very plausibly argued that the land law of Scotland from the twelfth century onwards must be seen as the product of a 'legal transplant', but originated by lords and administrators, not by professional lawyers.⁸⁷

As I said at the start of my paper, I set out to discover whether a similar 'transplant' took place in post-Conquest presentations of Anglo-Saxon lordship and landholding, involving the clear imposition of post-Conquest assumptions. What did I find? First, there certainly was some degree of imposition of later ideas in twelfth-century writings about the Anglo-Saxon past. This is clearest by studies of vocabulary, for example the uses of words such as *baron*, *feudum*, and *homagium* that had not been used in the Anglo-Saxon period. Second, the degree of distortion of Anglo-Saxon practice was perhaps not as great as might have been expected; the evidence cannot sustain an argument for an imposition of feudalism on Anglo-Saxon practices. In part the limits of the evidence may simply result from the limits to the amount of later writing about landholding relations

⁸⁶ Note also the word's use in the *Quadripartitus* and *Instituta Cnuti* versions of *Af*, 17, *Gesetze*, I, 59, to denote the entrusting of person to another; see also *Af*, 20, *Gesetze*, I, 61.

⁸⁷ See Hector L. MacQueen, *Common Law and Feudal Society in Medieval Scotland* (Edinburgh: Edinburgh University Press, 1993).

between laymen before 1066. However, there may have been further reasons, including a belief that the Conquest did make a difference in terms of landholding, involving an intensification of lordship.⁸⁸ Thus the thirteenth-century law book known as *Bracton* stated that there were *servi* and *nativi* before, at, and after the Conquest, but 'there were also at the Conquest free men, who held their tenements freely, by free services or free customs, who, after they had been ejected by the more powerful and had returned, received their same tenements up again to hold in villeinage, by doing thence servile, although certain and specified, works'.⁸⁹ Some twelfth-century texts, perhaps not wrongly, believed that the *Domesday* survey had involved an enquiry into the knight service owed to the king as well as the matters recorded in the *Book*; such knight service might be another aspect of the intensification of lordship.⁹⁰ Thirdly, the process of Norman settlement itself involved representation and interpretation of lordship and landholding in Anglo-Saxon England. The degree to which Normans understood Anglo-Saxon practices remains not entirely clear. Yet their conclusions helped to shape lordship and landholding in England after 1066, and have also shaped, and perhaps misled, historians' interpretations of Anglo-Saxon practice through the irresistibly abundant evidence of *Domesday Book*.

⁸⁸ See also Garnett, *Conquered England*, esp. c. 2.

⁸⁹ 'Henry de Bracton'. *De legibus et consuetudinibus regni Anglie*, ed. and trans. by Samuel E. Thorne, 4 vols (Cambridge, MA: Harvard University Press, 1968–77), II (1968), 37, discussed by Rosamond J. Faith, *The English Peasantry and the Growth of Lordship* (London: Leicester University Press, 1997), p. 215; see also her comments at pp. 219–20 concerning comments in Richard, FitzNigel, *Dialogus de Scaccario*, ed. and trans. by Charles Johnson, rev. by F. E. L. Carter and D. E. Greenway (Oxford: Clarendon Press, 1983), pp. 53–54, regarding the restricted restoration of lands to some of the English after 1066. FitzNigel concluded with the statement that 'whoever of the conquered race possesses estates or anything of the sort has acquired them not because they seemed due to him by reason of succession but only by virtue of his merits or by some kind of agreement'.

⁹⁰ See John O. Prestwich, 'Mistranslations and Misinterpretations in English Medieval History', *Peritia*, 10 (1996), 322–40 (p. 335). John of Worcester's *Chronicle* included amongst the material recorded by Domesday 'quot feudatos milites', 'how many knights enfeoffed'; cf. the 1166 *carta* of the Bishop of Exeter, which states that Henry II had asked 'quot habeam milites feffatos'; *Liber Rubeus*, I, 248. Note also *The Ecclesiastical History of Orderic Vitalis*, VII, 2, ed. and trans. by Marjorie Chibnall, 6 vols (Oxford: Oxford University Press, 1969–80), IV (1973), 52: 'His temporibus miliciam Anglici regni rex Guillelmus conscribi fecit, et sexaginta milia militum inuenit.' *Historia ecclesie Abendonensis*, ed. by Hudson, II, 6, with reference to William I's reign, although before 1086, 'it was noted by royal edict in the "annual records" [*annalibus*] how many knights might be demanded for public protection from bishoprics, and how many from abbeys, if by chance compelling cause arose'.

WHAT ABOUT SPAIN? IBERIA IN THE HISTORIOGRAPHY OF MEDIEVAL EUROPEAN FEUDALISM

Adam J. Kosto

In a letter of 1931, Marc Bloch confessed to Claudio Sánchez-Albornoz a great regret: 'that of not knowing your country. It is, truly, an enormous gap in my vision of Europe, one that I must fill someday.' He was writing of modern rather than historical Spain, going on to note that his large family made travel difficult.¹ But he might as well have been making an historiographical observation. Iberian evidence plays a relatively minor role in his *Feudal Society*, where he depicts the region as fundamentally different from the rest of Europe. Perhaps because of the great influence of that work, for a long time Iberia played a minor role in the historiography of European feudalism. What that historiography might have looked like had Bloch integrated Iberia more fully into his account is an open question. As it is, lively discussions by Spanish scholars of Iberian feudalism (as of Iberian history generally) remained peripheral until the 1970s, when they became central to historiographical debates — although like Bloch himself, again in his letter to Sánchez-Albornoz, historians might be accused of

¹ 'En feuilletant *La España del Cid* j'ai éprouvé une fois de plus — dois-je vous l'avouer? — un vif regret qu'est venue raviver la vue de ces belles planches: celui de ne pas connaître votre pays. Je n'ai fait que l'effleurer, sur sa frontière septentrionale. Vraiment il y a là, dans ma vision de l'Europe, une terrible lacune, qu'il faudra bien que je comble un jour. Mais une nombreuse famille ne favorise pas les voyages' (letter of 29 January 1931 previously transcribed on the website of the Association Marc Bloch (<www.marcbloch.fr/veritaslettres.html>), currently archived at <web.archive.org/web/20070718071411/http://www.marcbloch.fr/veritaslettres.html>) [accessed 6 September 2010]. My thanks to Prof. Jacques Beuoroy for this reference; I have not yet determined the sources for the letters published on this site.

'only touching lightly on its northern frontier'.² Late twentieth- and early twenty-first-century historians, too, must have large families.

Iberia in the Classic Accounts of Feudalism

One needs to read very carefully to find hints that many of the authors of the canonical works on feudalism knew that there was inhabited land south of the Pyrenees. Heinrich Brunner argued that the Franks were prompted to adopt the cavalry (and thus feudalism!) by contact with Muslim forces at Poitiers in 732, but although he cites an Iberian source, he does not identify the Muslims at Poitiers as specifically Iberian.³ Heinrich Mitteis's *Lehnrecht und Staatsgewalt* shows a similar lack of interest in Iberian events. In the second part of his work, devoted to the post-Frankish period, he addresses at length feudalism in Capetian France, Normandy, Italy, England, Germany, and even Eastern Europe, Asia Minor, and

² Aside from the influence of Bloch's work, another factor not examined here played a crucial role in Iberia's historiographical marginalization: the Spanish Civil War and its aftermath, which for the most part saw the Spanish academy isolated from the rest of Europe. The re-emergence of Iberia in the 1970s coincided with the increasing openness of the end of the Franco regime, and the scholarship of that era, in reaction against the older insistence on difference, exaggerated Iberia's similarities to the rest of Europe. My thanks to Paul Freedman for this observation, and for his help with the paper generally. I did not have an opportunity to integrate into this article the perspectives offered by Aniceto Masferrer and Dirk Heirbaut, 'La contribución de F. L. Ganshof a la historiografía feudal europea: Una revisión crítica de la historiografía española en torno al feudalismo ganshofiano', *Anuario de historia del derecho español*, 75 (2005), 641–82, esp. 656–74.

³ Heinrich Brunner, 'Der Reiterdienst und die Anfänge des Lehnwesens', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Germanistische Abteilung, 8 (1887), 1–38; the *Mozarabic Chronicle of 754* is cited as 'Isidor Pacensis' at p. 13, n. 5. See Carmen Cardelle de Hartmann, 'The Textual Transmission of the Mozarabic Chronicle of 754', *Early Medieval Europe*, 8 (1999), 13–29. The fact that the inhabitants of Spain had cavalry forces well before the advent of the Muslims in 711 was used by later authors to attack Brunner's thesis, but normally as an element of broader counterarguments: Alfons Dopsch, *Wirtschaftliche und soziale Grundlagen der europäischen Kulturentwicklung aus der Zeit von Caesar bis auf Karl den Grossen*, 2nd edn, 2 vols (Vienna: Seidel, 1923–24; repr. Aalen: Scientia, 1961), II, 297 (see also II, 326 and 342, n. 244); Lynn White, *Medieval Technology and Social Change* (London: Oxford University Press, 1962), pp. 9–13; cf. Bernard S. Bachrach, 'Charles Martel, Mounted Shock Combat, the Stirrup, and Feudalism', *Studies in Medieval and Renaissance History*, 7 (1970), 47–75. Only Claudio Sánchez-Albornoz addressed directly the Iberian implications of the question, in the second and third volumes of his *En torno a los orígenes del feudalismo*, 3 vols (Mendoza: Universidad Nacional de Cuyo, 1942).

the Latin Kingdom. Iberia receives just a few mentions, the only substantive ones dealing not with Iberia *per se* but with the famous Carolingian privileges for the *Hispani*, Iberian refugees settled in Occitania after the Muslim invasions.⁴ Further digging in the footnotes of works in this tradition of German institutional history offers a similarly meager yield: an Iberia relevant only to the extent that its inhabitants occasionally impinged on Carolingian consciousness.⁵

As François-Louis Ganshof's *Feudalism* is the culmination of this tradition, it is not surprising to find that Iberia plays a limited role there, too. Ganshof was perfectly clear that he was focussing on the famous 'regions lying between the Loire and the Rhine',⁶ although like his predecessors he could hardly ignore the *Hispani*.⁷ He does acknowledge Iberian feudalism, but dismisses it as beyond his scope. For Ganshof, Spain was a secondary region, feudalized because it was

⁴ Heinrich Mitteis, *Lehnrecht und Staatsgewalt: Untersuchungen zur mittelalterlichen Verfassungsgeschichte* (Weimar: Böhlau, 1933; repr. Darmstadt: Wissenschaftliche Buchgesellschaft, 1958). For the *Hispani*, see p. 99, n. 271 (critiquing Alfons Dopsch, 'Westgotisches Recht im *Capitulare de villis*', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung*, 36 (1915), 1–23 (p. 21)), and pp. 159–60, n. 165. See p. 241 for a reference to Catalan-Aragonese law. Iberia fares a little better in Mitteis's general constitutional history, *Der Staat des hohen Mittelalters: Grundlinien einer vergleichenden Verfassungsgeschichte*, 4th edn (Weimar: Böhlau, 1953), e.g., pp. 180–82, 414–20 (trans. by H. F. Orton, *The State in the Middle Ages: A Comparative Constitutional History of Feudal Europe* (Amsterdam: North Holland, 1975), pp. 170–71, 384–89). It remains, however, a region of 'nur ein unentwickeltes Lehnswesen' (p. 22 (trans. by Orton, pp. 22–23)). For a more recent treatment of the *Hispani*, see Cullen J. Chandler, 'Between Court and Counts: Carolingian Catalonia and the *aprisio* Grant, 787–897', *Early Medieval Europe*, 11 (2002), 19–44.

⁵ Another example of a classic is Carl Stephenson, *Medieval Feudalism* (Ithaca: Cornell University Press, 1942), pp. 94–95: 'Additional examples of feudal practice can be discovered in large number along the borders of the lands already mentioned — as in Spain, the British Isles, Scandinavia, and the kingdoms of Eastern Europe. To avoid wearisome enumeration, it need only be remarked that in all such regions feudalism was generally adopted as a means of political integration [...] So too in Spain each of the Christian princes built up his little state by enlisting vassals and rewarding them with fiefs at the expense of the Moslems.' Spanish translation by Manuel Pérez Olea, with an introduction by José Antonio Maravall, *El feudalismo medieval* (Madrid: Europa, 1961).

⁶ François L. Ganshof, *Feudalism*, trans. by Philip Grierson, 3rd English edn (New York: Harper & Row, 1964), p. xvii. Spanish translation by Feliu Formosa, with a prologue by Luis G. de Valdeavellano, *El feudalismo* (Barcelona: Ariel, 1963).

⁷ He notes the appearance in these of the keywords *obsequium*, *homo*, *beneficium*, and *senior*; discusses the *aprisio* as a benefice-like arrangement; and offers the constitutions as evidence for the linking of vassalage and benefice. Ganshof, *Feudalism*, pp. 21, 39, 41–42, 50; see also 31, n. 2.

influenced by the regions where feudalism originated. 'Feudalism in Spain,' he wrote, 'save in the county of Barcelona [...] must also be regarded as a thing apart.'⁸ In the part of the bibliography devoted to 'Feudalism in Different Countries', which includes sections on Germany, England, Belgium, Scotland, France, Italy, and the Netherlands, he adds a footnote excusing his omission of works on the Latin Orient. Spain does not even merit such a mention.⁹

He does cite important eleventh-century Catalan evidence, including the earliest appearances of the term *hominaticum*, from 1020 and 1035, as well as oaths from 1034 and c. 1053, and he observes the use of the term *solidus* in the county of Barcelona to refer to what he calls a 'liege vassal'.¹⁰ All of this appeared for the first time, though, in the third French edition of 1957, in which a likely Catalan informant is thanked in the preface.¹¹ Many of his surprisingly numerous references to Languedoc and the South of France, which stand out in a book devoted to the Loire-Rhine region, also first appear in this 1957 edition. The new information did nothing to alter his main arguments, but it is reasonable to wonder if Ganshof began to consider Catalonia to be not so much an extension of 'France' but of the 'South of France' as a distinct region, and if he did not find it curious that the new and clearly important evidence that he was adding did not come from the core regions of his feudalism in the North. These changes in his text foreshadow historiographical shifts to come.

⁸ Ganshof, *Feudalism*, pp. xv, 65, 66: 'the *reconquista* brought it, at least to a limited degree, to Spain' (p. 65); 'Feudalism in Spain, save in the county of Barcelona, which was derived from the Spanish March of Carolingian times and remained in theory subject to the French king up to 1258, must also be regarded as a thing apart. The historical circumstances which attended its formation gave birth to institutions differing in many respects from those found north of the Pyrenees' (p. 66).

⁹ Ganshof, *Feudalism*, pp. xx, xxi, n. 1, although the general section of the bibliography does list important work of Claudio Sánchez-Albornoz that appeared in 1942, 1947, and 1954 (p. xx); the 1952 first English edition cites the works of 1942 and 1947.

¹⁰ Ganshof, *Feudalism*, pp. 72, 76, 85, 104. For the probable forgery dated 978 and cited at p. 72, n. 3, see Adam J. Kosto, *Making Agreements in Medieval Catalonia: Power, Order, and the Written Word, 1000–1200*, Cambridge Studies in Medieval Life and Thought, 4th ser., 51 (Cambridge: Cambridge University Press, 2001), p. 181, n. 79.

¹¹ *Qu'est-ce que la féodalité*, 3rd edn (Brussels: Office de publicité, 1957). In the preface he thanks Jordi Rubió i Loís of Barcelona, who was, at the time, working on the *Catalunya Carolingia* project and thus immersed in Catalan charters of the period in question. This edition also adds to the bibliography the crucial work of Eulàlia Rodon Binué, *El lenguaje técnico del feudalismo en el siglo XI en Cataluña (contribución al estudio del latín medieval)*, Publicaciones de la Escuela de filología de Barcelona: Filología clásica, 16 (Barcelona: CSIC, 1957).

As for Bloch's *Feudal Society*, it is not surprising to find that his intellectually more capacious view of feudalism was also more geographically capacious, but even he had limits. In a letter of 1933 to Lucien Febvre, in which he expressed his concerns about undertaking the project that became *Feudal Society*, Bloch echoed what he had written to Sánchez-Albornoz two years before: 'there are in my knowledge of the feudal world in the West two large gaps, quite difficult to fill.' One was Scandinavia. The other was Spain.¹² Nonetheless, Bloch made much more room than Ganshof did for Iberia, and in much of the book, especially where he is discussing economic and cultural conditions, he does not distinguish Catalonia from the rest of Spain.¹³

¹² Marc Bloch, *Lucien Febvre et les Annales d'histoire économique et sociale: Correspondance*, ed. by Bertrand Müller, 3 vols (Paris: Fayard, 1994–2003), I, 330 (5 February 1933): 'il y a dans mes connaissances sur le monde féodal occidental, deux gros trous, bien difficiles à combler: A) l'Espagne, où les problèmes, d'ailleurs d'un intérêt capital, sont extrêmement délicats à saisir pour qui n'a pas la pratique directe de textes, qu'il est, par ailleurs, à peu près impossible de consulter autrement que sur place; mais il me serait sans doute possible d'obtenir, pour cette partie, une collaboration, dans un cadre que je fixerais: Sanchez-Albornoz — ce qui serait le mieux — ou Ramos y Loscertales, par exemple, ou un plus jeune. Berr y consentirait-il? B) le Nord scandinave.' This letter is also published, from another exemplar, in Marc Bloch, *Écrire 'La Société féodale': Lettres à Henri Berr, 1924–1943*, ed. by Jacqueline Pluet-Despatin (Paris: IMEC, 1992), pp. 68–73.

¹³ Marc Bloch, *Feudal Society*, trans. by L. A. Manyon, 2 vols (London: Routledge & Kegan Paul, 1961); orig. *La Société féodale*, 2 vols (Paris: Michel, 1939–40). Spanish translation by Eduardo Ripoll Perelló, *La sociedad feudal*, 2 vols (Mexico City: UTEHA, 1958). The book begins with a consideration of the 'invasions' of the Muslims, and Bloch moves quickly from the southern Italian to the Iberian frontier, which stretches for him from the Mediterranean to the Atlantic (pp. 4–8, 52). One of his other invading groups, the Vikings, appeared on both sides of the peninsula, in Compostela and the Balearics (pp. 19, 31). The economic stirrings that follow upon the cessation of those invasions include traffic in slaves and gold, as well as pilgrimage travel, marking trans-Pyrenean economic routes in both the East and the West (pp. 65, 66, 70). Gerbert of Aurillac's studies of mathematics at the Catalan centres of Vic and Ripoll are for Bloch simply 'in Spain' (p. 63). His discussions of non-Catalan Iberia draw heavily on the Visigothic and later legal sources (pp. 111n, 141 (e.g., *Lex Visigothorum*, IV, 2, 20), 257 (*Lex Romana Visigothorum*, v, 9, 1), 298, n. 1 (*Codex Euricianus* 323=*Lex Visigothorum*, IV, 2, 15), 277 (fueros), 321 (*Siete partidas*)) and literary sources: the *Poema de mio Cid*, the *Chanson de Roland*, the *Cantar de los infantes de Lara*, and others (pp. 101, 135, 291, 334 (*Cid*; cf. p. 80); 93, 96 (*Roland*); 127 (*Lara*); 103, 129?). For Catalonia, the *Usatges* are appealed to again in Bloch's treatment of knighthood (pp. 325–26 (Us. 8, 9), 333–34 (Us. 6)); Ramon Llull makes a number of appearances on the same subject (pp. 312, 317, 319, 321, 346). Bloch cites thirteenth- and fourteenth-century evidence for Aragon, Castile, and Portugal on the restriction of knighthood, reinforcing the general impression that on this particular subject, at least, the worlds of Llull and the *Cid* were similar (p. 321). Additional references to Asturian/Leonese/Castilian institutions: pp. 85,

In the most Ganshofian part of the work, however, devoted to 'Vassalage and the Fief', Bloch, too, clearly separates Catalonia, 'profoundly influenced by Frankish institutions' and 'a sort of highly feudalized colonial march', from the rest of the peninsula. 'Nothing was more original,' he writes, 'than the structure of the societies of the northwestern Iberian group — Asturias, Leon, Castile, Galicia and, later, Portugal.' Thus what was for Bloch an economic and cultural unity — Spain — was institutionally divided. He proceeds to offer a sketch of this distinctive non-Catalan Iberian feudalism, concluding that local factors — principally Reconquest and Resettlement — prevented the development of proto-feudal institutions into what he describes as the 'strong and well-ordered network of feudal relationships penetrating the whole of society' elsewhere.¹⁴

His introduction of non-Catalan Iberian evidence in this section is limited. He cites the Visigothic Code on lordship¹⁵ and he brings up again the Castilian custom of the kissing of hands as a contrast to Frankish rituals of homage.¹⁶ But most of the Iberian evidence that enters into his analysis in this chapter is Catalan, principally in the form of references to the legal compilation known as the *Usatges*, many concerning their evidence for liege homage.¹⁷ Most noteworthy is his appeal to the *Usatges* as support for one of the main theses of his study, the notion that feudo-vassalic ties came to replace ties of kinship: Us. 126 reads: 'If parents engage

124–25, 323, 384, 391. Additional references to Catalan institutions: pp. 115, 138–39, 271, 278 (Conflent), 297 (Canigou). See also pp. 295, 375–76, 452.

¹⁴ Bloch, *Feudal Society*, pp. 186–87, 216. Outside this chapter, the distinction appears in reference to only two topics, both institutional: 1) Catalonia possessed a 'French type of serfdom', while in Asturias, León, and Castile, 'the relationships of personal dependence were not particularly exacting at this social level [...] and almost free from servile taint.' 2) Catalonia had experienced the diocesan and comital peace in the eleventh century, while Castile had to await a succession crisis in the twelfth. Bloch, *Feudal Society*, pp. 266, 413, 418.

¹⁵ On the lord being responsible for his man, a man being free to change lords, and a lord's wardship of the daughter of a *bucellarius*. Bloch, *Feudal Society*, pp. 157 (*Lex Visigothorum* VIII, 1, 1), 158 (v, 3, 4), 226 (v, 3, 1).

¹⁶ An idea he seems to have taken from the *Poema de mio Cid*. Bloch, *Feudal Society*, p. 228; cf. p. 186 and, for example, *Poema de mio Cid*, 2948 (ed. by Ramon Menéndez Pidal, 6th edn (Madrid: Espasa-Calpe, 1951), p. 259): 'Por esto vos besa las manos, commo vassallo e señor.' See also Bloch's citation of documents from Languedoc at p. 166, and at p. 153 a purely geographical reference to the migration of the Alans into Spain.

¹⁷ Bloch, *Feudal Society*, pp. 203, 213, 215–17, 222, citing Us. 25 ('unusquisque placitet cum suo seniore cuius solidus sit, uel de quo habuerit maius beneficium'), 31, 36. He sees Catalonia, along with Gaul between the Meuse and the Loire and with Burgundy (an odd trio), as the region of origin of the institution, and as the earliest place to allow for multiple *liegeance*.

in a dispute or lawsuit with their children, or children with their parents, the parents shall be judged as lords (*seniores*) and the children as men (*homines*) commended by their own hands.¹⁸

The conclusion to the entire work reiterates the split between Catalonia and the rest, applying a vocabulary that was to become standard among medievalists. León is offered, along with Gascony, as an example of 'a somewhat *incompletely feudalized* region'. Northwest Spain is offered, along with Scandinavia, as a society in which an armed peasantry survived and thus vassalage and the manor achieved only '*imperfect* forms'.¹⁹ Bloch's work suggests a distinction between a highly feudalized Catalonia and a poorly feudalized rest of the peninsula. In fact, however, it is more correct to see Bloch's views on feudalism in Spain as existing on a spectrum. On the Gashofian, institutional-historical end, Catalonia is a region apart; on the other, social-historical end, it is just another part of Spain. This is a bit of a puzzle: yes, Catalonia alone was strongly influenced by the Carolingians, but it also was involved in the things that are supposed to have made Spain different, Reconquest and Resettlement. This tension can be maintained only if one adheres to a Carolingian-normative model of feudo-vassalic institutions. What happens if that model is dissolved? The answer to that question did not come until the 1970s.

Ganshof's knowledge of Iberia and his realization of its significance for his subject was a rather late development. What about Bloch? Where was he getting his ideas? Bloch's bibliography indicates that unlike Ganshof he was well acquainted

¹⁸ Bloch, *Feudal Society*, p. 233 (Us. 126, my translation). While Bloch is thinking of the *Usatges* as evidence from 'about 1060' or 'at the end of the eleventh century', none of the clauses he cites are now thought likely to date from the putative original nucleus of eleventh-century texts, and — as I have argued elsewhere — even if they did, the *Usatges* are poor evidence for Catalan institutions before the late twelfth century. Frederic Udina i Martorell and Antoni Maria Udina i Abelló, 'Consideracions a l'entorn del nucli originari dels *Usatici Barchinonae*', in *La formació i expansió del feudalisme català: Actes del col·loqui organitzat pel Col·legi universitari de Girona (8–11 de gener de 1985): Homenatge a Santiago Sobrequés i Vidal (=Estudi general, 5–6 (1985–86) (Girona: Col·legi universitari de Girona and Universitat autònoma de Barcelona, 1986))*, pp. 87–104; Adam J. Kosto, 'The Limited Impact of the *Usatges de Barcelona* in Twelfth-Century Catalonia', *Traditio*, 56 (2001), 53–88. In contrast, one of the passages of the *Usatges* that he cites as evidence for customs of knighthood has been attributed to the original nucleus. If the attribution is correct, it offers another eleventh-century source for *hominaticum*, although the word Bloch translates as 'fief' is in fact *honor*. Us. 6; Bloch, *Feudal Society*, pp. 333–34.

¹⁹ Although on the following pages Scandinavia becomes a 'blank space' on the map of feudal Europe, whereas 'in León and Castile the stippling becomes very sparse'. Bloch, *Feudal Society*, pp. 442, 444, 445, 446.

with some of the best Iberian scholarship of the day: Ramón Menéndez-Pidal on the Cid and Eduardo de Hinojosa on Catalan institutions, for example. He reviewed the work of Luis García de Valdeavellano in 1934, and he personally knew José María Ramos y Loscertales.²⁰ But the most notable name in the bibliography of *Feudal Society* is that of Claudio Sánchez-Albornoz, represented by eight items. The first contact between these two historians appears to have come in 1924, when the Spaniard sent Bloch the inaugural volume of his new journal, the *Anuario de historia del derecho español*; Bloch's letter of thanks survives, as does another letter of 1928. Bloch attended a conference organized by Sánchez-Albornoz in Madrid in 1932, giving a paper that was published in the following year in the *Anuario*.²¹ In the letter to Febvre mentioned above, Bloch even suggested Sánchez-Albornoz as a collaborator on *Feudal Society*. Bloch was as well placed as anyone in 1939 to integrate Spain completely into a European synthesis, but he did not feel confident enough of his command of the sources. If only he had been a little more reckless.²²

²⁰ *Annales HES*, 6 (1934), 204–05 (review of Valdeavellano); *Marc Bloch*, I, 175, 183, 189; II, 157 (Ramos y Loscertales). Another influence was Pierre Bernard, an archivist and Hispanist Bloch met in 1929: 'un jeune hispanisant, P. Bernard, qui prépare un travail sur la seigneurie castillane et dont j'avais entendu dire du bien, à Madrid, par Sanchez-Albornoz notamment. Or vous vous souvenez peut-être que l'Espagne était pour moi un sujet d'inquiétude. Elle pose un gros problème d'histoire comparée, qui ne saurait être passé sous silence: pourquoi — en Léone et Castille du moins — les institutions "féodales" ont-elles presque complètement manqué à s'y développer? Je sais que le problème existe; je n'en sais pas assez, je ne dirai pas pour le résoudre, mais même pour le poser correctement. Et mes ignorances me préoccupaient d'autant plus que, vu l'état de nos bibliothèques, je ne voyais pas le moyen de les combler. J'ai donc été très heureux de pouvoir m'assurer le concours de P. Bernard. Il me communiquera des notes; il a promis, surtout, de répondre aux questionnaires détaillés que je lui enverrai' (Bloch, *Écrire 'La Société féodale'*, pp. 79–81 (16 September 1933)).

²¹ Marc Bloch, 'Une réunion d'historiens, en Espagne', *Annales HES*, 4 (1932), 385; 'Liberté et servitude personnelle au moyen âge, particulièrement en France: Contribution à une étude des classes', *Anuario de historia del derecho español*, 10 (1933), 19–115. *Marc Bloch*, I, 508–09 (23 December 1928); the letter of 7 July 1924 was previously transcribed at <www.marcbloch.fr/veritaslettres.html>, along with letters from Bloch to Sánchez-Albornoz of 29 January 1931, 4 January 1932, 22 March 1932, and 17 January 1933, and a letter of reference on behalf of Sánchez-Albornoz to the Rockefeller foundation (26 December 1938), all currently archived at <web.archive.org/web/20070718071411/http://www.marcbloch.fr/veritaslettres.html> [accessed 26 September 2010]. Cf. *Marc Bloch*, I, 284, n. 46; II, 108, 157. Bloch reviewed Sánchez-Albornoz's work on León in 1927 (*Revue critique d'histoire et de littérature*, 61 (=n.s. 94) (1927), 54).

²² For the reverse story — the influence of the *Annales* in Iberia — see Adeline Rucquoi, 'Spanish Medieval History and the *Annales*: Between Franco and Marx', in *The Work of Jacques*

Robert Boutruche's *Seigneurie et féodalité*, published twenty years later, was even better positioned to add Iberia to the history of European feudalism, open as the author was to the notion of 'feudal societies' rather than a 'feudal society'. In the end, however, Spain emerges once again as marginal, and its feudalism as incomplete, for Boutruche, like Ganshof, starts from an analysis of the region between the Loire and the Rhine.²³ In his first volume, devoted to the 'first feudal age', his discussion of the Iberian peninsula is relegated to the section on comparative studies. It is nestled between chapters on the Ancient Orient and Japan, and grouped with England, Scandinavia, the Slavic Lands, and the Mongol, Byzantine, and Islamic Empires, with the title 'Une évolution interrompue: L'Espagne'. Boutruche's summary is quite similar to Bloch's, although his debt to Sánchez-Albornoz is clearer.²⁴ What about Catalonia? 'Let us leave aside Catalonia,' he writes, 'placed from the beginning of the ninth century in the Carolingian orbit and partially feudalized.'²⁵

Partially feudalized. This is something new. For Bloch, Catalonia was simply part of Frankish feudal society, 'a sort of highly feudalized colonial march', and for Ganshof its Carolingian heritage and theoretical subjection to the French crown kept it on the feudal map. The introduction of regional texture to the picture of feudal society, however, allows Boutruche to depict even Catalonia as marginal, in contrast to the Loire-Rhine core. Thus when Catalonia appears in the Frankish chapter of this first volume, it is not just to provide supplementary evidence. On a range of issues — vassals, great estates, slavery, and others — Catalonia always comes across as different — perhaps not as different as the rest of Iberia, but different nonetheless, and for at least some of the same reasons.²⁶ The picture

Le Goff and the Challenges of Medieval History, ed. by Miri Rubin (Woodbridge: Boydell, 1997), pp. 123–41, on feudalism esp. pp. 124, 128–29, 133–34.

²³ Robert Boutruche, *Seigneurie et féodalité*, 2 vols (Paris: Aubier, 1959–70), I, 9, n. 4. Spanish translation by Margarita B. Pontieri and others, with technical revisions by Reyna Pastor, *Señorio y feudalismo*, 2 vols (Buenos Aires: Siglo Veintiuno, 1973–79).

²⁴ Boutruche, *Seigneurie et féodalité*, I, 260, n. 5, 262, n. 7, and the bibliography at pp. 453–55.

²⁵ Boutruche, *Seigneurie et féodalité*, I, 258–64. Some of these ideas are mentioned in passing earlier in the volume, at pp. 173–75.

²⁶ Boutruche, *Seigneurie et féodalité*, I, 63, 75, 102, 153, 160, 179, 200. Catalonia is grouped with a shifting constellation of regions depending on the institution under discussion. A sentence in the closing paragraph of this first volume stresses, instead, the centrality of Catalonia: 'En dehors des îlots formés par les anciennes marches carolingiennes, son (la féodalité) dessin devient moins ferme en France méridionale, dans le royaume d'Italie, dans le nord de la Germanie et de l'Espagne' (p. 328). Further citations to Iberia generally and Asturias/León/Castile: I, 15, 31–32,

is little changed in the second volume, devoted to the eleventh to thirteenth centuries, where the Iberian peninsula as a whole (along with southern Italy, the Latin Empire, and Scandinavia) is branded a region 'de féodalisation imparfaite ou provisoire'.²⁷ Boutruche draws on Iberian evidence here and there, particularly the *Usatges*,²⁸ and it becomes harder and harder for him to distinguish Catalonia from the rest of the Spanish kingdoms, especially after its union with Aragon.²⁹ Still, 'Iberian feudalism' as a theme is relegated to a long footnote. 'We do not insist', he begins, 'on these "epidermic" feudalisms.' After discussing Languedoc, he writes, 'Catalonia is a special case', describing its persistent free tenancy and the absence of the term *vassal* in the tenth and eleventh centuries, but the clear penetration of the region by feudal institutions under the Carolingians. 'Outside of Catalonia,' he continues, 'Spanish feudalism ran up against two obstacles we have already noted in volume one: the monarchies and peasant-soldiers.' So despite the regional and comparative thrust of his approach, Iberia remains imperfect, provisional, epidermic, partially feudal, marginal, peripheral ... worthy only of a footnote.³⁰ Iberia, the source of such interesting and puzzling evidence for Boutruche, as for Ganshof and Bloch, was by this point crying out for better integration into the historiography of European feudalism. J. M. Wallace-Hadrill picked up on this in an early review, suggesting that he would have gladly traded Boutruche's discussion of Japan, however insightful, for 'an unhurried analysis of the feudalisms of northern Spain and the Loire-Rhine area, seen as one group. This is comparative history that really needs doing'.³¹

37–38, 62, 97, 130 (although here *Espagne* must refer to Catalonia), 163, 169. Further citations to Catalonia or Catalan sources: I, 9, 49, 109–10, 190–92.

²⁷ Boutruche, *Seigneurie et féodalité*, II, 274.

²⁸ Boutruche, *Seigneurie et féodalité*, II, 165, 167, 178n., 182, 441–45.

²⁹ The progress of the Reconquest and the introduction of royal rule were crucial changes. To cite just two examples, because of the Reconquest, slaves remained numerous in the thirteenth century 'in Catalonia, the Asturias, León, and Castile', and franchise charters are an Iberian phenomenon, rather than a Catalan one. Boutruche, *Seigneurie et féodalité*, II, 71, 142.

³⁰ A footnote, we can observe with some amusement, that cites Bonnassie's article on the *convenientia* from the 1968 Toulouse conference that would mark the end of this tradition of scholarship (Pierre Bonnassie, 'Les Conventions féodales dans la Catalogne du XI^e siècle', in *Les Structures sociales de l'Aquitaine, du Languedoc et de l'Espagne au premier âge féodal: Toulouse 28–31 mars 1968* (Paris: CNRS, 1969), pp. 187–219 (= *Annales du Midi*, 80 (1968), 529–50). Boutruche, *Seigneurie et féodalité*, II, 313, n. 1.

³¹ *English Historical Review*, 76 (1961), 120: 'I enjoy his acute comparison of western with Japanese feudalism but would happily have sacrificed it to have had, instead, his unhurried analysis

Feudalism in Classic Spanish Historiography

In the narrower field of Iberian scholarship on the question of Spanish feudalism, the historiography presents a clearer picture. This is because of the simple way in which the question has been framed: was Spain feudal? It was asked as early as 1751, and by the 1870s a true academic controversy had developed over the question, with Francisco de Cárdenas answering *sí* and the Portuguese historian Alexandre Herculano responding with a resounding *no*. The arguments, of course, were more subtle and strikingly familiar to modern ears: in 1855 one can find articulated the idea that Iberian feudalism 'was neither complete nor finished', and in 1867 that it was 'different from the rest of the countries in Europe' and introduced at least in part through French influence, particularly that of Cluny.³² But the core question — yes or no — long dominated scholarship and, crucially, animated the work of Sánchez-Albornoz, the leading historian of Spanish feudalism.

Visigothic Spain, he argued, was 'pre-feudal'; institutions that resemble later vassalage and benefice are evident in that period, but any evolution of these institutions was interrupted by the Islamic invasion. Feudo-vassalic institutions are also found in the Christian kingdoms that formed after the conquest, but here, too, they remained 'immature', and for specific reasons: the conditions of Reconquest and Resettlement allowed for the existence of a free peasantry, not burdened with the seigneurial exactions that their counterparts elsewhere suffered under, and continuing to participate in military activity, thus preventing a noble monopoly on the use of force. Furthermore, the small size of the kingdoms and wealth from war booty allowed Iberian monarchs to avoid the fragmentation of their power that their counterparts elsewhere suffered under. To the extent that feudo-vassalic institutions did creep into Iberia, it was because of French

of the feudalisms of northern Spain and the Loire-Rhine area, seen as one group. This is comparative history that really needs doing, and the publication of Vinyals's *Catalunya Carolíngia* makes accessible a corpus of documents almost designed for the purpose. I would like to know why the author is so cursory with the massive work of Sánchez-Albornoz on the origins of feudalism. He may be right to be so; but he assumes more knowledge of the arguments than most of his readers will possess.' Boutruche does in fact cite *Catalunya Carolíngia*, at *Seigneurie et féodalité*, I, 153 and 200, and in the bibliography at 453. Further citations to Iberia generally and Asturias/León/Castile: II, 12, 30, 224, 247, 253, 263, 369. Further citations to Catalonia or Catalan sources: II, 72, 83, 158, 177, 249.

³² Luis G. de Valdeavellano, *El feudalismo hispánico y otros estudios de historia medieval* (Barcelona: Ariel, 1981), 'Sobre la cuestión del feudalismo hispánico', pp. 7–62 (pp. 40–45).

influence. Catalonia, it must be noted, was left out of the discussion: it was clearly feudal, and it was so because it had been directly subject to Carolingian rule.³³

Sánchez-Albornoz, it should be clear, took a rather strictly juridical view of feudalism and is emblematic of the 'institutional' school of Iberian historiography. His most distinguished followers in this approach were Valdeavellano, who provided a substantial appendix on Spanish feudalism for the 1963 Spanish translation of Ganshof's book, and Hilda Grassotti. The latter, a product of the school of medieval history created by Sánchez-Albornoz during his exile in Argentina, offered support for her mentor's theories in a thesis published in 1969.³⁴ From the 1960s, however, there were on the one hand calls for an analysis of the feudalism question from a more Blochian perspective, with a focus less on feudal institutions than on feudal society, and on the other hand for Marxist analyses that addressed feudalism essentially as a mode of production.³⁵ It seems obvious, as it was to at least some of those involved in the polemics, that the yes-or-no framing of the question trapped scholars in arguments about the proper definition of feudalism.³⁶

³³ Sánchez-Albornoz, *En torno a los orígenes del feudalismo* is the seminal work, but the sprawling corpus of Sánchez-Albornoz's scholarship on feudalism is usefully summarized in his own contribution to the 1968 Toulouse conference, 'Conséquences de la reconquête et du repeuplement sur les institutions féodo-vassaliques de León et de Castille', in *Les Structures sociales*, pp. 17–28 (= *Annales du Midi*, 80 (1968), 359–70) and, with more detail, in Luis G. de Valdeavellano, 'Las instituciones feudales en España', in *El feudalismo hispánico*, pp. 63–162 (pp. 67–138). See also Carlos Estepa Díez, 'Sánchez Albornoz y el feudalismo castellano', in *Sánchez Albornoz a debate: Homenaje de la Universidad de Valladolid con motivo de su centenario*, ed. by Reyna Pastor and others (Valladolid: Universidad de Valladolid, 1993), pp. 21–31. 'Immaturity' (*inmadurez*) was the term used in the title of the twelfth chapter of his widely diffused *España: Un enigma histórico*, 2 vols (Buenos Aires: Sudamericana, 1956), II, 7 (trans. by Collette Joly Dees and David Sven Reher, *Spain: A Historical Enigma*, 2 vols (Madrid: Fundación universitaria española, 1975), II, 621).

³⁴ Ganshof, *El feudalismo*; Hilda Grassotti, *Las instituciones feudo-vasalláticas en León y Castilla*, 2 vols (Spoleto: Centro italiano di studi sull'alto medioevo, 1969).

³⁵ Salvador de Moxó, 'Feudalismo europeo y feudalismo español', *Hispania*, 23 (1964), 123–33 (a review of the Spanish translation of Ganshof). For the historiographical context, see Rucquoi, 'Spanish Medieval History'.

³⁶ Valdeavellano, the institutionalist, describing the state of affairs around 1978, said that given a certain definition of feudal society, even he could accept, 'with some reservations', the application of that label to Spain, but that it could never be a 'feudal state' (*principado feudal*) because there was no *political* feudalization. And while he argued that the Marxist's 'feudal mode of production' was essentially what institutionalists called 'seigneurial regime', one that was *not*

Important contributions to the study of Spanish society continued to accumulate from the pens of scholars on all sides of the discussion, including some important alterations to Sánchez-Albornoz's positions,³⁷ but the yes-or-no question remained paramount.

In all of this, Catalonia, essentially, did not count. It was, wrote Valdeavellano in his supplement to Ganshof, 'undoubtedly a feudal state'. So settled was this opinion that he could cite secondary works from the early twentieth century, noting that they were still valid.³⁸ Contributions to the study of feudalism in Catalonia were published on occasion,³⁹ but the standard story remained uncontroversial into the 1970s.

The mid-1970s saw the appearance of two works that upended the relative consensus on Spanish feudalism. The first was the thesis of Pierre Bonnassie on

limited to what he would define as a feudal period, he admitted that, strictly on their terms, they might be right. Valdeavellano, 'Sobre la cuestión', pp. 59–62. The surprising nature of this affirmation was noted by José Angel García de Cortázar, 'La inmadurez del feudalismo español (En torno al legado de Sánchez Albornoz)', *Revista de Occidente*, 50 (1985), 35–52 (p. 52).

³⁷ Summarized nicely in García de Cortázar, 'La inmadurez del feudalismo español'. His own *El dominio del monasterio de San Millán de la Cogolla (siglos X a XIII): Introducción a la historia rural de Castilla altomedieval* (Salamanca: Universidad de Salamanca, 1969), foreshadowed a shift towards a more socio-economic approach. See also Julio Valdeón Barúque, '¿Instituciones feudales o sociedad feudal?', in *Les Origines de la féodalité: Hommage à Claudio Sánchez Albornoz. Actes du colloque international tenu à la Maison des Pays ibériques les 22 et 23 octobre 1993*, ed. by Joseph Pérez and Santiago Aguadé Nieto, Collection de la Casa de Velázquez, 69 (Madrid: Casa de Velázquez and Universidad de Alcalá, 2000), pp. 229–36 (pp. 233–34).

³⁸ Valdeavellano, 'Sobre la cuestión', p. 7; 'Las instituciones', pp. 138–56. He regularly cites the classic work of Hinojosa (1905), José Balari Jovany (1899), and Guillermo María de Brocá (1918), as well as the then recent philological study by Rodon Binué (*El lenguaje técnico del feudalismo*), a work perfectly suited to the institutional approach. Like Boutruche, Valdeavellano argued that while Catalan feudalism was closely linked to the Frankish model, it was a distinct variety. He added his own analyses of primary sources, particularly the *Commemoracions* of Pere Albert, a thirteenth-century treatise on feudal law. Valdeavellano, 'Sobre la cuestión', p. 53. The obviousness of Catalan feudalism was even used, in one of the more facile critiques of Sánchez-Albornoz, to attack his notion of an immature Spanish feudalism: Catalan feudalism was clearly mature, so Sánchez-Albornoz should really have spoken of, if anything, immature 'Castellano-Leonese feudalism' (p. 52). It is amusing to find that the cover image for the volume in which Valdeavellano's essay is reprinted is an homage scene from the Catalan *Liber feudorum maior*.

³⁹ For example, Rodon Binué, *El lenguaje técnico del feudalismo*. Manuel Riu, 'Hipòtesi entorn dels orígens del feudalisme a Catalunya', *Quaderns d'estudis medievals*, 1 (1981), 195–208, was first presented in 1970 (p. 207, n. 1).

Catalonia, defended in 1973 and published in 1975 and 1976. Because of its significance for the debate on the *mutation de l'an mil*, its arguments are now well known, but three things about its Iberian context deserve to be highlighted. First, Bonnassie argued that Catalonia was not — as the standard Iberian model held — a feudal society in the early Middle Ages. Second, he argued that when in the eleventh century Catalonia did in fact become a feudal society, it was not because of an importation of trans-Pyrenean institutions, but through internal economic and political developments. Third, he introduced a powerful Marxist-influenced socio-economic analysis at precisely the moment — the end of the Franco regime — when its enthusiastic reception in Spain was politically possible.⁴⁰ The second major work was Abilio Barbero and Marcelo Vigil's *La formación del feudalismo en la península ibérica* (1978). Adopting an unabashedly Marxist perspective and rejecting the findings of the institutional school, they argued that early medieval Spain was a feudal society. Furthermore, they were in agreement with Bonnassie that Spanish feudalism was to be explained by internal developments rather than French influence. From the late Roman into the Visigothic period, they detailed the tying of agricultural workers to both the land and their lords; the development of personal dependency within the Germanic tribes; the hereditary nature of these economic and extra-economic links; and ties of fidelity and service to the monarchs. These developments were interrupted by the Islamic invasions, but the 'feudalization' of Iberia continued in the North, where originally free village communities and family groupings, rooted in Cantabrio-Basque culture and

⁴⁰ Pierre Bonnassie, *La Catalogne du milieu du X^e à la fin du XI^e siècle: Croissance et mutations d'une société*, 2 vols, Publications de l'Université de Toulouse–Le Mirail, ser. A, 23, 24 (Toulouse: Université de Toulouse–Le Mirail, 1975–76). On the political context, see Flocel Sabaté, 'L'Apparition du féodalisme dans la péninsule Ibérique: État de la recherche au commencement du XXI^e siècle', *Cahiers de civilisation médiévale*, 49 (2006), 49–70 (p. 51, n. 3), citing *El temps i l'espai del feudalisme: Reunió científica. VI Curs d'estiu Comtat d'Urgell (Balaguer, 11, 12 i 13 de juliol de 2001)*, ed. by Flocel Sabaté and Joan Farré (Lleida: Pagès, 2004), pp. 561–63. Cf. Peter Linehan, 'Spain in the Twelfth Century', in *The New Cambridge Medieval History*, IV: c. 1024–c. 1198, pt II, ed. by David Luscombe and Jonathan Riley-Smith (Cambridge: Cambridge University Press, 2004), pp. 475–509 (p. 496: 'though to their [historians of other parts of twelfth-century Europe] Spanish colleagues while General Franco was alive the concept of feudalism seemed ideologically difficult and tended to be rejected as altogether too European (and therefore too alien) a proposition. Since the mid-1970s, however, feudalism has been fiercely embraced for the reassurance it provides that, as well as approximating to European norms, medieval Spain may even have measured up to Marxist requirements.' See also Peter Linehan, *History and the Historians of Medieval Spain* (Oxford: Oxford University Press, 1993), pp. 191–201.

collective exploitation of the land, were integrated into structures of dependence, in part drawing on the institutional traditions of the Visigoths. Catalonia, in their picture, was less different than had been thought, although they did not deny the import of the Carolingian presence there.⁴¹ Barbero and Vigil were still playing the definition game: Iberia was now feudal because they changed the definition of feudalism. But their work clearly shifted the debate, encouraging an examination of continuities from the late Roman period forward, an appreciation of regional difference, and a move away from a strictly institutional understanding of the topic of feudalism.

The Revolt of the Southerners: Revising the Place of Spain

Not coincidentally, it was in the 1970s that Iberian historiography suddenly became very relevant to the historiography of European feudalism generally. It did not do so on its own, but rather as part of the emergence of 'Mediterranean feudalism'. This 'revolt of the Mediterraneanists' was not manifest in works of synthesis as much as in a pair of important conferences.

The first of these was the Toulouse colloquium of 1968. It featured two papers on León-Castile, two on Catalonia, one on Aragon, three on the French Midi, and three general or comparative papers. The participants were hardly unified in their views. Sánchez-Albornoz's paper repeated the idea that Reconquest and Resettlement conditioned an immature Spanish feudalism, while José-María Font Rius suggested that Resettlement was the cause of feudalism in Catalonia. Bonnassie argued that Catalonia was one of the most feudalized regions in Europe, while Élisabeth Magnou-Nortier concluded her essay with a lapidary description of southern feudal institutions: 'une fidélité sans support foncier, une féodalité sans support juré, une aristocratie sans vassaux.' Boutruche, present in the audience, offered some strong dissents. When Grassotti stated that there was no fief in León and Castile in the tenth through twelfth centuries, he countered: 'Alors il n'y a pas de féodalité.' But he was fighting a losing battle. The conference

⁴¹ Abilio Barbero and Marcelo Vigil, *La formación del feudalismo en la península ibérica* (Barcelona: Crítica, 1978). For a brief summary, see Abilio Barbero de Aguilera, 'Configuración del feudalismo en la península ibérica', in *En torno al feudalismo hispánico: I Congreso de estudios medievales* (Ávila: Fundación Sánchez-Albornoz, 1989), pp. 73–85. For the context and reception of their work, see Javier Faci, 'La obra de Barbero y Vigil y la historia medieval española', in *'Romanización' y 'Reconquista' en la península ibérica: Nuevas perspectivas*, ed. by María José Hidalgo, Dionisio Pérez, and Manuel J. R. Gervás (Salamanca: Universidad de Salamanca, 1998), pp. 33–40.

demonstrated conclusively that feudal institutions in southwestern Europe were complex, distinctive, and very much worthy of attention.⁴²

A decade later, at Rome, the focus on southwestern Europe had been expanded to the Mediterranean as a whole.⁴³ Of the thirty-six papers presented there, only three were devoted specifically to Iberia, while twenty-one addressed various parts of Italy.⁴⁴ Still, Iberia was able to overcome this numerical disadvantage with a claim to intellectual significance, in the form of Bonnassie's seminal comparative paper, entitled, 'Du Rhône à la Galice: Genèse et modalités du régime féodal'. In it, he offered a way beyond the chronological, geographical, and philological obstacles that threatened to reduce the new, more expansive research on feudal societies to a series of incompatible regional studies. By allowing for chronological variations, and even major substantive differences, he was able to apply his model of feudalization in Catalonia not only to the Midi, but also to northwestern Spain, and he noted its coincidence with the findings of Pierre Toubert for Latium. Catalonia was no longer different from the rest of Iberia, and the rest of Iberia was no longer different from lands across the Pyrenees. He went so far as to argue that this 'Southern feudalism' was far from incomplete, and that any 'inachèvement' was rather to be found in the regions between the Loire and the Rhine. Things change.⁴⁵ Within two weeks of the conference, Georges Duby pronounced the death of the classical model of feudalism in the pages of *Le Monde*.⁴⁶

⁴² *Les Structures sociales*, here at pp. 71 (Font Rius), 106 (Boutruche), 134 (Magnou-Nortier), 138 (Boutruche), 204 (Bonnassie). In response to Magnou-Nortier's paper, Boutruche also asked, 'Si la féodalité n'existe pas, pourquoi vouloir employer le mot?' (p. 138). As for the particular role of Spain in this conference, it was revealed to look much more like southern France than like the classical regions, and the value of considering Catalonia, Aragon, and León-Castile together became clear.

⁴³ *Structures féodales et féodalisme dans l'Occident méditerranéen (X^e-XIII^e siècles): Bilan et perspectives de recherches (École française de Rome, 10-13 octobre 1978)*, Colloques internationaux du Centre national de la recherche scientifique, 588 (Paris: CNRS, 1980). The change in wording in the title (*Structures féodales* as opposed to *Les Structures sociales [...] au premier âge féodal*) is telling.

⁴⁴ Toubert claimed, perhaps not surprisingly, a centrality for Italy in the historiography: Pierre Toubert, 'Les Féodalités méditerranéennes: Un problème d'histoire comparée', in *Structures féodales*, pp. 1-13 (p. 13).

⁴⁵ Pierre Bonnassie, 'Du Rhône à la Galice: Genèse et modalités du régime féodal', in *Structures féodales*, pp. 17-44. Although see Toubert's comment at p. 45.

⁴⁶ Georges Duby, 'Féodalités méditerranéennes', *Le Monde*, 27 October 1978, p. 32. As Thomas Bisson pointed out to me, the role of Iberia in Duby's own work on feudalism merits the same sort of analysis as applied to Bloch, Ganshof, and Boutruche above.

From there, Mediterranean feudalism seemed to get all the attention.⁴⁷ But there was oddly little attempt to integrate the Mediterranean back into a European-wide discourse. In Iberia, in fact, scholars turned inward, testing the possibilities opened up by the work of Bonnassie and the shattering of the institutionalist consensus.⁴⁸ A conference at Girona in 1985 looked at the formation and *expansion* of Catalan feudalism, tracing its extension into neighbouring regions. A conference two years later at León integrated work on regions from across the peninsula, while one at Salamanca in 1996, inspired by the work of Barbero and Vigil, stressed the regional diversity of Iberian history. A small conference at Granada in 1990 was one of the few to have broader horizons, adding Italy to the Iberian mix, as did a pair of conferences on *incastellamento* at Girona in 1994 and Rome in 1996, but the historiography on feudalism was poised to head in a different direction; indeed one of the papers at the Granada conference addressed the question for Italy of *la mutation féodale*. And a separate Franco-Iberian conference in 1993, held in honour of Sánchez-Albornoz, focussed principally on Iberia, but included a debate between Bonnassie and Dominique Barthélemy, again on *la mutation féodale*.⁴⁹

⁴⁷ Coincident, of course, with a general growth in the field of Mediterranean studies. The tremendous output by the students of Bonnassie, Toubert, García de Cortázar, and others, in dissertations that are still just emerging, is the fruit of that attention.

⁴⁸ Ernesto Pastor Díaz de Garayo, 'Las relaciones feudo-vasalláticas en la Castilla del siglo XI: Reorganización de los poderes y dialéctica de la frontera', in *Fiefs et féodalité dans l'Europe méridionale (Italie, France du Midi, Péninsule ibérique) du X^e au XIII^e siècle: Colloque international organisé par le Centre européen d'art et civilisation médiévale de Conques et l'Université de Toulouse-Le Mirail (Conques, 6-8 juillet 1998)*, ed. by Pierre Bonnassie (Toulouse: CNRS and Université de Toulouse-Le Mirail, 2002), pp. 313-61 (p. 313), argues for a minimal interest in the 1980s and 1990s on the subject of feudo-vassalic relationships in Castile-León. Pascual Martínez Sopena, 'El beneficio en León entre los siglos XI y XII', in *Fiefs et féodalité*, pp. 281-312 (p. 282, n. 3), is more circumspect: 'Resumiendo quizá en exceso, se podría decir que las reflexiones conceptuales sobre la sociedad castellano-leonesa medieval tuvieron su gran momento en la segunda mitad de los años 70; en los años 80 y 90 se han abierto camino enfoques analíticos, todavía parciales pero más matizados.' Cf. José Angel García de Cortázar, 'Estructuras sociales y relaciones de poder en León y Castilla en los siglos VIII a XII: La formación de una sociedad feudal', in *Il feudalesimo nell'alto medioevo*, Settimane di studio del Centro italiano di studi sull'alto medioevo, 47, 2 vols (Spoleto: Centro italiano di studi sull'alto medioevo, 2000), II, 497-563 (pp. 497-98): 'el escaso avance que, en el campo específico de las relaciones feudo-vasalláticas, se ha producido en la historiografía referente al reino de León y Castilla desde la aparición de las obras de Claudio Sánchez-Albornoz, Luis García de Valdeavellano e Hilda Grassotti.'

⁴⁹ *La formació i expansió del feudalisme català; En torno al feudalismo hispánico; 'Romanización'*

Iberia in the Great Feudalism Debates of the 1990s

In the early 1990s, discussions of feudalism were abruptly recentred from the Mediterranean to the Lournand-Vendôme axis, just back over the border into the Loire-Rhine region. It is true that Guy Bois's *La Mutation de l'an mil* (1989) was inspired in part by Bonnassie's work on slavery, and he insists there that 'the feudal revolution was a European fact'.⁵⁰ Likewise, the synthesis of Jean-Pierre Poly and Eric Bournazel, *La Mutation féodale: X^e-XII^e siècle*, first published in 1980 and reissued in 1991, draws heavily on regional studies beyond the boundaries of Ganshof's world: Provence, Languedoc, the Auvergne, and those honorary extensions of feudal France, Catalonia and Latium.⁵¹ And Thomas Bisson's article on "The 'Feudal Revolution'" in *Past and Present* (1994) is admirably wide-ranging geographically.⁵² But the result of the debates over these publications was to take the energy out of the discussions of Mediterranean feudalism, to make it again essentially

y 'Reconquista' en la península ibérica; *Los orígenes del feudalismo en el mundo mediterráneo*, ed. by A. Malpica and T. Quesada (Granada: Universidad de Granada, 1994; 2nd edn, 1998); *Les Origines de la féodalité*, pp. 85–110; *L'Incastellamento: Actes des rencontres de Gérone (26–27 novembre 1992) et de Rome (5–7 mai 1994)*, ed. by Miquel Barceló and Pierre Toubert, Collection de l'École française de Rome, 241 (Rome: École française de Rome and Escuela española de historia y arqueología en Roma, 1998). The first and briefer of the *incastellamento* conferences was the broader of the two, but remained at a very high level of generality; the second focussed on the comparison between Islamic and Christian Iberia (there was one paper on Sicily) and on *incastellamento* in 'feudal' and 'non-feudal' societies. One exception to this 'peninsular' trend is Reyna Pastor, 'Sur la genèse du féodalisme en Castille et dans le León, X^e-XII^e siècles: Point de départ pour une histoire comparative', in *Marc Bloch aujourd'hui: Histoire comparée et sciences sociales*, ed. by Hartmut Atsma and André Burguière, *Recherches d'histoire et de sciences sociales/Studies in History and the Social Sciences*, 41 (Paris: EHESS, 1990), pp. 259–70 (a conference paper from 1986).

⁵⁰ Guy Bois, *La Mutation de l'an mil: Lournand, village mâconnais de l'Antiquité au féodalisme* (Paris: Fayard, 1989), e.g., pp. 16–17, 50–52, 59, 149, 156, 158; quotation at p. 209 (trans. by Jean Birrell, *The Transformation of the Year 1000: The Village of Lournand from Antiquity to Feudalism* (Manchester: Manchester University Press, 1992); trans. by Gonzalo Pontón Gijón, *La revolución del año mil: Lournand, aldea del Mâconnais, de la antigüedad al feudalismo* (Barcelona: Crítica, 1991)).

⁵¹ Jean-Pierre Poly and Eric Bournazel, *La Mutation féodale: X^e-XII^e siècle*, 2nd edn (Paris: Presses universitaires de France, 1991; 1st edn, 1980) (trans. from the 1st French edn by Caroline Higgett, *The Feudal Transformation: 900–1200* (New York: Holmes & Meier, 1991); trans. by Montserrat Rubió Lois, *El cambio feudal: Siglos X–XII* (Barcelona: Labor, 1983)). A third edition appeared in 2004; I have not had the opportunity to review it for additional Iberian material.

⁵² Thomas N. Bisson, "The 'Feudal Revolution'", *Past and Present*, 142 (1994), 6–42.

a French subject, and to return Iberia to its marginal status — Catalonia excepted, of course.

In the special number of *Médiévales* from 1991 devoted to Bois's book, all but three essays are by specialists in French or Carolingian history.⁵³ Chris Wickham observes, somewhat acidly, that some French historians believe that 'the history of Europe is in reality a history of France'.⁵⁴ A number of essays do address Bois's argument from a broadly European perspective, but only one, by Lluís To, considers the comparative implications of Iberian evidence, and its title is telling: 'Un regard périphérique sur *La Mutation de l'an mil*.' Barthélemy's *note critique* (1992) on Poly and Bournazel, meanwhile, and indeed his entire collection of essays published as *La Mutation de l'an mil a-t-elle eu lieu?* (1997), refers to Iberia only — and then rarely — when it refers to Catalonia.⁵⁵

Despite their broader implications, the Bois and Poly/Bournazel books were explicitly French histories, so it is perhaps to be expected that the critiques levelled at them would ignore Iberia. What about the *Past and Present* debates sparked by Bisson's article? The lead essay is liberally sprinkled with references to Catalonia, but other Iberian evidence is cited only four times, twice only in footnotes.⁵⁶ The responses of Barthélemy and particularly Stephen D. White — again, understandably — focus on the French sources they know the best. Bonnassie makes an occasional appearance, but otherwise Iberia is absent.⁵⁷ The contributions of

⁵³ 'L'An Mil: Rythmes et acteurs d'une croissance', *Médiévales*, 21 (1991), 5–114.

⁵⁴ Chris Wickham, 'Mutations et révolutions aux environs de l'an mil', *Médiévales*, 21 (1991), 27–38 (p. 32); cited also by Reuter (Timothy Reuter and Chris Wickham, 'Debate: The "Feudal Revolution"', *Past and Present*, 155 (1997), 177–208 (p. 188, n. 33).

⁵⁵ Dominique Barthélemy, 'La Mutation de l'an mil, a-t-elle eu lieu? (Note critique)', *Annales ESC*, 47 (1992), 767–75; Barthélemy, *La Mutation féodale, a-t-elle eu lieu? Servage et chevalerie dans la France des X^e et XI^e siècles* (Paris: Fayard, 1997), pp. 15, 54, 111, 175, 177, 232, 257, 267, 279, 288–89, 318. Cf. Jean-Pierre Poly and Eric Bournazel, 'Que faut-il préférer au "mutationnisme"? ou le problème du changement social', *Revue historique de droit français et étranger*, 72 (1994), 401–12; Barthélemy, 'Encore le débat sur l'an mil', *Revue historique de droit français et étranger*, 73 (1995), 349–60; Poly and Bournazel, 'Post scriptum', *Revue historique de droit français et étranger*, 73 (1995), 361–62. In these, Iberia outside Catalonia is mentioned just once, in a reference to the work of Reyna Pastor (72 (1994), 403).

⁵⁶ Bisson, 'The "Feudal Revolution"'. Catalonia: pp. 7, 9, 10, 11, n. 20, 12, n. 22, 16, 19, 23, 28, 29, 30, 31, 33–34, 36–37. León-Castile: pp. 11, n. 21, 29, 40, n. 117. Compostela: p. 30.

⁵⁷ Dominique Barthélemy and Stephen D. White, 'Debate: The "Feudal Revolution"', *Past and Present*, 152 (1996), 196–223, esp. pp. 197, 198, 201–02, 207, 208, 221. Barthélemy (p. 197) refers to Bonnassie's 'Catalan and Languedocian Model', ignoring his attempt to integrate

Wickham and Timothy Reuter are much better attuned to the geographical narrowness of much of the conflict, but while Reuter raises the possibility of examining, for example, power in al-Andalus, his own article only offers comparisons between England, France, and Germany. Catalonia he subsumes into the hexagon. Wickham, much more familiar with the Mediterranean evidence, is the best at appealing to Iberian sources and he seemed to inspire Bisson in his reply to say more about that aspect of his argument, but the thrust of Wickham's essay, like Reuter's, is that beyond France (and Catalonia), things worked differently.⁵⁸

The appearance of Susan Reynolds's *Fiefs and Vassals* (1994) at precisely this point only made matters worse, in that it almost completely ignores Iberia.⁵⁹ She does not leave the Mediterranean entirely out of the picture, in that the Italian case is central to her argument. And Iberia does slip in here and there, although one must search very carefully to find it. Like her predecessors, Reynolds cannot avoid the *Hispani*.⁶⁰ She notes Poly and Bournazel's reference to an early *fief de reprise* in Catalonia, without passing judgement on their claim.⁶¹ Later, acknowledging the Montpellier cartulary's inclusion of *fiefs de reprise*, she suggests — buried again in a footnote — that 'the example of the counts of Barcelona may have been influential'.⁶² But that is all. Of course, the book was

northwestern Iberia. Barthélemy has addressed the question of the Catalan evidence on other occasions: *Il feudalesimo nell'alto medioevo*, II, 607–08 (discussion of Bonnassie's paper); 'Nouvelle contribution au débat sur l'an mil, en France', in *Les Origines de la féodalité*, ed. by Pérez and Aguadé Nieto, pp. 85–105 (pp. 92–99).

⁵⁸ Reuter and Wickham, 'Debate: The "Feudal Revolution"'; Thomas N. Bisson, 'Reply', *Past and Present*, 155 (1997), 208–25; for the additions on Iberia, see p. 219.

⁵⁹ Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford: Oxford University Press, 1994), p. 15. It shares that status with another Mediterranean region, the Crusader kingdoms.

⁶⁰ Reynolds, *Fiefs and Vassals*, pp. 97, 108–10.

⁶¹ Reynolds, *Fiefs and Vassals*, p. 179, n. 258 ('the reference to Bonnassie seems valid for Catalonia rather than Septimania'), citing Poly and Bournazel, *The Feudal Transformation*, p. 65, which cites Bonnassie, *La Catalogne*, II, 861. Cf. Fredric L. Cheyette, 'On the *fief de reprise*', in *Les Sociétés méridionales à l'âge féodal (Espagne, Italie et sud de la France X^e–XIII^e siècles): Hommage à Pierre Bonnassie*, ed. by Hélène Débax (Toulouse: CNRS and Université de Toulouse–Le Mirail, 1999), pp. 319–24. This artificial division between Septimania and Catalonia is seen elsewhere in Reynolds's book, e.g., p. 162: the 'Sale of Carcassonne' involved the count of Barcelona and, it is likely, his scribes.

⁶² Reynolds, *Fiefs and Vassals*, p. 261, n. 11. Other citations of southern French material: pp. 128, 130, 134, 146, 148, 161, 228, 233, 260, 278, 281, 297, 449.

not concerned with the place of the Mediterranean in the constructs of feudalism or even the ongoing debates about the transformation of the year 1000, both issues more relevant to the Blochian world than to the Ganshofian one inhabited by Reynolds. Nonetheless, the effect of the book on the historiography was to open up another front in the feudalism wars, and one that was very far from Iberia. Perhaps not surprisingly, given the omission of Spain from *Fiefs and Vassals*, there has not been a single review of the work in a Spanish journal.⁶³

Thus just at the point in the mid-1980s when Iberia seemed poised to ride a Mediterranean wave into a prominent position in the historiography of feudalism, Mediterraneanists were focussing on internal differences, and the rest of the world lost interest. One response was for Iberianists to avoid the fights and settle back into the Mediterranean framework, as they did at Conques in 1998.⁶⁴ A conference there brought together papers on Italy, the French Midi, and the Iberian Peninsula. The narrow focus of the papers on the fief was an implicit rejection of Reynolds's thesis, but save for a dismissive paragraph in Bonnassie's introduction and a half-approving page from the ever-iconoclastic Magnou-Nortier, Reynolds's work was all but ignored, and it was completely ignored in the six papers on Iberia.⁶⁵ As for the feudal mutation, while Bonnassie dismissed this debate as well, Bisson's conclusion read the various papers as broad support for his position ... but the debate was mentioned just once in the papers themselves.⁶⁶

Another response was the belated and somewhat bemused detachment apparent in a dossier published in the journal *Historiar* in 1999. It begins with a survey of the historiography that serves to highlight the almost complete absence of Iberian historians from the discourse over the feudal mutation.⁶⁷ It is followed

⁶³ Susan Reynolds confirmed this at the Bergen conference.

⁶⁴ *Fiefs et féodalité*.

⁶⁵ *Fiefs et féodalité*, pp. 9–10, 31, n. 16, 34, n. 35, 44, n. 4, 71, n. 8, 169, 191, n. 74, 192, 224, n. 15. See also Bisson's comment in the conclusion that 'ces pratiques ont précédé et même influencé les doctrines juridiques des siècles postérieurs en matière de féodalité' (p. 464).

⁶⁶ *Fiefs et féodalité*, pp. 15, 203; cf. p. 341. García de Cortázar, 'Estructuras sociales', p. 500, refers to a historiography that moves between 'autism and solipsism' on the question of the feudal mutation.

⁶⁷ In stark contrast, for example, to Italian scholars, e.g.: *Il secolo XI: Una svolta?*, ed. by Cinzio Violante and Johannes Fried, *Annali dell' Istituto storico italo-germanico: Quaderno*, 35 (Bologna: Il Mulino, 1993); Alessandro Barbero, 'La polemica sulla mutazione feudale: A proposito di un libro recente', *Storica*, 1 (1995), 73–86; Sandro Carocci, 'Signoria rurale e mutazione feudale: Una discussione', *Storica*, 3 (1997), 49–91. The only Iberian interventions I have been able to locate from the 1990s are: Isabel Alfonso Antón, 'Continuidad y revelación documental o mutación y revolución feudal', *Hispania*, 55 (1995), 301–13 (a review of

by a survey of scholarship on Castile, whose points of reference are Sánchez-Albornoz, Barbero and Vigil, and Bonnassie, rather than Poly/Bournazel and Reynolds. The last four papers deal thematically with various aspects of the feudal mutation thesis, but only one of these attempts to read the Iberian evidence through the lens of the broader historiography — and this is the article on the least controversial, and most Iberian, topic of the formation of village communities. Only two of the six authors mention Reynolds; both are French.⁶⁸ This is not to say that recent Iberian historiography has been unaffected by the debate over the feudal revolution. One can find every position imaginable, from the orthodox mutationism of Juan José Larrea's study of Navarre or Ernesto Pastor's on Castile, to a variety — and these are in the great majority — of more gradualist positions applied to all regions of the peninsula.⁶⁹ Nevertheless, over the course of the 1980s and 1990s, Iberia all but disappeared from the wider European historiography of feudalism.

Two contributions seem to indicate the possible emergence of a happier equilibrium. The first was the 1999 Spoleto *settimana* devoted to feudalism in the early Middle Ages. In terms of geographical balance, this was perhaps the first conference in which there was reasonable equity between the Mediterranean and the North. Scandinavia and Eastern Europe remained absent, but Iberia had earned a place at the table, with separate contributions on León-Castile and

Barthélemy's thesis on the Vendômois), and José Angel García de Cortázar and Esther Peña Bocos, 'Poder condal ¿y "mutación feudal"? en la Castilla del año mil', in *Historia social, pensamiento historiográfico y Edad Media: Homenaje al Profesor Abilio Barbero de Aguilera*, ed. by Maria Isabel Loring García (Madrid: Orto, 1997), pp. 273–98. Paul Freedman, 'La servidumbre catalana y el problema de la revolución feudal', *Hispania*, 56 (1996), 425–46, is of course the contribution of an American scholar.

⁶⁸ 'El debate sobre el cambio feudal', *Historiar*, 4 (1999), 9–113. Reynolds is addressed at pp. 26–27 and 75–77. A French version of Christian Lauranson-Rosaz's introductory essay ('Le Débat sur la "mutation féodale": État de la question') is available online at <www.droit.uclermont1.fr/pages_statiques/Recherche/CentreRecherche/LeCentredEtudesRomanistiquesDAuvergne/GERHMA/MutFeodebat.pdf> [accessed 26 September 2010]. The journal *Historiar: Revista trimestral de historia*, published in Castilian by *L'Avenç* (Barcelona), ran for only six issues from 1999 to 2000.

⁶⁹ Juan José Larrea, *La Navarre du IV^e au XII^e siècle: Peuplement et société*, Bibliothèque du moyen âge, 14 (Brussels: De Boeck Université, 1998); Ernesto Pastor Díaz de Garayo, *Castilla en el tránsito de la antigüedad al feudalismo: Poblamiento, poder político y estructura social. Del Arlanza al Duero (siglos VII–VI)* (Valladolid: Junta de Castilla y León, 1996). For overviews: Sabaté, 'L'Apparition du féodalisme dans la péninsule Ibérique'; García de Cortázar, 'Estructuras sociales', pp. 501–30; *El temps i l'espai del feudalisme*, ed. by Sabaté and Farré, esp. pp. 167–585.

Catalonia. And Spain was included in Wickham's survey of the characteristics of various national historiographies.⁷⁰ The second was the 1998 volume *Les Féodalités*, edited by Poly and Bournazel. It surely has not pleased all parties in the controversies, presenting, as it does, clearly *mutationniste* beliefs, but Iberian evidence is seamlessly integrated into the first section, on the origins of feudalism; the central section includes a balance of southern and northern discussions; and the chapter on feudalism between the Rhône and Galicia — a return to Bonnassie's framework — makes a good attempt at balancing regional specificity with a broader synthesis that marginalizes neither Catalonia nor the Iberian Northwest.⁷¹

So, what about Spain? It has, over the past fifty years, shed its role as peripheral in both the history and historiography of feudalism. It benefited from the coincidence of Bonnassie's work on Catalonia with a broader academic interest in Mediterranean studies, although Iberia's consequent prominence was perhaps premature. Younger scholars engaged in the most exciting work are focussing on regional and microregional studies within Iberia, catching up on the forty-year head start enjoyed by scholars in other regions. Anyone daring enough to attempt a *Feudal Societies* for the twenty-first century will not be able to avoid Iberia. But in the absence of such an audacious undertaking, with most of the debate being carried out in conferences rather than syntheses, a place at the table is a reasonable position to enjoy.

Ultimately, however, Iberia will be even more relevant for the historiography of European feudalism when scholars begin to think in terms of Iberia instead of its regions.⁷² Sánchez-Albornoz was right that Reconquest and Resettlement are

⁷⁰ *Il feudalesimo nell'alto medioevo*, esp. García de Cortázar, 'Estructuras sociales', and Pierre Bonnassie, 'Sur la genèse de la féodalité catalane: Nouvelles approches' (II, 596–606); see also Chris Wickham, 'Le Forme del feudalesimo' (I, 15–46 (pp. 24–25)).

⁷¹ *Les Féodalités*, ed. by Eric Bournazel and Jean-Pierre Poly (Paris: Presses universitaires de France, 1998), esp. Josep M. Salrach, 'Les Féodalités méridionales: Des Alpes à la Galice' (pp. 313–88). The other chapters in this second part address Italy, the German Empire, and France and England.

⁷² A similar point was made by Pierre Toubert, in his contribution to the concluding roundtable of the Spoleto conference: 'Après avoir écouté ces belles leçons sur le féodalisme en Catalogne, en Castille et en León (mais il faudrait inclure la Navarre et l'Aragone et les espaces de l'extrême occident ibérique), comment ne pas souhaiter qu'une étude bien ciblée des conditions sociales de la Reconquista ne vienne un jour mettre en lumière cette histoire 'transversale' des féodalismes ibériques qui fait toujours largement défaut malgré — et peut-être à cause de — la

what define medieval Iberia, but he was incorrect that they make Iberia unique. It is precisely the development of social, economic, and political institutions in the context of population upheaval and military conflict that renders the Iberian experience relevant and comparable to other areas. Furthermore, Catalonia was as much a part of this process as the rest of the peninsula. Its historiographical marginalization from the rest of the peninsula had much to do with a monolithic, Carolingian-normative vision of feudalism that has all but collapsed in favour of a diversity of models. The acceptance of that same diversity is what makes the historiography of Iberian feudalism relevant on the European stage.

proliferation d'études régionales souvent de grand qualité?' (*Il feudalesimo nell'alto medioevo*, II, 1031–32). Likewise, Flocel Sabaté, 'L'apparition du féodalisme dans la péninsule Ibérique', p. 69: 'Une meilleure relation historiographique entre les chercheurs des différents territoires faciliterait sans doute les réflexions.' The continued integration of al-Andalus into the discussion must be part of this. An older scholarship tended to focus on the yes–no question. See, e.g., Pedro Chalmeta, 'Le Problème de la féodalité hors de l'Europe chrétienne: Le cas de l'Espagne musulmane', in *II Coloquio Hispano-Tunecino* (Madrid: Instituto hispano-arabe de cultura, 1972), pp. 91–115; Pierre Guichard, 'Le Problème de l'existence de structures de type "féodal" dans la société d'al-Andalus (l'exemple de la région valencienne)', in *Structures féodales*, pp. 699–725. More recent conferences have often been more successful at integrating the Muslim South than other areas of the Christian North. See *La formació i expansió; L'incastellamento*, ed. by Barceló and Toubert; *El feudalisme comptat i debatut: Formació i expansió del feudalisme català*, ed. by Miquel Barceló and others (Valencia: Universitat de València, 2003).

THE PROBLEM OF DANISH 'FEUDALISM': MILITARY, LEGAL, AND SOCIAL CHANGE IN THE TWELFTH AND THIRTEENTH CENTURIES

Michael H. Gelting

If we look at Danish society in the twelfth century, especially as it can be seen through the rich pages of its foremost chronicler, Saxo Grammaticus,¹ there can be no doubt that its forces of cohesion and its mechanisms of power may be described in terms of the triad that forms the title of Gerd Althoff's seminal book, *Verwandte, Freunde und Getreue* — kinsmen, friends, and faithful men.² Indeed, a few years ago such an analysis of twelfth-century Danish society was published by the Swedish historian Lars Hermanson.³ But while Althoff's Germany increasingly adopted feudal forms of tenure from the twelfth century onwards, the Danish realm did not follow the same path. In this article I will contend that this was due to deliberate political decisions in the later twelfth and early thirteenth century, but that nevertheless internal processes of change combined with influences from abroad to shape a particular Danish feudalism — if my readers will allow me to use that term in a broad and general way

¹ Saxo Grammaticus, *Gesta Danorum: Danmarkshistorien*, ed. by Karsten Friis-Jensen, Danish trans. by Peter Zeeberg, 2 vols (Copenhagen: Det Danske Sprog- og Litteraturselskab & Gads Forlag, 2005).

² Gerd Althoff, *Verwandte, Freunde und Getreue: Zum politischen Stellenwert der Gruppenbindungen im früheren Mittelalter* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1990).

³ Lars Hermanson, *Släkt, vänner och makt: En studie av elitens politiska kultur i 1100-talets Danmark*, Avhandlingar från Historiska institutionen i Göteborg, 24 (Göteborg: Historiska institutionen, 2000).

without expecting me to conjure up the fiefs and vassals that simply did not exist in medieval Denmark.

It should be borne in mind that the first Danish charter whose text has survived was issued in 1085;⁴ that the first hagiographical texts were written towards the end of the eleventh century, the first chronicle in 1138, and the first annals around 1140.⁵ This means that the structures of Danish society do not come fully within the purview of text-based history until the time when feudal law was already beginning to be codified and turned into a political and administrative tool of a different nature from the debatable customs of the previous centuries of western European history.⁶ This is certainly not irrelevant to developments in Denmark. Danish magnates were sending their sons for education to Germany in the first half of the twelfth century, to northern France by the second half of that century, and contacts with England remained close despite all political vicissitudes. Political goals and political decisions in Denmark were shaped in full cognizance of what was going on in all of the major regions of

⁴ Practically all Danish charters from the period treated in the present article (until 1400) have been edited in *Diplomatarium Danicum* (hereafter *DD*), 1st–4th ser., various eds (Copenhagen: Ejnar Munksgaards Forlag (later C. A. Reitzels Forlag), 1938–2000). The charter of 1085 (King Knud IV for the cathedral of Lund) is *DD*, 1st ser., II: 1053–1169, ed. by Lauritz Weibull and Niels Skyum-Nielsen (1963), no. 21, 21 May 1085, pp. 43–52. The earliest charter known indirectly through a later mention (confirmation by Bishop William of Roskilde of King Sven Estridson's mother Estrid's donation to the cathedral of Roskilde) was issued in the early 1070s: *DD*, 1st ser., II, no. 9, pp. 18–19 (there dated [1072–73] on the assumption that King Sven died in 1074, but more likely [1072–75], since the king probably died in 1076).

⁵ The earliest hagiographical text is *Passio S. Kanuti regis et martiris*, probably written 1095 or shortly afterwards; *Vitae sanctorum Danorum*, ed. by Martin Cl. Gertz (hereafter *VSD*) (Copenhagen: Gad, 1908–12), pp. 62–71, cf. introduction pp. 34–38. However, the surviving liturgical texts on the early eleventh-century missionary saint Theodgar may have been based upon a late eleventh-century *vita*; *VSD*, pp. 3–20. The first Danish chronicle is the Chronicle of Roskilde from 1138; *Scriptores minores historiae Danicae medii aevi*, ed. by Martin Cl. Gertz (hereafter *SM*), 2 vols (Copenhagen: Gad, 1917–22; repr. Copenhagen: Selskabet for Udgivelse af Kilder til dansk Historie, 1970), I (1917–18), 3–32. The first annals were written at the cathedral of Lund around 1140, but from the manuscript's later home in a Cistercian abbey in Pomerania they are known as *Annales Colbazenses*; *Danmarks middelalderlige Annaler*, ed. by Erik Kroman (hereafter *DMA*) (Copenhagen: Selskabet for Udgivelse af Kilder til dansk Historie, 1980), pp. 1–11.

⁶ For the codification of feudal law, see Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford: Oxford University Press, 1994), pp. 215–40; for the development of feudal relationships and feudal terminology in an administrative context, see *ibid.*, esp. Chapters 7 and 8.

Europe north of the Alps, if not beyond. This includes the strong influence of learned law, and particularly of canon law. By the twelfth century, Denmark was no longer a missionary field, but fully integrated within Latin Christendom. This has important implications for the interpretation of the texts which have usually been the mainstay of all descriptions of Danish society in the high Middle Ages, the presumably customary law books. Recent research tends to emphasize the extent to which these texts convey innovative legislation rather than consecrated custom.⁷

Nevertheless, the law books remain the closest we get to a comprehensive insight into Danish society at the time of their writing, i.e. from around 1170 to the late 1240s. There can be no doubt that the society for which they were intended was still of a type that I would characterize, avoiding all reference to the F word, as early medieval. The backbone of society, not numerically but in terms of their role in public life, was the men called *bønder* — the prosperous allodial peasants. These were the men who had sufficient means to shoulder the full responsibilities of participating in the business of the public courts and, if need be, to pay the standard fine of three marks. Significantly, besides being the term for this social group, the word *bonde* (plural: *bønder*) also signified the capacity to take legal action. Thus, if a leaseholder's farm lands were the victim of trespass or violence, it was the landlord's duty to pursue the case; but if the leaseholder's house or household were attacked, the laws said that the leaseholder himself was *husbonde* ('house-bonde') — i.e. that he had the duty to pursue the case in so far as his house and household were concerned.⁸ The full *bonde*, whose landholding

⁷ Michael H. Gelting, 'Skånske Lov og Jyske Lov: Danmarks første kommissionsbetænkning og Danmarks første retsplejelov', in *Jura & Historie: Festskrift til Inger Dübeck som forsker*, ed. by Finn Taksøe-Jensen (Copenhagen: Jurist- og Økonomforbundets Forlag, 2003), pp. 43–80; Michael H. Gelting, 'Pope Alexander III and Danish Laws of Inheritance', in *How Nordic are the Nordic Medieval Laws?*, ed. by Ditlev Tamm and Helle Vogt, *Medieval Legal History*, 1 (Copenhagen: University of Copenhagen Press, 2005), pp. 86–115; Per Andersen, *Rex imperator in regno suo: Dansk kongemagt og rigsgivning i 1200-tallets Europa* (Odense: Syddansk Universitetsforlag, 2005); Helle Vogt, *Slegtens funktion i nordisk højmiddelalderret — kanonisk retsideologi og fredskabende lovgivning* (Copenhagen: Jurist- og Økonomforbundets Forlag, 2005); Per Andersen, *Lærd ret og verdslig lovgivning: Retlig kommunikation og udvikling i middelalderens Danmark* (Copenhagen: Jurist- og Økonomforbundets Forlag, 2006); Michael H. Gelting, 'Circumstantial Evidence: Danish Charters of the Thirteenth Century', in *Medieval Legal Process: Physical, Spoken and Written Performance in the Middle Ages*, ed. by Paul Barnwell and Marco Mostert, *Utrecht Studies in Medieval Literacy* (Turnhout: Brepols, forthcoming).

⁸ Jyske Lov (Law of Jylland), II, 32, *Danmarks gamle landskabslove med kirkelovene*, dir. by Johs. Brøndum-Nielsen and Poul Johs. Jørgensen (hereafter *DGL*), 8 (10) vols (Copenhagen:

was probably still frequently equal to the *bol* (the approximate Danish equivalent to the Frankish *mansus*),⁹ was the standard against which the rights of all other members of society were measured. He was also the peasant warrior who would be called out to naval military service in the *leding*, particularly in the case of an external threat.¹⁰

It is hardly doubtful that the structural element of society that enabled these allodial peasant warriors to carry out all of their public functions was slavery. Slaves rarely occur in charters or narrative sources, but right until the mid-thirteenth century they appear conspicuously in the law books.¹¹ As the law books contain penalties for a *bonde* who made his slave carry out his naval military service in his own place,¹² it is evident that the ordinary allodial peasant was assumed to be a slave-owner. Certainly not a large-scale one: a few slaves would be sufficient to assure the daily tasks on a substantial family farm, with the peasant and his family joining in at peak times, perhaps assisted by hired hands. The freedom of the full citizen, the *bonde*, was emphasized by the fact that he owned men and women who were unfree.

Above this core group of allodial peasants was a group of magnates whose size is difficult to estimate, but which was probably quite small. These are the men

Gyldendal, 1933–61), II: *Jyske Lov, Text 1: NkS 295 8°*, ed. by Peter Skautrup (1933), p. 200. The same chapter adds that an estate manager (*bryde*) was entitled only to pursue cases of personal violence against himself or his wife, since the house belonged to the owner of the estate.

⁹ Cf. the explanation of the term *bol* in the so-called Latin paraphrase of the Law of Scania (Skånske Lov) attributed to Archbishop Anders Sunesen, chap. 26; *DGL*, I, pt II: *Skånske Lov: Anders Sunesøns Parafrase, Skånske Kirkelov m.m.*, ed. by Svend Aakjær and others (1933), p. 500. For the wealth and status of the owner of a full *bol*, cf. Bjørn Poulsen, 'Middelalderens fødsel — tiden 1000–1340 — samfund og mennesker', in *Det Sønderjyske Landbrugs Historie: Jernalder, Vikingetid og Middelalder*, ed. by Per Ethelberg and others, Skrifter udgivet af Historisk Samfund for Sønderjylland, 82 (Haderslev: Haderslev Museum & Historisk Samfund for Sønderjylland, 2003), pp. 375–433 (pp. 428–32).

¹⁰ On this institution, the most recent comprehensive discussion, although on some points controversial, is Niels Lund, *Lið, Leding og Landeværn: Hær og samfund i Danmark i ældre middelalder* (Roskilde: Vikingskibshallen, 1996).

¹¹ Especially the long Chapter 86, *De responsis pro actis serui*, that was added at an unknown, but probably early date to the so-called King Valdemar's Law for Sjælland (Valdemars Sjællandske Lov); *DGL*, VIII: *Valdemars sjællandske lov: Ældre og yngre redaktion samt Sjællandske kirkelov*, ed. by Erik Kroman (1941), pp. 340–50. The main text of the law was probably written between 1222 and 1241. Cf. below, n. 66.

¹² The king might either confiscate the slave or make him free; in either case, the *bonde* would lose his slave. *Jyske Lov*, III, 2, *DGL*, II, 359.

who turn up as witnesses in royal charters, and whose actions are reported occasionally in the chronicles. Their large residences, which were unfortified at least until the middle of the twelfth century, would seem originally — whereby I mean during the Viking age until the late eleventh century — to have been centres of collection and redistribution of tribute and plunder, of production of jewellery, weapons and other high-status products, and of seasonal markets, but not large units of agrarian production.¹³ By the twelfth century, however, structures similar to the great Carolingian estates can be perceived in the written sources, with large demesnes being cultivated by slaves and poor freemen living on minuscule plots. By the second half of the twelfth century, too, some magnates can be shown to have owned hundreds of tenant farms, especially in the main island of Sjælland.¹⁴ This aristocracy was closely connected to king and church. Many of them were kinsmen of the king through marriage, or fictional kinship bonds were created by the kings' children being fostered in magnate households.¹⁵ These were also the families from whom the most important bishops were recruited. They had armed retinues of their own, and it seems that these aristocratic retinues usually made out the major part of the king's armed forces in case of offensive warfare.¹⁶ Technically, in the legal sense, they were *bønder* too, but part of their power no doubt resided in exercising patronage over the ordinary allodial peasants. This is an aspect that rarely appears in the Danish sources,¹⁷ but which may be surmised from conditions in Iceland, where the functioning of the public courts was largely determined by such networks of patronage.¹⁸

¹³ For example Lars Jørgensen, 'Manor and Market at Lake Tissø in the Sixth to Eleventh Centuries: The Danish "Productive" Sites', in *Markets in Early Medieval Europe: Trading and 'Productive' Sites, 650–850*, ed. by Tim Pestell and Katharina Ulmschneider (Macclesfield: Windgather, 2003), pp. 175–207.

¹⁴ Erik Ulsig, *Danske adelsgodser i middelalderen*, Skrifter udgivet af det Historiske Institut ved Københavns Universitet, 2 (Copenhagen: Gyldendal, 1968), pp. 19–46, 117–24; cf. Nils Hybel and Bjørn Poulsen, *The Danish Resources, c. 1000–1550: Growth and Recession*, The Northern World, 34 (Leiden: Brill, 2007), pp. 165–75.

¹⁵ Hermanson, *Släkt, vänner och makt*, pp. 151–54.

¹⁶ Lund, *Lið, Leding og Landeværn*, e.g. pp. 225–44.

¹⁷ However, see, e.g., the so-called Erik's Law for Sjælland (Sealand) of c. 1247, Book II, Chapter 52, which foresees that a sentence might not be carried out because the condemned man was the tenant of a lord too powerful for the royal officer to dare to intervene; *DGL*, v: *Eriks Sjællandske Lov: Text 1–2*, ed. by Peter Skautrup (1936), p. 173.

¹⁸ Jón Viðar Sigurðsson, *Chieftains and Power in the Icelandic Commonwealth*, trans. by Jean Lundskær-Nielsen, The Viking Collection, 12 (Odense: Odense University Press, 1999), esp. pp. 120–40.

Besides and below the allodial warrior peasants there were lesser freemen with properties too small for them to shoulder all of the responsibilities of public life, or living as leaseholders on lands belonging to the ordinary *bønder* or the magnates. Their numbers are unknown, and were doubtless subject to considerable regional variation. But it is likely that this social group was growing during the generations spanned by the law books, from 1170 to the 1240s. The demographic expansion of the high Middle Ages was at work in Denmark too, and place-name evidence as well as certain provisions in the law books show that new land was being taken under plough, and that new villages were founded.¹⁹

This brings us to the question of the dynamics of the social structures that I have been sketching. If it is difficult enough to make out the structures themselves from the scanty evidence, their dynamics must be largely a matter of pure conjecture. But it stands to reason that the stability of the core group of prosperous allodial warrior peasants was predicated upon avoiding as far as possible the splitting up of the family property between heirs. Even though the claims for the rune-stones as declarations of property and inheritance made by Professor Birgit Sawyer are somewhat exaggerated, there is no doubt that most stones were raised by persons who would also have been heirs of the commemorated persons, and that the divergent patterns of stone-raising across Scandinavia identified by Professor Sawyer must be significant.²⁰ The Danish pattern is that of stones being overwhelmingly raised by one person, and predominantly by men. This evidence, which peters out by the middle of the eleventh century, thus suggests some kind of unigeniture, and the same is suggested by the apparent lack of division of farmsteads in the archaeological evidence.

Some of the problems created by customs of unigeniture in times of population growth were evidently solved by the clearing of new land and the creation of new villages. But Denmark was already a densely settled country and it seems likely that a common way of placing surplus sons was to send them to swell the retinues of the magnates. This would have created further links of patronage between magnates and allodial peasants. It also suggests that the stability of the social structure was dependent upon a considerable level of waste of human resources.

¹⁹ Erland Porsmose: 'Middelalder o. 1000–1536', in *Det danske landbrugs historie*, ed. by Claus Bjørn and others, 4 vols (Odense: Landbohistorisk Selskab, 1988), I, 205–417 (pp. 234–49).

²⁰ Birgit Sawyer, *The Viking-Age Rune-Stones: Custom and Commemoration in Early Medieval Scandinavia* (Oxford: Oxford University Press, 2000), esp. pp. 47–70; cf. Michael H. Gelting, 'Predatory Kinship Revisited', *Anglo-Norman Studies*, 25 (2003), 107–19 (pp. 110–11).

A crucial element in giving king, church, and magnates a vested interest in preserving this social structure was the naval military levy, the *leding*. As long as the main military threats against Denmark came from the sea, this ship-levy remained essential. This was the case throughout the twelfth century, when Baltic marauders took over from Wendish pirates after the final subjugation of Rügen in 1168,²¹ and Norway too was an area of intense military and political interest for the Danish kings. Nevertheless, there were important signs of change.

In Danish historiography, much weight has been placed upon the decisive role played by a contingent of three hundred German mercenary knights at the service of the rebel Erik II in the battle of Fotevik in 1134, when the army of King Niels (Nicholas) was ripped up.²² Nobody can tell for sure whether this was really the first time that the techniques of mounted combat were deployed to full effect in Denmark. But it was a sign that Danish warriors had to adapt to the fighting techniques employed in the neighbouring territories to the south. German expansion along the south coast of the Baltic made Germany loom ever larger in the political concerns of the Danish kings during the second half of the twelfth century. Nor should it be forgotten that all Danish kings from 1131 to about 1166, if not beyond, were vassals of the German king or emperor, even though it is doubtful whether this implied any definite obligation of military service.²³

In any case it is clear that the culture of the knightly aristocracy was taken over by the Danish warrior class from the later twelfth century onwards. In 1187 or

²¹ In Danish historiography, this event has traditionally been dated 1169, while German scholars have argued for 1168; e.g., Niels Skyum-Nielsen, *Kvinde og Slave*, Danmarkshistorie uden retouche, 3 (Copenhagen: Munksgaard, 1971), p. 153. The date 1168 has now been conclusively established in Danish historiography too by John H. Lind and others, *Danske korstog — krig og mission i Østersøen* (Copenhagen: Høst & Søn, 2004), p. 77.

²² For example, *Gyldendal og Politikens Danmarkshistorie*, ed. by Olaf Olsen, 16 vols (Copenhagen: Gyldendal and Politiken, 1988–91), IV: Ole Fenger, 'Kirker rejses alle vegne': 1050–1250 (1989), p. 366. For a more skeptical evaluation of the novelty of the use of cavalry at this time, see Lund, *Lið, Leding og Landeværn*, pp. 221–24.

²³ Michael H. Gelting, 'Da Eskil ville være ærkebiskop af Roskilde: Roskildekroniken, *Liber daticus Lundensis* og det danske ærkesædes ophævelse 1133–1138', in *Ett annat 1100-tal: Individ, kollektiv och kulturella mönster i medeltidens Danmark*, ed. by Peter Carelli, Lars Hermanson, and Hanne Sanders, Centrum för Danmarksstudier, 3 (Göteborg: Makadam, 2004), pp. 181–229. The hypothesis therein (pp. 215–16) that King Erik III (1137–46) might have loosened the ties binding the Danish king to the ruler of Germany ignores his privilege for the cathedral of Odense of c. 26 April 1142, which is dated by the regnal or pontifical years of the pope, the Roman emperor (i.e., Conrad III of Germany), the Danish king and the archbishop of Lund, thereby recognizing the German king's overlordship over Denmark; *DD*, 1st ser., II, no. 84, pp. 159–60.

1188, the future King Valdemar II, then still only Duke of Jylland (Jutland), was knighted,²⁴ and by the early years of the thirteenth century the German chronicler Arnold of Lübeck praised the Danes for having adopted the customs of the German nobility, so that they were now excelling as much in mounted combat as they had previously been famous as sea-warriors.²⁵ This transformation raises two related questions. First, was the ordinary allodial peasant warrior able to perform this change? It is well known that the techniques of mounted combat required long years of intense training from early childhood, moreover implying the acquisition of expensive, well-trained horses.²⁶ Acquiring the ability to wield axe, spear, and shield was far less strenuous, and indeed all but the most destitute freemen would have had to possess this skill for their own safety and for maintaining their status as freemen. No doubt some of the allodial peasants were able to raise the money for training at least one son in the new military technique; but many, perhaps most of them are likely to have been unable to do so. They were farmers and part-time warriors who could not afford to take the step to the life of a full-time fighter.²⁷

If this were so, an essential part of the social bonds between magnates and allodial peasantry would have begun crumbling. If magnates were no longer able to rely upon the allodial peasantry for recruiting their retinues, the relationship of patronage between the two groups would tend to become more unequal. But it would probably also mean that recruiting a militarily significant retinue became increasingly difficult and expensive for the magnates.

This leads to the second question: did the need for recruiting and maintaining professional mounted fighters encourage the introduction of feudal forms of tenure? There are indeed indications that during the 1130s and 1140s the kings began granting estates and royal rights of jurisdiction in return for military service,

²⁴ Karl-Erik Löfqvist, *Om riddarväsen och frälse i nordisk medeltid: Studier rörande adelsståndets uppkomst och tidigare utformning* (Lund: Gleerupska Universitetsbokhandeln, 1935), p. 25; Michael H. Gelting, 'Magtstrukturer i Valdemarstidens Danmark', in *Viking og Hvidekrist: Et internationalt symposium på Nationalmuseet om Norden og Europa i den sene vikingetid og tidligste middelalder*, ed. by Niels Lund (Haslev: Reitzel, 2000), pp. 179–205 (p. 183).

²⁵ *Arnoldi Chronica Slavorum*, ed. by Georgius Heinrichus Pertz, MGH, SS, rer. Germ., 14 (Hannover: Hahn, 1868), III, 5, p. 77.

²⁶ For example Constance Brittain Bouchard, *'Strong of Body, Brave and Noble': Chivalry and Society in Medieval France* (Ithaca: Cornell University Press, 1998), p. 14; Maurice Keen, *Chivalry* (New Haven: Yale University Press, 1984), pp. 25–27.

²⁷ Cf. Skyum-Nielsen, *Kvinde og Slave*, p. 157.

although the precarious nature of the grants is not clear and specific feudal terminology never occurs in the sources.²⁸ Saxo Grammaticus, as always prone to ascribe any innovation he disliked to the pernicious influence of Germans, attributed a special role in this connection to King Erik III's wife, who was the daughter of the last count of Stade.²⁹ As Saxo also says that these grants were given out in order to collect support against the rebel Olaf, who was killed around 1141, this is a gratuitous slur, since Erik III did not marry until 1144. Nevertheless, the chronicler is likely to have had a point and it seems that during the civil wars from 1131 to 1157 efforts were made by the contenders for the throne to recruit military support by some kind of conditional grants. At the very least we can say that the rites of homage which bound the Danish kings to the German rulers during these decades were replicated by them in sealing alliances with German lords, as it is attested for Count Adolf of Holstein in 1148 or 1149.³⁰

Another passage in Saxo's chronicle suggests that the notion of hereditary fiefs was becoming a topic for political strife in the early years of King Valdemar I (sole king 1157–82). Buris, a scion of a younger branch of the royal house, requested an augmentation of his benefice with hereditary right, arguing that just as the king was striving to make kingship hereditary in his own descendence, he ought to concede the same right to his kinsmen. Buris's request was actually granted in the form of authority over a substantial part of Jylland, although shortly afterwards he was imprisoned on charges of treason and disappeared.³¹ To Buris is also attributed an argument against doing homage to two lords, although in this case his argument is presented as disloyal, since his point was that he did not wish to perform homage to King Valdemar's young son Knud (VI), who had just been appointed co-regent and heir apparent.³² All of these events may be dated to 1166.³³

²⁸ The quasi-feudal nature of such grants was particularly stressed by Skyum-Nielsen, *Kvinde og Slave*, pp. 207–09, in a chapter significantly titled, 'The Semi-Feudal Society'.

²⁹ Saxo, *Gesta*, XIV, 2, para. 13, II, 156.

³⁰ Saxo, *Gesta*, XIV, 28, para. 23, II, 312; Helmoldi presbyteri Bozoviensis, *Chronica Slavorum* — Helmold von Bosau, *Slawenchronik*, ed. and trans. by Heinz Stoob, *Ausgewählte Quellen zur deutschen Geschichte des Mittelalters: Freiherr vom Stein-Gedächtnisausgabe*, 19 (Darmstadt: Wissenschaftliche Buchgesellschaft, 1973), chap. 67, p. 232.

³¹ Saxo, *Gesta*, XIV, 33, para. 4, II, 336, cf. XIV, 34, paras 4–9, II, 338–40.

³² Saxo, *Gesta*, XIV, 33, para. 3, II, 334–36.

³³ Skyum-Nielsen, *Kvinde og Slave*, p. 208.

Buris's case is significant, because it is a case of royal authority over a major region of the realm being conceded on terms that seem to have been strongly influenced by feudal notions, to put it cautiously. During the earlier part of the twelfth century, a number of magnates were occasionally titled counts or dukes, and even a viscount occurs. However, the exact meaning of these titles is unclear and for several of them even as much as a territorial reference is lacking.³⁴ The Buris episode shows that by the second half of the century, such regional delegations were interpreted by reference to feudal custom.

However, the trend towards the development of feudal forms of tenure that may be discerned in Denmark around the middle of the twelfth century did not continue. How this came about is difficult to say, not least because with the end of the two major chronicles of the twelfth century, Saxo's and Sven Aggesen's,³⁵ with the year 1185, evidence becomes still more sparse and circumstantial. However, there are two texts which indicate that the halt to the movement towards full-fledged feudal forms was the product of a deliberate policy on the part of the two sons and successors of Valdemar I, Knud VI (1182–1202) and Valdemar II (1202–41).

The first of these texts dates from the reign of Knud VI and is usually assigned to his early years, i.e. the mid-1180s. It is a set of statutes for the King's military household, in Latin called the *Lex castrensis*, but generally referred to by its Danish name, *Vederloven* (the Law of Fines).³⁶ Its textual history is inordinately complicated. It purports to be the revival of the law of the king's household originally instituted by King Knud the Great (Cnut of England), who reigned in Denmark from around 1018/20 to 1035. It is not impossible that there might be some truth to this claim; at least some of the specific decisions that are alleged to have mitigated the original severity of the law are dated to the reign of King Niels (1104–34) and involve persons who are known from other sources. However, it is impossible to distinguish older elements from recent accretions. In part this is due to the problematic nature of the transmission of the text, which survives only

³⁴ Hermanson, *Släkt, vänner och makt*, pp. 61–88, 138–47.

³⁵ 'Svenonis Aggonis filii brevis historia regvm Dacie', in *SM*, I, 94–141.

³⁶ The three extant versions of the law are edited in *Den danske rigsløvgivning indtil 1400* (hereafter *DRL*), ed. by Erik Kroman (Copenhagen: Munksgaard, 1971), nos 1–3, pp. 1–41. For Sven Aggesen's version of the law, Gertz's edition in *SM*, I, 64–93, remains more convenient. For Saxo's version of the law, see now Saxo, *Gesta*, x, 18, paras 1–20, I, 670–80.

in versions that are either rhetorically embellished or more or less corrupt.³⁷ Nevertheless, all versions are in basic agreement as to the contents of the law.

The law of the king's household is remarkable for the guild-like structure of the household and for its strong emphasis on the solidarity and reciprocity of the household members. Even though membership of the king's household was evidently defined by paying homage to the king, the household acted as a collectivity, and in case of infraction of the statutes, the king himself was subject to the jurisdiction of a jury of members of the household. The bond between the king and his men was of an intensely personal nature, and great care was taken to spell out the procedure to be followed by a household member in order to renounce his homage without offending the dignity of the king. Finally, it was stressed that the members of the king's household should qualify for that honour by the prestige and wealth of their birth; these were statutes for a narrow brotherhood of born aristocrats, not for an aristocracy of service, and the remunerations that the king was expected to award to his men were part of the ordinary circulation of gifts among men of high birth.

It may well be questioned to what extent these statutes might have applied as legal provisions during the reigns of Knud VI and his successors;³⁸ but the space

³⁷ Karsten Christensen, *Om overleveringen af Sven Aggesens værker*, Skrifter udgivet af Det historiske Institut ved Københavns Universitet, 10 (Copenhagen: Den danske historiske Forening, 1978); Thomas Riis, *Les Institutions Politiques centrales du Danemark 1100–1332*, Odense University Studies in History and Social Sciences, 46 (Odense: Odense University Press, 1977), pp. 31–47. The dating of the law to the mid-1180s rests upon the fact that Sven Aggesen appears to have written his version of the law before his historical chronicle, and the assumption that the latter was finished shortly after the chronicle's end in 1185. However, the arguments for this dating are not conclusive, and a slightly later date might not be entirely out of the question; Christensen, *Om overleveringen*, pp. 10–11. In any case, the revival of the law under the authority of King Knud VI and Archbishop Absalon places its writing before the latter's death in 1201, and probably after King Valdemar I's death in 1182.

³⁸ Tage E. Christiansen, 'Isti tres fratres: Broderlisten i Kong Valdemars Jordebog', in *Middelalderstudier: Tilegnede Aksel E. Christensen på tresårsdagen 11. september 1966*, ed. by Tage E. Christiansen, Svend Ellehøj, and Erling Ladewig Petersen (Copenhagen: Munksgaard, 1966), pp. 77–112 (pp. 83–84). In a group of texts from the early 1250s collectively termed 'the Abel-Christophorian Ordinance' (after Kings Abel, 1250–52, and Christoffer I, 1252–59), the rules of the *Lex castrensis* applying to the most serious offences committed by members of the royal household were repeated; *DRL*, no. 7 (Abel's version), Latin text, Chapters 9 and 11, pp. 44–45, and no. 8 (Christoffer I's version), Latin text, Chapters 1–2, pp. 50–51. The status of these texts is disputed, but in all likelihood they were projects for legislation that was never enacted; Riis, *Les Institutions politiques*, pp. 55–59. The inclusion of rules from the *Lex castrensis* in such a text

devoted to them by Sven Aggesen and Saxo indicates that they carried great ideological weight in late twelfth-century Denmark. Despite all modern attempts to read them in a 'feudal' spirit,³⁹ the message of the statutes of the king's household from the mid-1180s seems to have been archaizing, if not outright reactionary: power, prestige, and proximity to the king's person were privileges that pertained exclusively to the small aristocracy of magnates who derived their status from their inherited wealth and honour and who, at least in their own opinion, were practically the king's equals. That may still have been the ideology of Danish magnates in the late twelfth century, but it went against the grain of European royal ideology as it was developing at that time. It should be noted that Archbishop Absalon, who is said to have been the young king's advisor on this matter, was born of one of the most prominent of these Danish magnate families.⁴⁰

It was a group of brothers of that same magnate family, usually designated by the fictitious name of the 'Hvide' kin-group,⁴¹ who were the last to field an army of their own retainers in a foreign expedition. In 1208 the sons of Archbishop Absalon's cousin Sune Ebbesen, possibly the wealthiest lay magnate in late twelfth-century Denmark, attempted to interfere militarily in the dynastic struggles in Sweden. They were crushed in a battle at Lena (Kungslena) in western Sweden.⁴² Considering the nature of the terrain and the likely military capacities of the adversary, this was still the kind of warfare that could be carried out with retainers of the old kind, drawn from the warrior peasants. However, the time when magnates could mount expeditions independently of the king was running out.

might indicate an attempt at reviving a law that was not — or no longer — being observed. By the early fourteenth century, these rules were certainly no longer being applied; Poul Johs. Jørgensen, *Dansk Retshistorie: Retskildernes og Forfatningsrettens Historie indtil sidste Halvdel af det 17. Aarhundrede*, 2nd edn (Copenhagen: Gad, 1947; repr. 1974), p. 380.

³⁹ For example, Riis, *Les Institutions politiques*, pp. 232–35.

⁴⁰ Cf. Andersen, *Rex imperator*, pp. 50–53.

⁴¹ Thomas Hill, *Könige, Fürsten und Klöster: Studien zu den dänischen Klostergründungen des 12. Jahrhunderts*, Kieler Werkstücke, A. ser.: Beiträge zur schleswig-holsteinischen und skandinavischen Geschichte, 4 (Frankfurt am Main: Lang, 1992), pp. 206–13.

⁴² Sune Ebbesen's granddaughter had married King Sverker Karlsson of Sweden, who was ousted in 1205. The expedition was an attempt by her father and uncles to reinstate her husband. Skyum-Nielsen, *Kvinde og Slave*, p. 241.

The law book of Jylland, promulgated by King Valdemar II a few weeks before his death in 1241, is the next text that shows a deliberate royal policy on matters relating to 'feudalism'. By this law, the right to 'take men', i.e. the right to receive homage, was reserved exclusively for the wielders of public power: the king could take men all across the realm; the bishops could take men each within his diocese; the duke — i.e. the Duke of Jylland, or Schleswig — could take men within his duchy; and counts and the men of the royal house (mostly one and the same) each within his district of command.⁴³ No mention was made of the magnates. It is true that in the early thirteenth century one of the members of the so-called 'Hvide' kin-group styled himself 'Count of Sjælland' when dealing with English authorities; but there is no trace in the Danish evidence of such a county and in all likelihood he was just claiming for himself the same status and dignity as English earls — which would not have been entirely unjustified.⁴⁴

The Law of Jylland of 1241, which was probably intended as a national code of law,⁴⁵ laid down the rules for access to the nobility for the rest of the Middle Ages. Noble status was derived from a personal engagement to render military service to one of the wielders of public authority: the king, the duke or some other member of the royal house, the archbishop, or one of the bishops. This engagement did not imply any kind of feudal tenure. The *herremænd*, the 'lord's men' (hereafter 'lordsmen' in order to avoid confusion), defined by having paid such homage, remained allodial owners of their properties. The only feudal homages that were performed were those of the duke and counts, and — in time a debatable point — those of the bishops.⁴⁶ Below that rank, all noblemen were defined by their personal homage, even though in fact they quickly came to

⁴³ Jyske Lov, III, 8, *DGL*, II, 372–73.

⁴⁴ *Absalon comes de Selandia* or *Seilandia*: *DD*, 1st ser., v: 1211–1223, ed. by Niels Skyum-Nielsen (1957), nos 18, 20, 25, pp. 30–31, 34, all from the Close Rolls and Patent Rolls of King John of England, 1212. More frequently, however, the English court just styled him *comes Dacie* or *Denemarchie*, obviously as an indication of his geographical origin and not as a title; *ibid.*, nos 19, 22–23, 70, 120–22, pp. 31–33, 108, 166–68, also from the English Close Rolls and Patent Rolls, 1212–17. In Danish sources, he was never called a count, but simply Absalon the Fat or Absalon Belly (*Bælg*); Marianne Johansen and Helle Halding, *Thi de var af stor slægt: Om Hvideslægten og Kongemagt i Danmarks Højmiddelalder* (Ebeltoft: Skippershoved, 2001), p. 25.

⁴⁵ Gelting, 'Skånske Lov og Jyske Lov', esp. pp. 43–52; Andersen, *Rex imperator*, pp. 59–95. On the causes of the ultimate failure of the law book to gain recognition as a national code of law, see Andersen, *Lærd ret*, pp. 293–98.

⁴⁶ Aksel E. Christensen, *Kongemagt og aristokrati: Epoker i middelalderlig dansk statsopfattelse indtil unionstiden*, 2nd edn (Copenhagen: Munksgaard, 1968), pp. 153–57.

constitute a hereditary class where the descendants of the twelfth-century magnates mixed with those of the wealthier peasant warriors who had been able to make the transition to knightly service. As late as the fifteenth century there are instances of noblemen waiving their noble privileges because they had become physically unable to serve.⁴⁷

But the fact that these men actually had privileges to waive points to another crucial element that seems to have taken its inception with the same Law of Jylland of 1241: in return for their military service, the so-called 'lordsmen' had certain privileges, which went increasing over the centuries. The Law of Jylland gave them the right to collect the king's fines up to three marks from their estate managers.⁴⁸ Although the letter of the law mentioned only the estate managers (*bryder*), soon the privilege seems to have been extended tacitly to all of the lordsmen's tenants as well.⁴⁹ Over the following century, this privilege was widened step by step, from three marks to nine marks, and more if they were so privileged;⁵⁰ and with this privilege gradually went the exemption from ordinary taxation, which — correctly interpreted — meant the right for the lordsmen to levy the king's taxes from their dependents and keep the proceeds.⁵¹ In short, the reward for personal military service in thirteenth-century Denmark was not the fief, but fiscal privilege.⁵²

This point at the same time clarifies the true meaning of the restriction of the right to 'take men' exclusively to the wielders of public power. Evidently this rule did not deprive lay magnates outside the royal kindred of the right to recruit armed retainers. They continued to do so throughout the Middle Ages. What it

⁴⁷ Troels Dahlerup, 'Danmark', in *Den nordiske Adel i Senmiddelalderen: Struktur, funktioner og internordiske relationer: Rapporter til det Nordiske Historikermøde i København 1971 9–12 August* (Copenhagen: n. pub., 1971), pp. 45–80 (pp. 63–64).

⁴⁸ Jyske Lov, II, 76, *DGL*, II, 279–80.

⁴⁹ Cf. Erik Ulsig, 'Landboer og bryder, skat og landgilde: De danske fæstebønder og deres afgifter i det 12. og 13. århundrede', in *Middelalder, metode og medier: Festskrift til Niels Skyum-Nielsen på 60-årsdagen den 17. oktober 1981*, ed. by Karsten Fledelius, Niels Lund, and Herluf Nielsen (Viborg: Museum Tusculanum, 1981), pp. 137–65 (pp. 155–56).

⁵⁰ Coronation charter of King Christoffer II, 25 January 1320, para. 11, *DRL*, no. 22, pp. 187–88. The men entitled to this privilege were now no longer called 'lordsmen', but simply 'knights and esquires' (*milites et armigeri*).

⁵¹ Ulsig, 'Landboer og bryder', pp. 154–56.

⁵² Christensen, *Kongemagt og aristokrati*, pp. 157–63.

meant was that a lay magnate, no matter how wealthy and influential, did not possess the power to confer fiscal privilege upon his men.

At the same time, the Law of Jylland of 1241 reorganized and consolidated the old naval military levy, the *leding*. Ostensibly it was still based upon the old system of calling out the peasant warriors, but its careful rules for pooling peasants into units capable of making out one man seem to indicate that this social group was actually dissolving.⁵³ In the slightly later so-called Erik's Law for Sjælland, there are provisions modifying the former rule that members of juries had to be prosperous allodial peasants, so that a tenant farmer might sit on a jury if both parties to the lawsuit agreed;⁵⁴ it is likely that the reason for this was that in some districts it was becoming difficult or impossible to find a sufficient number of prosperous allodial peasants to carry out the judicial functions. However, the naval levy seems still to have been functioning throughout the thirteenth century. Its final demise was a consequence less of social than of technological change. In 1304, King Erik VI instituted a new kind of naval levy designed to provide him with the bulkier and more expensive type of ships that were now taking over the Baltic and the North Sea from the traditional Scandinavian ship-types: the cog. This move decisively transformed the old system of military service into a fiscal device.⁵⁵ Yet, as I have already suggested, even more important for the decline of the status of the allodial warrior-peasants was probably the shift in emphasis from naval to land-based warfare. This, too, is manifest in the Law of Jylland. The law laid down precise rules as to how much land a man might buy before his military obligation was increased. There was just one exception to this: the 'lordsmen', the new kind of military retainer, might buy as much as he could in return for his service.⁵⁶

Even though ostensibly maintaining the old type of prosperous allodial peasant warrior as the backbone of society, the Law of Jylland thus heralded the end of the kind of society to which that social group was essential. Probably there were several factors contributing to that demise. One powerful factor certainly was the

⁵³ Jyske Lov, III, 12, *DGL*, II, 378–80; cf. the similar rules for the obligations of tenant farmers in the subsequent Chapter 13, *ibid.*, 380–81. For the social transformations that are likely to have been the background for these rules, see Lund, *Lið, Leding og Landeværn*, pp. 273–74.

⁵⁴ Eriks Sjællandske Lov, II, 26 and 42, *DGL*, v, 104 and 128–29. For the date of the law to 1248 or shortly before, see Vogt, *Slægtens funktion*, pp. 96–97.

⁵⁵ Lund, *Lið, Leding og Landeværn*, pp. 275–84.

⁵⁶ Jyske Lov, III, 18, *DGL*, II, 389–90.

changes in military techniques which I have already discussed. But other factors are likely to be found in legal changes.

As I have suggested above, the class of allodial peasant warriors was probably dependent for its stability on getting rid of surplus heirs. This must have implied a great freedom of decision on the part of the household head as to how his inheritance was to be shared out, and no doubt the active cooperation of a wider kin group in carrying out such decisions. However, the rules of inheritance as they were laid down by the earliest of the Danish law books, the Book of Inheritance of 1169/70, prescribed obligatory partible inheritance with the one modification that daughters received half the share of sons. This law was an extremely thorough and systematic working out of a few basic principles which were actually at variance with the customs of inheritance that seem to have been in general use in Scandinavia in the twelfth century: the law prescribed that inheritance would always go to direct descendants, even if there were closer collateral kinsmen; women inherited as well as men, although only half a man's lot; and these rules were obligatory, reducing the household head's freedom of decision to a part whose size was dependent upon the number of surviving heirs, and whose purpose was evidently to provide for pious gifts. There are strong indications that this law was indeed innovative, that it was based on the *Decretum* of Gratian, and that its introduction was a result of the negotiations connected to King Valdemar I's shift of allegiance to Pope Alexander III c. 1166. On the part of the Danish church, its purpose was to augment the motivation of landowners to give deathbed donations to ecclesiastical institutions and to obtain greater legal security for such gifts; and probably also to reduce the potential for family conflicts of the previous customs of more arbitrary division of inheritances.⁵⁷

The consequences of this law for the traditional group of allodial peasants are likely to have been serious. The maintenance of the unity of the family farm was simply jeopardized.⁵⁸ Either farms had to be divided between heirs or, if that was to be avoided, the son who took over the entire family farm would be burdened with rent payments to his siblings for their ideal parts of the unit.⁵⁹ Combined

⁵⁷ On the date and importance of this law, *Arvebogen*, see Gelting, 'Pope Alexander III'.

⁵⁸ Cf. the discussion of the consequences of partible inheritance for the knightly class in the duchy of Schleswig in Poulsen, 'Middelalderens fødsel — tiden 1000–1340 — samfund og mennesker', pp. 431–32.

⁵⁹ Cf. Michael H. Gelting, 'Indivisible Farms under Partible Inheritance: The Logic of *Lovbydelse* under the *Skyldeje* System', in *Land, Lords and Peasants: Peasants' Right to Control Land in the Middle Ages and the Early Modern Period — Norway, Scandinavia and the Alpine*

with the dwindling military importance of the allodial peasant, the threat to this social group was tremendous. Only the king's fiscal interest in maintaining the substantial allodial peasants as a base for taxation might counteract this threat. That interest ultimately resulted in an outright prohibition of dividing allodial peasant farms, probably in the early fifteenth century;⁶⁰ but by then, the prosperous allodial peasants had already been reduced to a small minority in many parts of Denmark.

In addition to this came important legal changes in the wake of the Fourth Lateran Council of 1215. Traditional Danish laws of proof rested upon two pillars: the oath of compurgation with co-jurors or, in serious or doubtful cases, the ordeal. By prohibiting ecclesiastical cooperation in ordeals, the council withdrew the legal foundations of this means of proof and at the same time the pope was driving for the abandoning of compurgation. A preliminary set of new rules of proof was probably introduced in connection with the visit of a papal legate to Denmark in 1222 and the Law of Jylland of 1241 seems to represent the final working out of a new system of proof, at least for western Denmark; similar, although more conservative rules were introduced in the eastern provinces slightly later.⁶¹

Without going into detail, the gist of these new rules was greatly to reduce the influence of the defendant on the outcome of a lawsuit. Verdict was no longer to be rendered on the basis of compurgation or of the ordeal, the first of which would favour the defendant and the second of which at least left the defendant with a reasonable chance of acquittal. Verdict was to be found by juries which were either permanent or picked out by the accusing party.

As I have already suggested, the outcome in practice of cases in the public courts had no doubt always been conditioned to some extent by the level of patronage that each party was able to muster; but the legal changes of the first half of the thirteenth century must have made the ordinary allodial peasant even more dependent upon powerful protection. In fact, numerous documents indicate that the second half of the thirteenth century was characterized by an intense competition among the nobility for the exercise of protection, and that this was essentially a matter of protection at law. It is of course mostly documented

Region. Report from a Seminar in Trondheim, November 2004, ed. by Tore Iversen and John Ragnar Myking, *Trondheim Studies in History*, 52 (Trondheim: Department of History and Classical Studies, Norwegian University of Science and Technology, NTNU, 2005), pp. 229–37.

⁶⁰ Gelting, 'Indivisible Farms', p. 234.

⁶¹ Gelting, 'Skånske Lov og Jyske Lov', pp. 71–80.

where this competition turned out to be detrimental to ecclesiastical institutions, but it is also documented in connection with chartered boroughs. Finally, in 1304, King Erik VI decreed that protection at law could only be exercised lawfully if the protected person was a member of the protector's household or living on his lands. But already twenty years earlier the exercise of protection had become the criterion for the nobility's right to collect fines from their dependents, and protection was the basis of various dues rendered by dependent peasants to their lords in the later Middle Ages, not the least of which were labour services. Protection in Denmark seems to have taken much of the colour of the *droit de ban* in 'feudal' Europe.⁶²

However, when drawing this parallel it is important to emphasize that lordly protection did not remove the protected peasants from the jurisdiction of the public courts. It was literally protection *at law*. It did not create any jurisdictional rights in favour of the protecting lord, and we can only surmise that a part of good lordship would have been to settle disputes among a lord's dependent peasants without bringing them to court. By the thirteenth century at the latest, some large royal and ecclesiastical estates had come to constitute separate franchises (called *birk* [sing.]) outside the ordinary organization in court districts called *herred*, but before the middle of the fifteenth century this privilege seems never to have been bestowed on members of the lay nobility.⁶³ In the fifteenth and early sixteenth centuries, when it is finally possible to see this system of protection at work, it is clear that lordly protection had not 'mediatized' the dependent peasants. According to circumstances, lawsuits on behalf of peasants might be initiated by the lord, by the peasant himself, or by the two in conjunction; and it was possible (although presumably not a particularly good idea) for a peasant to sue his own lord in the public court. The immense majority of the dependent peasants were leaseholders, in part on short-term contracts, and it has been aptly said that while medieval Denmark did not know the 'feudal' divided *dominium* over

⁶² On this development, see Michael H. Gelting, 'Legal Reform and the Development of Peasant Dependence in Thirteenth-Century Denmark', in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. by Paul Freedman and Monique Bourin, Medieval Texts and Cultures of Northern Europe, 9 (Turnhout: Brepols, 2005), pp. 343–67.

⁶³ Henrik Lerdam, *Birk, lov og ret: Birkerettens historie i Danmark indtil 1600* (Copenhagen: Museum Tusculanum, 2004), pp. 33–76. From 1320 at the latest, one *birk* in Jylland, Krstrup, was owned by a lay noble family, the immigrated German counts of Eberstein; however, this was an old royal *birk* which had been alienated from the crown through inheritance and subsequent sale. *Ibid.*, p. 58.

property, there was a divided *dominium* over persons. The dependent peasant was a legal subject in his own right and yet at the same time just a 'servant' of his lord.⁶⁴

Despite these important qualifiers, the seemingly inevitable outcome of the development of Danish society in the thirteenth century was the breakdown of the old class of allodial peasants. Their military function was marginalized, their economic survival was undermined by partible inheritance, their dependence on patronage at law was vastly increased, and moreover the economic viability of their farms may have been adversely affected by the disappearance of slavery. As the last pagan societies along the coasts of the Baltic were brought under Christian control by the Baltic crusades in the early thirteenth century, the sources of supply of pagans who could legitimately be enslaved dried out. However, economic factors are likely to have been at work too, not to mention the ideological factor of the Church's encouragement of manumission as a meritorious act.⁶⁵ Compared to the other Nordic countries, mentions of slavery in Danish sources other than the twelfth- and thirteenth-century law books are extremely scarce. Slaves were still mentioned in the law books of the 1240s, but after that there are no more traces of slavery in Denmark in the written sources. Even though, curiously, it is one of the later law books, the so-called later redaction of Valdemar's Law for Sjælland (datable probably between 1222 and 1241), which contains a long separate section on slavery,⁶⁶ that chapter significantly includes rules concerning marriage between a slave and a free man or woman.⁶⁷ In the 1240s, a couple of

⁶⁴ See the thorough analysis by Jeppe Büchert Netterstrøm, *At forsvare til rette: Værnsforholdet og bøndernes retslige stilling i Danmarks senmiddelalder 1400–1513* (Kerteminde: Landbohistorisk Selskab, 2003). For the divided *dominium* over persons, see *ibid.*, p. 38.

⁶⁵ For a thorough discussion of the importance of slavery in Viking Age and early Christian Scandinavia, as well as of its disappearance, see Thomas Lindkvist, *Landborna i Norden under äldre medeltid*, *Studia Historica Upsaliensia*, 110 (Uppsala/Stockholm: Almqvist & Wiksell International, 1979), pp. 129–39, cf. p. 67. See also Ruth Mazo Karras, *Slavery and Society in Medieval Scandinavia* (New Haven: Yale University Press, 1988), pp. 134–63 (specifically for Denmark, pp. 137–38, 148–50).

⁶⁶ Traditionally called the Law of Slaves (*Trælleretten*). Valdemar's Law for Sjælland, Later redaction, text I, 86, *DGL*, VIII, 340–50. The distinction between an 'earlier' and a 'later' redaction of the law is purely conventional: the two text versions are not distinguished by any other major differences than the so-called 'later' redaction's addition of the long chapter on slaves and another long chapter on theft, and nothing certain may be concluded about the chronological priority of either redaction; *DGL*, VII: *Valdemars Sjællandske Lov: Arvebog og Orbodemål*, ed. by Erik Kroman (1942), pp. i–ii.

⁶⁷ Valdemar's Law for Sjælland, Later redaction, text I, 86, para. 14, *DGL*, VIII, 348–49. In the

chapters in Erik's Law for Sjælland gave decisive procedural advantage to claims of manumission or free birth over claims of maintaining a person's unfree condition.⁶⁸

Thus, by the mid-thirteenth century, slaves were probably a social group that was dying out or being transformed by manumission.⁶⁹ This may have created a problem for the allodial peasants, who would have had to pay a higher price for free labour or, alternatively, to reduce the amount of land that they were able to cultivate. Lords, too, would have had to depend on free men rather than slaves for working their land. The scarcity of evidence of slavery outside the law books means that all such reasoning has to be hypothetical, but it seems plausible that thirteenth-century Denmark witnessed a homogenization of previously sharply distinct social groups into a uniformly dependent peasantry, similar to what was happening in most of western Europe.⁷⁰

This was because all of the factors that I have been listing must have forced the allodial peasantry to seek survival in becoming leaseholders by surrendering their farms to the privileged nobility who would provide protection and keep the farms from further fragmentation. Much has been written about the losing battle of the

1240s, Erik's Law for Sjælland modified these rules so that the divorce of such a couple might be allowed under certain circumstances if the freeborn partner had been ignorant of the other's unfree status at the time of the marriage; text I, bk III, 17, *DGL*, v, 263–64.

⁶⁸ Erik's Law for Sjælland, text I, bk III, 16 and 18, *DGL*, v, 262 and 264–65.

⁶⁹ Ruth Mazo Karras is certainly mistaken in claiming that the later redaction of Valdemar's Law for Sjælland indicates that slavery still existed there in the middle of the fourteenth century; Karras, *Slavery and Society*, p. 137. This view was probably based upon the manuscript transmission of this version of the text, the earliest specimens of which date from the beginning of the fourteenth century. However, the 'law of slaves' continued to be included in later manuscripts of the law throughout the fifteenth and early sixteenth centuries, at a time when slavery had certainly disappeared; see the table of manuscripts in *DGL*, VII, pp. lxiii–lxiv. In some fourteenth- and fifteenth-century manuscripts, the word 'slave' (*thral*) in the title of the chapter on slaves was replaced by the word 'servant' (*swen*); *DGL*, VIII, 340, critical apparatus. This might support Kai Hørby's hypothesis that the survival of this obsolete chapter on slaves was due to its usefulness for determining the master's responsibility for the misdeeds of his servants; Kai Hørby, 'The Social History of Medieval Denmark', in *Danish Medieval History: New Currents*, ed. by Niels Skyum-Nielsen and Niels Lund, Danish Medieval History and Saxo Grammaticus: A Symposium Held in Celebration of the 500th Anniversary of the University of Copenhagen, 1 (Copenhagen: Museum Tusculanum, 1981), pp. 36–53 (p. 41) (*pace* the skeptical discussion in Karras, *Slavery and Society*, p. 243, n. 77).

⁷⁰ Cf. Lindkvist, *Landborna i Norden*, pp. 147–49.

kings to stay this development, which undermined their tax revenues.⁷¹ Yet things seem to have been more complicated than that, for here and there in Denmark the earlier structures survived more or less intact and the context suggests that this was the result of deliberate policy, at least in part.⁷²

The duchy of Schleswig is an important case in point. If the southern part of the peninsula of Jylland had ever housed great magnates, they must have moved elsewhere at an early date.⁷³ Apart from the southeast of the duchy, which already by the thirteenth century came under the control of the counts of Holstein and their men, only very few large lay estates developed in this region, whose social structures remained dominated by prosperous allodial peasants, sometimes making it into the gentry for some generations and perhaps building up small estates, but never to the point of fundamentally upsetting the old social structures.⁷⁴ However, it should be remembered that the harsh seignorial regime of the nobility of Holstein, so eagerly envied by their Danish homologues in the early sixteenth century, was largely confined to the eastern part of the county that had been conquered from the Slavic Wagrians in the twelfth century. The

⁷¹ See, e.g., Erik Ulsig, 'Kronens kamp for bevarelsen af skattegodset 1241–1396', in *Profiler i nordisk senmiddelalder og renaissance: Festskrift til Poul Enemark. På tresårsdagen 13. april 1983*, ed. by Svend E. Green-Pedersen, Jens Villiam Jensen, and Knud Prange, Arusia — Historiske Skrifter, 2 (Århus: Arusia — Historiske Skrifter, 1983), pp. 203–17.

⁷² Anders Bøgh, "Bundones Regis": Selvejrbøndernes antal og funktioner — især i senmiddelalderen', in *Konge, kirke og samfund: De to øvrighedsmagter i dansk senmiddelalder*, ed. by Agnes S. Arnórdsdóttir, Per Ingesman, and Bjørn Poulsen (Århus: Aarhus Universitetsforlag, 2007), pp. 117–49. Bøgh's interpretation of the causes of these variations differs from the one developed in the present article; cf. below, at n. 79.

⁷³ Poulsen, 'Middelalderens fødsel — tiden 1000–1340 — samfund og mennesker', pp. 424–33, concluding (p. 433) that 'generally speaking, the wealth of the class of "lordsmen" in [the duchy of] Schleswig kept within limits far below the levels known from other parts of Denmark'.

⁷⁴ This thumbnail sketch of course conceals considerable regional differences. The lush western coastal marshes had a disproportionately large number of outright wealthy allodial peasants, whereas tenant farms were numerous in the eastern parts of the duchy. This creates a problem with the evidence, since tenant farms are much better documented than the possessions of the allodial peasantry. Bjørn Poulsen, 'Pest, krig, skat og stormflod — tiden 1340–1430', in *Det Sønderjyske Landbrugs Historie*, ed. by Ethelberg and others, pp. 493–537 (pp. 531–35); Bjørn Poulsen, 'Den sene middelalder — tiden 1430–1544', *ibid.*, pp. 538–712 (pp. 588–600, 632–49); Bøgh, "Bundones Regis", p. 121; Carsten Porskrog Rasmussen, *Rentegods og hovedgårdsdrift: Godsstruktur og godsøkonomi i hertugdømmet Slesvig 1524–1770*, 2 vols (Haderslev: Institut for grænseregionsforskning, 2003), 1: *Fremstilling*, pp. 88–89, 101. On the privileged 'freemen', allodial peasants just short of full noble privilege, see also Dahlerup, 'Danmark', p. 51.

allodial peasantry remained strong in the old areas of Saxon settlement in the neighbouring county of Holstein — not to speak of the acephalous peasant aristocracy of Dithmarschen in the west of Holstein, which was able to maintain its *de facto* independence of all neighbouring powers until 1559. The strength of these groups, and of the allodial peasantry of the duchy of Schleswig as well, may have been due to their particularly rich economic opportunities in selling their produce to the growing Hanseatic towns.⁷⁵

More significant is probably the case of the island of Bornholm in the Baltic, which from the twelfth century onwards was mainly under the lordship of the archbishops of Lund. Here the archbishops seem to have blocked any development towards the constitution of a class of noble estate owners and the island remained dominated by an allodial peasantry, some of whom might acquire letters of nobility from the archbishop in the late Middle Ages, but never building up large estates with dependent farms.⁷⁶ It is not without interest to note that in early modern times, this allodial peasantry practiced unigeniture under the form of benjaminism: the youngest son would inherit the family farm, because his older brothers would have had better opportunities to fend for themselves.⁷⁷

Perhaps even more remarkable is the case of the districts in eastern Jylland that were placed under the exclusive dominion of the bishop of Århus. In the small districts — the two *herreder* of Hasle and Vester Lisbjerg — over which the bishop had from an early date acquired all royal rights, the successive prelates were able not only to avoid the development of any new estates in the hands of the lay nobility, but even to eliminate practically all lay noble property from the districts. On the other hand, the cathedral chapter of Århus built up substantial land-

⁷⁵ For example, Rolf Hammel-Kiesow and Ortwin Pelc, 'Landesausbau, Territorialherrschaft, Produktion und Handel im hohen und späten Mittelalter (12.–16. Jh.)', in *Geschichte Schleswig-Holsteins: Von den Anfängen bis zur Gegenwart*, ed. by Ulrich Lange (Neumünster: Wachholtz, 1996), pp. 59–134 (pp. 93–94, 125). On Dithmarschen, e.g., Ulrich Lange, 'Stände, Landesherr und große Politik — Vom Konsens des 16. zu den Konflikten des 17. Jahrhunderts', *ibid.*, pp. 153–265 (pp. 177–79).

⁷⁶ See, e.g., the interesting archiepiscopal statutes for Bornholm of 1499, confirmed 1501; *Den danske rigsløvgivning 1397–1513*, ed. by Aage Andersen (Copenhagen: Reitzel, 1989), nos 48–49 and 51, pp. 171–75, 177–80. Erik Ulsig, *Århusundersøgelsen — under Det nordiske Ødegårdsprojekt samt Ødegårdene: En datering* (Århus: Aarhus Universitetsforlag, 2004), p. 28.

⁷⁷ Inger Dübeck, *Kvinder, familie og formue: Studier i dansk og europæisk retshistorie* (Copenhagen: Museum Tusculanum, 2003), pp. 279–80; cf. *Aktstykker til Bornholms Historie, 1327–1621*, ed. by Jens R. Hübertz (Copenhagen: Gyldendal, 1852), no. 106, p. 106 (3 July 1542), and no. 248, pp. 379–80 (5 September 1572).

holdings there. Nevertheless, right into the eighteenth century, these districts remained dominated by a strongly endogamous allodial peasantry. The large estates of Carolingian type that are visible in the sources from the high Middle Ages disappeared after the fourteenth century, having been split into several tenant farms of equal size; but the prosperous allodial peasants remained, even though a few allodial farms seem to have been swallowed up by their neighbours during the demographic recession of the late Middle Ages. At the time of the Lutheran reformation in 1536, 20 per cent of the farms in Hasle *herred* and no less than 40.5 per cent of those in Vester Lisbjerg *herred* were in the hands of the allodial peasantry. This is particularly significant, since eastern Jylland otherwise was a region where the lay nobility built up substantial estates. It can hardly be interpreted otherwise than that the bishops of Århus saw their advantage, as possessors of full regalian rights in these small districts, in maintaining the earlier social structure.⁷⁸

But what was possible for an ecclesiastical lord within a small and clearly circumscribed territory was apparently not possible for the king. Ultimately, the king was as dependent upon his men as they were on him, and the struggle for maintaining the king's prerogatives against the encroachments of the lay nobility could never be more than half-hearted and partial. Nevertheless, even within those parts of the realm that were directly under royal control, the proportion of allodial peasant property at the end of the Middle Ages might vary widely regionally and even from parish to parish. It has been argued recently that high proportions of allodial peasant property tended to occur especially in parishes in the vicinity of major royal castles, and that this might be explained by a continuing need for the services of the allodial peasantry in maintaining and manning these castles.⁷⁹ On the basis of the arguments developed above, I would suggest that this pattern might rather be a reflection of the tug-of-war between Crown, nobility, and Church for the exercise of protection over the peasantry. In this continuous struggle, the officers in charge of the royal castles would have had an advantage in the vicinity of their castles while finding it more difficult to assert their authority beyond that range.

⁷⁸ Ulsig, *Århusundersøgelsen*, pp. 11–85. I owe my information on the endogamous practices of the allodial peasantry of the region to an oral communication from my former student Børge Fogsgaard, himself a descendant of one of these families.

⁷⁹ Bøgh, "Bundones Regis", esp. pp. 125–29. It should be noted that massive confiscations in the wake of major peasant rebellions in 1534 and, probably, in 1441 add to the difficulties of interpreting these regional and local variations.

The scramble for rights of protection no doubt also involved a fair amount of pressure on the allodial peasantry. The changes that weakened the position of the allodial peasants played into the hands of ecclesiastical and, especially, lay lords as opportunities for coercion and abuse of power. Becoming a tenant meant a degradation both of the peasant's social status and of his capacity to participate in procedures at law. Despite the changes in the situation of the allodial peasantry described above, it is unlikely that large numbers of them would have voluntarily exchanged their free status for a tenurial contract without outside pressure. The Law of Skåne (c. 1220) assumes that any free man who fell upon hard times would prefer to sell some of his land in order to live in poverty, but retaining his allodial freedom, rather than becoming a tenant with his farm intact.⁸⁰ It must have taken some social and economical coercion to break that aversion to lose allodial status, and it seems likely that the lay 'lordsmen' had the upper hand in that game. At least, it is noteworthy that in those regions where ecclesiastical and lay princes managed to maintain the old social structure more or less intact, the price was eliminating or reducing the lay aristocracy. That was not a viable option for the Danish king.

What also appears to be truly remarkable is the continuing strength of the rule of law, despite all abuses of power. The deepest crisis that was experienced by the medieval realm of Denmark occurred in the second quarter of the fourteenth century. Due to an over-ambitious foreign policy, practically all of the resources of the kingdom had been mortgaged to the king's German creditors, and the throne itself remained vacant for eight years, from 1332 to 1340. Nevertheless, even during this interregnum, the creditor-lords kept up the machinery of royal justice,⁸¹ and when royal power was restored in the second half of the fourteenth century, the council of the realm, although composed of great ecclesiastical and lay lords, declared illegal the attempts made by some lords to impose on their dependents such servile customs as the interdiction of marrying outside the lord's estate without his approval, similar to the French *formariage*.⁸²

How, then, does Danish society as it developed during the high Middle Ages compare with so-called 'feudal' Europe? There can be no doubt that by the

⁸⁰ DGL, I, pt I: *Skånske lov: Text I–III*, ed. by Johs. Brøndum-Nielsen and Svend Aakjær (1933), text I, 76, pp. 53–54. For the date of the original text, previously dated to 1200/02–1216, see Gelting, 'Skånske Lov og Jyske Lov', pp. 72–76.

⁸¹ Henrik Lerdam, *Kongen og tinget: Det senmiddelalderlige retsvæsen 1340–1448* (Copenhagen: Museum Tusculanum, 2001), pp. 21–23, cf. 205, 207.

⁸² Gelting, 'Legal Reform', pp. 366–67.

beginning of the thirteenth century, the Danish lay aristocracy had adopted knightly culture in all its major aspects and mirrored themselves in their European counterparts. Their status was justified by their professional military service as mounted warriors, and it was defined by their personal homage to a lord wielding public power, whether it be the king, the duke, a count, or a bishop. But feudal tenure was restricted to just that small circle of dignitaries who were invested with public power. The power that the nobility exercised over its dependents remained private. Although it might take on some similarity to the *droit de ban*, it was not public power. The estates of the nobility remained allodial and, even though the great nobles of the later Middle Ages, like the twelfth- and early thirteenth-century magnates, kept military retinues in their service, their retainers were salaried and did not receive fiefs, and their lords had no power to confer noble privilege upon them. If a non-noble retainer was to be so privileged, he had to become the king's man and, at least by the fifteenth century, he would receive letters of nobility from the king at his lord's recommendation, although the connection between lord and retainer might be expressed by granting the new nobleman a coat of arms derived from his lord's.⁸³

In this paper I have been drawing a picture of a gradual transformation of an archaic Danish society into something more akin, although not identical, to western European 'feudal' society. That picture is not radically different from the one that has been developed by Danish medievalists during the twentieth century. To most of those historians, however, the dynamics of the development was largely autochthonous. To them, Danish society developed mainly in terms of internal processes of change, whereas influences and pressures from abroad were seen as having a secondary and more superficial role.⁸⁴ Moreover, there was a propensity to think that, since Danish society at the end of the Viking Age was archaic and backward, it had to go through the same developmental steps as the more precocious western European societies.⁸⁵

⁸³ Dahlerup, 'Danmark', pp. 56, 72–73; Nils G. Bartholdy, 'Indledning', in *Adels- og våbenbreve udstedt af danske (unions-)konger indtil 1536*, ed. by Nils G. Bartholdy (Viborg: Selskabet til Udgivelse af Kilder til dansk Historie, 2007), pp. 11–41 (pp. 36–39). Such letters of nobility have been preserved only from the early fifteenth century onwards. They may have been an innovation at that time.

⁸⁴ Extremely influential in this respect was the important study by Kr. Erslev, *Valdemarernes Storhedstid: Studier og Omrids* (Copenhagen: Erslev, 1898); see esp. his concluding chapters, pp. 249–75.

⁸⁵ A good example is Christensen, *Kongemagt og aristokrati*, significantly giving the title

This is where I think my view of the process of transformation differs most importantly from that of my predecessors. I think some of the particularities of the Danish experience may be explained by the fact that the transformation of archaic Danish society took place in full knowledge of developments elsewhere in Europe. That poses some particularly interesting questions concerning the absence of vassality and fiefs in medieval Denmark. Current research on these matters in western Europe points to the growth of these phenomena from the late twelfth century onwards as being closely related to the growth of administrative kingship.⁸⁶ What does it mean, then, that they did not take hold in Denmark? Traditionally, the absence of feudalization has been seen as an indication of the strength of the monarchy of the Valdemarian kings of the later twelfth and early thirteenth centuries.⁸⁷ However, if feudal tenure was rather a tool of royal control, its absence in Denmark might be due not to the strength of royal power, but to its weakness. Well informed about what was going on in Europe, Danish magnates may have refused to go down the same path and insisted upon retaining the earlier, strictly personal relationship between the king and his men. What I have called the 'reactionary' elements in the late twelfth-century law of the king's household would be perfectly consonant with such an interpretation.

Ultimately, the essential point is probably the cultural assimilation of the Danish aristocracy to a common European, knightly, and manorial model, despite the absence of feudal tenure. This fact might suggest that the presence or absence of feudal institutional forms was but a matter of comparatively superficial differences, mere variations of the rules of the game. The sinews of power in that game lay deeper than institutional forms and they retained their force for centuries to come, perhaps until the eighteenth century. They were, in various disguises, the triad of kinsmen, friends, and faithful men.

'Feudal Breakdown' (*Feudalopløsning*) to the long chapter (pp. 68–178) dealing with the successive political crises of the period 1241–1340, culminating in the bankruptcy of the crown in the 1320s and 1330s. Christensen draws explicit but questionable parallels between this development and the 'feudal anarchy' in late Carolingian and early Capetian France as well as the collapse of German royal power after the elimination of the Hohenstaufen dynasty in the 1250s.

⁸⁶ Reynolds, *Fiefs and Vassals*, esp. chaps 7 and 8.

⁸⁷ For example, Christensen, *Kongemagt og aristokrati*, pp. 157–58.

‘[...] NONETHELESS [HE]
FULFILLED HIS OBLIGATIONS
TOWARDS THE HIRÐ’:
FEALTY AND POLITICS IN MEDIEVAL NORWAY*

Erik Opsahl

During the Christmas of 1239 King Hákon IV of Norway was preparing for the final battle with his father-in-law, Duke Skúli, who had proclaimed himself king a couple of months earlier. The Duke, until 1237 an earl, had led the regency in Hákon’s childhood and later ruled together with the king. In spite of the fact that Hákon had married Skúli’s daughter, Margret, and made Skúli a duke, the tensions between them had grown, and in November 1239 the Duke took the final step of proclaiming himself king.¹ By Christmas, King Hákon had ordered taxes and other revenues to be paid by the southeastern part of the country so he could pay his men who were organized in the *hirð*. However, no taxes or other finances had reached him. Lacking sufficient funds, King Hákon was forced to melt down silver or cut up other valuable objects that he owned. He did manage to meet his obligations towards the *hirð*, according to the author of the *Saga of Hákon Hákonarson* (the *Hákonar saga*), the Icelandic Sturla Þórðarson.²

* Thanks to Anders Bøgh for valuable comments on a preliminary version of this article and to other participants at the conference in Bergen in September 2006 for valuable comments in the discussion after my lecture.

¹ *Soga om Hákon Hákonsson*, Noregs kongesoger, 4 (Oslo: Det norske samlaget, 1979), pp. 65, 176, and 183–88.

² *Soga om Hákon Hákonsson*, p. 199.

This occurred in a decisive phase of the history of the Norwegian medieval kingdom. Half a year later Duke Skúli was killed and his rebellion crushed. Skúli's death was the final episode that ushered in the golden age of the Norwegian kingdom of the Middle Ages, the period of greatness that lasted until the arrival of plague in the mid-fourteenth century. Over these one hundred years medieval Norway underwent advanced political and administrative development. Norway became a relatively strong, centralized kingdom fully integrated with Latin, Christianized Europe. The country experienced the characteristic features of state building and cultural development that Robert Bartlett has labelled 'Europeanization'.³ However, the traditional view of historians has been that Norway lacked one of the important features of a western European medieval kingdom: feudalization. It has been said that there are merely the traces of feudal elements in medieval Norwegian society.

Feudalism in Norway?

According to the dominant view, there were neither feudal fiefs nor feudal rights over land, property, or people in medieval Norway. The main feudal elements were the vassal bonds between the king and his men, who were organized in the royal *hirð* ('retinue'). The obligation and pressure King Hákon felt in Christmas 1239 to pay his men was a direct result of his duty as a lord towards his vassals. Norway's lack of feudalism is traditionally explained by the country's peripheral geographical position and its mountainous terrain. Norway is thus 'logically' classified as the least feudalized country of the three Scandinavian kingdoms, while Denmark, with its open landscape and continental location, is the most feudal. Sweden is in an intermediate position. The renewed debate about 'feudalism', largely initiated by Susan Reynolds's fundamental critique and rejection of the non-Marxist model of feudalism, prompts us to revise or at least nuance this picture.⁴ As suggested by Aron Gurevich, the deconstruction of 'feudalism' opens space for a new interpretation of early medieval Scandinavian history. We should perhaps be considering its similarities with the rest of western Europe rather than its dissimilarities.⁵ This position echoes Susan Reynolds's call for historians to

³ Robert Bartlett, *The Making of Europe* (Princeton: Princeton University Press, 1993).

⁴ See Susan Reynolds, *Fiefs and Vassals* (Oxford: Oxford University Press, 1994).

⁵ Aron Gurevich, 'Feudalism on Trial by Historians or On Medieval "Peasant Civilization" (Excerpts)' (unpublished manuscript, 2006).

look again at some of the source material in the light of the doubts about traditional interpretations. Her book *Fiefs and Vassals*, which deals with the cases of England, France, Germany, and Italy, examines this issue.⁶ I would also like to refer to Aron Gurevich's scepticism about the usefulness of immediately labelling a social relationship that does not correspond to an 'ideal type' as 'underdevelopment' or even 'bastardy' of the given institution.⁷ Gurevich's warning against analysing the social processes of the early Middle Ages only from the perspective of 'the genesis of feudalism' is also worth mentioning. This is simplistic, argues Gurevich, because the diversity of life in medieval Europe cannot be categorized by rigid schemata of *a priori* generalizations.⁸ The use of the traditional non-Marxist model of feudalism *may*, to a certain extent, be an example of such a rigid schema.

Because I must limit my scope, this article will focus on just a few aspects of the subject. I will, however, conclude by saying something more general about the Norwegian situation in the light of Professor Reynolds's hypotheses (and she states they are hypotheses rather than firm conclusions) about the formation of the two feudal institutions of *fief* and *vassalage* in Europe and their relationship to collectives in medieval society. Firstly, I would like to make some remarks on the more general questions raised by Susan Reynolds. She asks when medieval Scandinavian documents begin to use the vocabulary of *fiefs* and *vassals* that lawyers in other northern European countries picked up from the North Italian composite treatise from the twelfth and early thirteenth century, called the *Libri feudorum*. She stresses the differences between 'phenomenon', 'concept', and 'word' and reminds us that the *meaning* of a word can change over time.⁹ Although this is central to historical analyses, it is advice well worth repeating. However, her call for historians to investigate and analyse the use of the 'feudal vocabulary' in their national contexts meets one main obstacle in Norway, namely the modest use of Latin in Norwegian sources.¹⁰ In Norway, Latin was primarily

⁶ As she explicitly expressed in an article about Scotland; Susan Reynolds, 'Fiefs and Vassals in Scotland: A View from Outside', *The Scottish Historical Review*, 82 (2003), 176–93 (p. 180).

⁷ Gurevich refers to an article by Peter Coss with the title, 'From Feudalism to Bastard Feudalism'; Gurevich, p. 11. This topic has also interested me and I have written an article with the title 'Bastard Feudalism or Sub-Vassality in Medieval Norway?', *Collegium Medievale*, 4 (1991), 177–214.

⁸ Gurevich, p. 8.

⁹ Susan Reynolds, 'Fiefs and Vassals after Twelve Years' (unpublished manuscript, 2006).

¹⁰ See, for instance, her article about Scotland; Reynolds, 'Fiefs and Vassals in Scotland'.

used by the church, but even the church and its representatives often used Norwegian in their written communication. The kingdom's use of Latin was mostly limited to its correspondence with foreign powers. When questioning 'feudalism' in Norway, historians must be very critical when examining any of the vernacular words that were used to describe associated phenomena. Sometimes the Norwegian words can be translations of Latin words, but this was not always the case. There is the additional possibility that translated words did not refer to the same concept related to the same phenomenon.¹¹

I will therefore not carry out a systematic investigation of the possible use of feudal terminology in Norwegian sources. Instead I will concentrate on one main aspect of the question of 'feudalism': vassalage. More specifically, my main question will be this: to what extent and in what way were Norwegian politics, in an important phase of the high Middle Ages, based on interpersonal fealty or loyalty, and to what extent and in what way were they based on a Norwegian medieval collective, a realm?¹² My aim is to cast some light on central features of political and institutional development in medieval Norway, from the appropriate European historical perspectives of feudalization and centre-periphery relations.

Vassalage in Norway?

It is a common interpretation that the royal retinue, the *hirð*, whose members King Hákon paid in 1239, had its origins in the retinues that Scandinavian kings and lords/chieftains had in the Viking Age and the early Middle Ages. These retinues were made up of men that were both servants and soldiers for the lord. The members of such a retinue were often called 'housecarls'. This indicates that their service was originally a relationship between a lord and a servant, regulated under private law. However, their relationship to the lord was voluntary and much more extensive than that of a simple servant. The relationship between a lord and the members of his *hirð*, or retinue, consisted of reciprocal obligations and rights for both parts. This had similarities with vassalage. The *hirð*-institution has therefore been considered as the foundation of medieval vassalage in Scandinavia.¹³

¹¹ See also Gurevich, p. 17.

¹² On the concept of 'realm' in the Middle Ages, see Susan Reynolds, *Kingdoms and Communities in Western Europe, 900–1300* (Oxford: Clarendon Press, 1984).

¹³ Lars Hamre, 'Hird' (in general and in Norway), in *Kulturhistorisk leksikon for nordisk middelalder*, ed. by Finn Hødnebo (Oslo: Gyldendal, 1956–), VI (1961), pp. 568–69.

The historical episode that was referred to in the opening of this article is interesting in many ways. It is clear that King Hákon was anxious about strengthening his men's loyalty towards him before the decisive battle with Duke Skúli. But it is also plausible that the author of the saga wrote this in order to praise the King. Regardless of the author's motive, it is important to note that the deed of a king fulfilling his obligations towards the *hirð* was perceived as a significantly praiseworthy action. The saga of Hákon Hákonarson was written in the year 1264–65 and is in many ways an example of official historical writing that is intended to praise and to support the royal dynasty. But even though Sturla's description of Duke Skúli's rebellion is the first clear attempt to describe an interior struggle for central power as a rebellion against the legal king, it is not consistently carried out.¹⁴ One personal and contemporary reason for this was probably the delicate situation of the author, Sturla Þorðarson. His employer, King Magnus VI, was a son of King Hákon and a grandson of Duke Skúli. And King Magnus's mother, Skúli's daughter, was still alive. A more structural and long-term explanation is that state institutions and the official ideology of the Norwegian monarchy were not, in the 1260s, so well established that it was obvious beyond any doubt that a political decision Duke Skúli had taken in 1239 was to be condemned.¹⁵

The conflict between King Hákon and Duke Skúli was about royal power in Norway, i.e. the central power of what we can call the Norwegian realm. The power base for both the King and the Duke was a network of men across the country. These men were called *håndgangne menn* in Norwegian, which literally translated means 'men who have given their hands to someone'. They had also sworn an oath. This network of men constituted the *hirð* in a wider sense and indicated that the *hirð* now was something more than just a daily retinue. It consisted of two groups. The first were the men who stayed with the King or the Duke in their household. Secondly, there were the men who lived across the country on their own farms or estates or had a royal post. All men had military and other obligations towards their lord, whether it was the King or the Duke. In return, they had the right to be protected by their lord in different circumstances and situations.

The most prominent of these men 'who had given their hands to someone' were the *lendir menn* (the landed men). The term reflects the fact that the King

¹⁴ Sverre Bagge, *From Gang Leader to the Lord's Anointed* (Odense: Odense University Press, 1996), pp. 112–13, and *Mennesket i middelalderens Norge* (Oslo: Aschehoug, 1998), pp. 180–81.

¹⁵ See Bagge, *From Gang Leader*, pp. 156–60.

had assigned particular parts of the royal demesne to these men as *veitsla* for life. The words *veitsla* and *veitslejord* indicate that these magnates were given the disposal of the royal revenues from the land. In return they performed financial, military, and economical duties on the King's behalf. These men were recruited among the most prominent and wealthy men across the country. The institution dates back to the first part of the eleventh century.¹⁶ The King's aim was to strengthen his royal power by establishing an alliance with the most prominent regional leaders. A *lendr maðr* had therefore the double role of being both a regional representative for the king as well as the region's leader and spokesman towards the king. As Sverre Bagge has put it, a *lendr maðr* was a 'friend' or an ally of the king rather than his official.¹⁷ This indicates that reciprocity was, in many ways, as prominent a feature of the relationship as subordination. As Bagge correctly points out, an official subordination was, in the early Middle Ages, perceived as humiliating.¹⁸ One clear indication of the powerful position of the *lendir menn* was their right to have their own retinues. At least as early as the beginning of the thirteenth century the men in such a retinue had sworn an oath and 'given their hands' to the *lendr maðr*.¹⁹

Veitsla resembles the concept of European fief.²⁰ And some historians have seen the military and political power of the *lendir menn* as containing the potential for a complete feudalization of their position and thereby a splitting-up of royal power in Norway. For different reasons this did not happen. Nevertheless, the combination of, on the one hand, 'giving one's hands' and swearing an oath to the king and, on the other, receiving royal domain for one's own disposal, has obviously common features with the traditional historical views of medieval European feudalism. Historians do not agree upon how many *lendir menn* there were. Assessments have varied from twenty to thirty to one hundred and twenty

¹⁶ Per Sveaas Andersen, *Samlingen av Norge og kristningen av landet 800–1130*, Handbok i Norges historie, 2 (Oslo: Universitetsforlaget, 1977), pp. 279–85; Sverre Bagge, *Society and Politics in Snorri Sturluson's Heimskringla* (Berkeley: University of California Press, 1991), p. 133.

¹⁷ Bagge, *Society and Politics*, p. 133; Sverre Bagge, *Fra knyttneve til scepter: Makt i middelalderens Norge*, Makt- og demokratiutredningen 1998–2003, rapportserien nr. 67, juni 2003 (Oslo: Unipub, 2003), p. 40.

¹⁸ Bagge, *Fra knyttneve til scepter*, p. 40.

¹⁹ *Edda Snorra Sturlusonar*, ed. by Finnur Jónsson (København: Gyldendal, 1931), p. 162. See also Karl-Erik Löfqvist, *Om riddarväsen och frälse i nordisk medeltid* (Lund: Gleerup, 1935), p. 180.

²⁰ Bagge, *Society and Politics*, p. 133.

at any one time in the twelfth century. The widespread view today is that the former estimate is the most probable.²¹ The numbers were obviously dramatically reduced during the civil war in the last decades of the twelfth century, but by 1240 the *lendir menn* had regained a powerful political and military position in Norwegian society.

Two scenes from *Hákonar saga* illustrate this. In the summer of 1234 King Hákon and Skúli, then still an earl, stayed together in Bergen. According to the saga, the relationship between them was good, but their enemies came between them and intrigued in such a way that the two men were driven to the brink of conflict. The saga says that these plotters were *lendir menn*, who continued to intrigue in order to worsen the relationship between Hákon and Skúli. The next year the King therefore asked Skúli to meet him in Bergen to settle the disputes. Skúli was reluctant to go, not least because of the behaviour of several *lendir menn* close to Hákon. In addition, several men, among them two *lendir menn*, had given their hands and sworn the *hirð* oath *only* to the King. This marked a big difference, argued Skúli, because earlier every man had sworn an oath to both him and the King. Skúli told his followers that he had much less confidence in men who had only sworn an oath to the King than in those who had sworn to both of them. Skúli was also worried about the large retinue of one of these *lendir menn*.²²

Skúli complained that there were also other men who now had given their hands and only sworn an oath to the King. Amongst these were *sýslu menn*. A *sýslu maðr* administered a *sýslu*, a district in which he served as the King's representative, with juridical, fiscal, and military duties. This reminds us of the duties of the *lendir menn*; however, a *sýslu maðr* was clearly subordinated to the king. The post goes back to the second half of the twelfth century and this quasi-bureaucratic system was to become the cornerstone of the Norwegian kings' administration in the high Middle Ages. Only men who had given their hands and sworn an oath, i.e. become members of the *hirð*, could receive a *sýslu*. The system was therefore based on the absolute principle that a personal bond to the king was a precondition for getting the prestigious post of a *sýslu maðr* in the kingdom's administration. The income of a *sýslu maðr* probably partly derived from royal

²¹ Andersen, *Sam lingen av Norge og kristningen av landet 800–1130*, p. 284, and Knut Helle, *Norge blir en stat*, *Handbok i Norges historie*, 3 (Oslo: Universitetsforlaget, 1974), pp. 74–75.

²² *Soga om Hákon Hákonsson*, pp. 164 and 166. *Lendir menn* had also earlier been responsible for mistrust between Hákon and Skúli; *Soga om Hákon Hákonsson*, p. 157.

finest paid in the *sýslu*.²³ A *lendir maðr* could have a *sýslu* in addition to the *veitsla* without reducing him to a 'simple' *sýslu maðr* subordinated to the king. In the sagas we hear very little about the bureaucratic-administrative duties the *lendir menn* and *sýslu menn* carried out. The focus is mostly on their political and military roles.²⁴

We have some few examples of *sýslu* being called *lén* in Norwegian sources from the high Middle Ages. *Lén* is a Medieval Low German word and was to become the regular term for administrative districts in late medieval Scandinavia. It is the same word as *lån* which means 'lend'.²⁵ Thus, to receive a *lén* has the core meaning of 'receiving something on loan'. It is common to use *fief* when *lén* is translated into English. In the *Hákonar saga* the word *lén* is used five times. Two of the examples refer to districts that members of the royal family had received.²⁶ The other three examples are of more interest to us. The oldest example is in connection with an enemy who had reconciled himself with the king, but because he was dissatisfied with the 'honour' the king gave him, joined a new party of rebels (*ribbungene*). The saga says that the man 'immediately took *lén*' from the rebels and received a big retinue.²⁷ This was early in the reign of King Hákon (1221). In the beginning of the 1230s Skúli lost the support of one of his most prominent men, Knut Hákonarson. The reason, according to the saga, was that Skúli's daughter, who was Knut's wife, died, and the widower was dissatisfied with the *lén* assigned him.²⁸ In 1235 Skúli had a dispute with the most prominent of the *lendir menn* of southeast Norway. The latter refused to accept Skúli's *sýslu menn* in one area, because he was not prepared to relinquish anything of the *lén* given him by the King until he was completely sure that this was the King's will.²⁹ It is not totally clear what difference there was — if there was any — between the terms *lén* and *sýsla*. One hypothesis is that the former word focussed on the fiscal

²³ Helle, *Norge blir en stat*, pp. 206–08.

²⁴ Andersen, *Samlingen av Norge og kristningen av landet 800–1130*, p. 282, and Bagge, *Society and Politics*, p. 133.

²⁵ Jerker Rosén, 'Län' (except Finland), in *Kulturbistorisk leksikon for nordisk middelalder*, ed. by Finn Hødnebo (Oslo: Gyldendal, 1956–), XI (1966), pp. 104–08.

²⁶ *Soga om Hákon Hákonsson*, pp. 35 and 317.

²⁷ *Soga om Hákon Hákonsson*, p. 80.

²⁸ *Soga om Hákon Hákonsson*, pp. 157–58.

²⁹ *Soga om Hákon Hákonsson*, pp. 172–73.

affairs of the district and the latter on administrative matters.³⁰ The fact that the word *lén* could be used both when members of the royal family and a *lendr maðr* received districts might indicate that *lén* in these cases meant that the district was transferred with *all* royal authority and rights.

To recapitulate: when the two rivals, King Hákon and Duke Skúli, were preparing for the final battle in the 1230s, they mobilized as many followers as possible from the networks of men who had given them their hands and sworn an oath; *lendir menn*, *sýslu menn*, and other *hirð menn*. The *lendir menn* had been assigned royal demesne, the *veitsla*; the *sýslu menn* were the King's representatives in a district, a *sýsla*; the other *hirð menn* were living in the King's or Duke's households and constituted their daily retinue. The network of men in the primitive state apparatus was divided between the two leaders. All these men can be considered professional soldiers. As mentioned earlier, the *Hákonar saga* hints that Skúli's final decision to declare himself king was a rebellion against the legal king. However, many people, especially his friends, mourned Skúli's death when he was killed with his son in the autumn of the same year.³¹

It is now time to consider the wider Norwegian society of the first part of the thirteenth century. So far in this article I have been looking at the network of men who had given their hands to the King and the Duke. However, were there additional loyalties, identities, bonds, and other features which constituted Norway as a political community? Was there, in fact, a Norwegian realm?

A Norwegian Society, a Norwegian Realm?

In Snorri Surluson's *Heimskringla*, the best known and most important collection of Old Norse kings' sagas, written around 1230, there is a scene from the battle at Svold in the year of 1000. The Norwegian king, Óláfr Tryggvason, was defeated by a mighty fleet led by the kings of Denmark and Sweden and the Norwegian Earl Eiríkr of Lade, in Central-Norway (Trøndelag). When King Óláfr is watching his enemies approach, he comments on each of them. Neither the Danes nor the Swedes were worthy enemies, according to Óláfr. Earl Eiríkr and his men were a different proposition. Snorri has King Óláfr stating that 'He [i.e. Earl Eiríkr] has just cause to meet us and we may expect a hard fight with that force: they are

³⁰ Ole Georg Moseng and others, *Norsk historie I 750–1537*, 2nd edn (Oslo: Universitetsforlaget, 2007), p. 199.

³¹ *Soga om Hákon Hákonsson*, pp. 238–39.

Norwegians like us'.³² Sverre Bagge has used this scene to argue that in the beginning of the thirteenth century, when Snorri wrote this, there existed a consciousness among Norwegians that they were a people — and that they were better than other Scandinavian peoples — but that they did not constitute a *political* community. The existence of what we would call a national community was at its best rudimentary.³³

I will not argue against this view, nor reject Professor Bagge's examples from *Heimskringla* of men who enter the service of another king or ally themselves with him against the king of their own country.³⁴ But I will try to provide some nuances. Sverre Bagge concludes that one's consciousness of belonging to a people in this period has nothing to do with loyalty to one's country.³⁵ I would rather say that it first of all *has nothing to do with an automatic loyalty to the king of the country*. This may seem to be a pedantic distinction, but I shall try to argue that there was a real difference. I wish to emphasize the first part of King Ólafr's statement, namely his acceptance of Earl Eiríkr's just cause to fight him. The Earl's father, Earl Hákon, had been driven from his position as ruler of western, central, and northern Norway by King Ólafr and killed by a slave while hiding from Ólafr and his men. Eiríkr himself had been driven into exile.³⁶ What Earl Eiríkr tried to do by allying himself with the Danish and the Swedish kings was to regain his father's political position. This was an aim that both he and King Ólafr, at least in Snorri's version, understood as a legitimate goal for a *Norwegian* earl. And if Earl Eiríkr had a just cause for his actions against King Ólafr, then in Snorri Sturluson's political universe, in the beginning of the thirteenth century, the Earl's men also had a just cause for fighting King Ólafr and his followers. There was no doubt in Snorri's mind that Earl Eiríkr's men had given their hands to the Earl.

The battle at Svold was essentially a battle between two Norwegian rival parties for royal power in Norway. It is typical of the nationalistic tendency of the royal sagas that Snorri depicts Earl Eiríkr as the real victor of the battle.³⁷

³² *Soga om Olav Tryggvason*, Noregs kongesoger, 1 (Oslo: Det norske samlaget, 1979), pp. 198–99; Bagge, *Society and Politics*, pp. 104–05.

³³ Bagge, *Mennesket i middelalderens Norge*, p. 179.

³⁴ Bagge, *Society and Politics*, p. 105.

³⁵ Bagge, *Society and Politics*, p. 105.

³⁶ See Bagge, *Society and Politics*, p. 101.

³⁷ Bagge, *Society and Politics*, p. 105.

Skaldic poetry treats Earl Eiríkr as the near equal of the Danish and Swedish kings. The Earl and his brother, in alliance with the great magnates, became the real rulers of most of Norway after victory at Svold. Subordination to the Danish king and perhaps also the Swedish king in certain parts of Norway was a mere formality.³⁸ Furthermore, Snorri implies that it is more difficult to gain and hold important political positions in a foreign country than in one's own. Support from the magnates and the people are decisive in winning a country. Snorri usually seems to imply that a conqueror, particularly a foreign one, will normally be unable to hold a country permanently through force.³⁹ I agree with Professor Bagge that the practical importance of the nationalistic sentiments should not be exaggerated. However, I am inclined to give these sentiments somewhat more weight and importance in our attempts to understand medieval political society.⁴⁰ It is perhaps dangerous to use the term 'nationalistic sentiments', as it has a modern meaning. It might be more correct to say that there was an awareness of the existence of a 'Norwegian society', an awareness that was independent of whether there was an autonomous Norwegian political unity.⁴¹

Sverre Bagge maintains that the royal sagas, the most specific national cultural tradition in Norway, belong to a period *before* a strong royal power was established. I find Bagge's conclusion both interesting and stimulating.⁴² The first recorded information about a Norwegian society in one form or another is from Ohthere (Ottar). He was a chieftain who around the year 890 visited Alfred, King of Wessex. Ohthere stated that he lived northernmost of all Norwegians and described in some detail what he called 'the land of the Norwegians', distinguishing them from other peoples, among them Danes and Swedes.⁴³ Ohthere presumably lived near today's Tromsø, in northern Norway. We know almost nothing about what constituted Norwegian society in Ohthere's lifetime, but it

³⁸ Claus Krag, 'Eirik Håkonsson', in *Norsk biografisk leksikon*, ed. by Jon Gunnar Arntzen (Oslo: Kunnskapsforlaget, 2000), p. 438; Bagge, *Society and Politics*, p. 35.

³⁹ Bagge, *Society and Politics*, pp. 97–98 and 105.

⁴⁰ See Bagge, *Society and Politics*, p. 105.

⁴¹ See also Bagge, *Mennesket i middelalderens Norge*, p. 180.

⁴² Bagge, *Mennesket i middelalderens Norge*, p. 180.

⁴³ Niels Lund, *Ottar og Wulfstan: To rejsebeskrivelser fra vikingetiden, oversat og kommenteret af Niels Lund* (Roskilde: Vikingskibshallen i Roskilde, 1983); see also Julia M. H. Smith, *Europe after Rome* (Oxford: Oxford University Press, 2005), pp. 181–82.

was probably more than just a geographical entity.⁴⁴ As Julia Smith states in her recent book, *Europe after Rome*, the words that early medieval (like ancient) thinkers used when describing social groups did not distinguish between groups whose membership was determined by biological descent (real or fictive) and those that were defined by such socially constituted features as shared behavioural traits, names, political identity, or size. Nor did any of these words specify the size, internal organization, or cultural characteristics of the peoples of early medieval Europe. The nuances of modern political and cultural terminology would have been meaningless to the early medieval mindset.⁴⁵

Norwegian society around the year 900 was of course the product of a historical development, a result of social, economic, and probably political structures and processes which mostly remain hidden from us.⁴⁶ But what we do know is that around 900 the process towards a politically united Norway had started. Later on, Norway was always treated as an entity, even when the country shared a ruler with other countries or was divided between several rulers. For example, the Danish king, Haraldr Bluetooth, let it be known on the Stone of Jelling (c. 970) that he had won for himself 'the whole of Denmark and Norway'. The Danish kings who later were to claim Norway never argued that Norway was a part of Denmark. Instead, they were forced to follow the same political rules or strategies as their Norwegian counterparts. As mentioned earlier, to win a country on a permanent basis was, according to Snorri, dependent on the support of both the magnates and the people of that country. And, as Sverre Bagge has pointed out, both the magnates and the people as a whole were rational actors, who acted according to their own interests.⁴⁷ These interests were of course influenced by the society the magnates and the common people were a part of.

The Norwegian and Danish kings who wanted to rule Norway all tried to secure their control over the country as best they could. However, the Norwegian kings had one aim that their Danish rivals did not have, namely the establishment of a nationwide acceptance that Norway should be ruled by a native ruler. In daily politics the kings and the magnates relied on retinues of men, but ultimately they were dependent on the acceptance of the people as a whole. And the political

⁴⁴ Erik Opsahl, 'Del I. 900–1537', in *Norsk innvandringshistorie*, 1: *I kongenes tid 900–1814*, ed. by Erik Opsahl and Sølvi Sogner (Oslo: Pax, 2003), pp. 27–29, 34–36, 39.

⁴⁵ Smith, *Europe after Rome*, p. 261.

⁴⁶ For a discussion of peoples and 'nations' in late ancient and early medieval Europe, see *From Roman Provinces to Medieval Kingdoms*, ed. by Thomas F. X. Noble (London: Routledge, 2006).

⁴⁷ Bagge, *Society and Politics*, p. 96.

struggle through the centuries from the tenth up until the beginning of the thirteenth century seems in the end to have favoured the native Norwegian kings. There are several indications in the source material from around the year 1200 that the idea that it was best to be governed by a native ruler was becoming widely accepted in Norway.⁴⁸ This was probably not a pure coincidence, but a consequence of the growing awareness that Norwegians belonged to a common society.

This, of course, does not mean that I regard Norway as a perpetual entity, predestined to become a separate kingdom. Not at all; I am talking about specific historical processes. These historical processes had in the 1230s produced a Norwegian political community where the rivals for the throne were both native men. There were several similarities between the rivalry between King Hákon and Duke Skúli and that between King Ólafr and Earl Eirík in Snorri's *Heimskringla*. However, in the former situation there was no Danish or Swedish king claiming superiority in one way or another over Norway. On the other hand, historical processes had not yet produced a widespread acceptance in Norway of the king being an unrivalled head of the 'state'.⁴⁹ The conflict between King Hákon and Duke Skúli had very many of the characteristics of the political struggle in the competitive, aristocratic society described in the 'classical saga'. The conflict was very much a 'personal' one, conducted in a personal manner.⁵⁰ As has been pointed out, King Hákon's final victory over Duke Skúli in 1240 was not inevitable. On the contrary, it was possible for Skúli to claim the throne with some hope of success and therefore gain a degree of popular support. In fact, the Duke made tangible progress in the first phase of his 1240 military campaign.⁵¹ King Hákon, on the other hand, could not take the loyalty of his men for granted, as the opening of this article makes clear. Even though the author of the saga of the king (Sturla Þorðarson) usually implies that the king gives his orders and is obeyed, this was obviously not true in the open conflict with Duke Skúli.⁵² The

⁴⁸ Opsahl, 'Del I. 900–1537', pp. 84–85.

⁴⁹ See Bagge, *From Gang Leader*, p. 158.

⁵⁰ See Bagge, *Society and Politics*, p. 105.

⁵¹ Knut P. L. Arstad, '"... underlig forjaget og planløs ..."? Strategi og feltherreegenskaper i Norge i første del av 1200-tallet', in *Krigføring i middelalderen: Strategi, ideologi og organisasjon ca. 1100–1400*, ed. by Knut P. L. Arstad, Forsvarsmuseets småskrif, 35 (Oslo: Forsvarsmuseet, 2003).

⁵² For general conclusions about obedience to King Hákon, see Bagge, *From Gang Leader*, p. 144; On King Hákon's relationship with his military men, see Hans Jacob Orning, 'Mot

final battle in Oslo has been characterized as one of the few really decisive battles in Norway.⁵³ And with the death of Duke Skúli, King Hákon's victory was assured. The way was open for major steps to be taken in the building of a Norwegian state in what remained of the high Middle Ages.

The Europeanization of Norway?

In her book, Julia Smith points out that the society of the Norwegian chieftain Ohthere and the agricultural economy of northern Flanders represented the extreme modes of labour and lordship in early Medieval Europe. Ohthere's wealth came from herds of reindeer and personal tribute. Neither of these sources of income implied an acknowledgement of precise territorial boundaries; the system in the far north reflected the scarcity of good arable land and the lack of tightly organized lordship. Flanders, by contrast, had highly regulated farming, demarcated plots of land, firm subordination to royal, comital, and ecclesiastical lordship, and a rapidly developing system of commercial exchange. However, the two regions shared important features: both were carefully organized to exploit the regional natural resources; both reveal local gradations of wealth and rank, which, although very different in absolute terms, manifested themselves in social and political inequalities on a regionally significant scale; both contributed resources that kings and their retinues valued; in both regions, powerful men and rulers obtained resources that would have sustained their lordships in various ways.⁵⁴

These common features are worth taking into consideration when discussing the question of 'feudalization' in different regions of Europe, regardless of whether we are considering the centre or the periphery. In many ways I perceive Susan Reynolds's work on the subject as a liberating influence on the study of Norwegian medieval history. Instead of constantly asking to which extent the Norwegian society imported various 'European' institutions from central parts of

statsdannelse? En undersøkelse av aktørers forhold til et utvalg sosiale normer med henblikk på om det foregikk en statsdannelse i Norge i første halvdel av 1200-tallet, vesentlig etter Håkon Håkonssons saga' (unpublished thesis for the cand.philol. degree, University of Oslo, 1994), pp. 98–101, and *Unpredictability and Presence: Norwegian Kingship in the High Middle Ages* (Leiden: Brill, 2008), pp. 151–53.

⁵³ Arstad, "... underlig forjaget og planløs ..."?; p. 57; see also Orning, 'Mot statsdannelse' and *Unpredictability and Presence*.

⁵⁴ Smith, *Europe after Rome*, p. 182.

Europe and in that way became more 'European', we can focus more on how common European features manifested themselves in Norway. Through her nuanced perspective on the European 'feudal model', Reynolds has drawn our attention to the great variety of social organization in the different regions of Europe in the early part of the high Middle Ages. Norway and other Scandinavian countries become less exceptional, in terms of social organization. Professor Reynolds's work opens for a 'model' that is less one-sided and more characterized by an exchange between Norway and the rest of Europe. In recent years Scandinavian historians have focussed more on the ability of Scandinavian societies to actively utilize European institutions, ideas, and cultural elements. In a way the Scandinavian countries 'europeanized themselves'.⁵⁵

Of course, there can be no doubt that Scandinavia received impulses from outside. As far as I can see Norway fits well into Susan Reynolds's 'bureaucratization' or 'state building model' when speaking of the existence or development of 'feudal' institutions and elements in a medieval society.⁵⁶ Ohthere lived 'northernmost of all Norwegians', in the periphery of the periphery. However, as Ohthere's account and other sources reveal, it was the sea that was the most important medieval transport and travel route over long distances, linking different regions. And chieftains or magnates from northern Norway seem to have played a decisive role at least in the first phase of the unification process of the Norwegian kingdom. The sources for this process are scarce and difficult to interpret, and there is an ongoing discussion on the extent to which sagas are reliable sources. Sverre Bagge has expressed a growing confidence in the saga authors' consciousness about the difference between their own time and the past about which they were writing.⁵⁷ According to him, Snorri's *Heimskringla* gives some impression of the social order, political behaviour, and norms in Norway in the early Middle Ages.⁵⁸

The political struggle in Snorri's *Heimskringla* consists to a large extent of individual kings or magnates competing for power and resources, where disputes

⁵⁵ Per Ingesman Thomas Lindkvist, 'Indledning', in *Norden og Europa i middelalderen*, ed. by Per Ingesman and Thomas Lindkvist, *Rapporter til Det 24. Nordiske Historikermøde*, 1, Skrifter udgivet af Jysk Selskab for Historie, 47 (Århus: Aarhus Universitetsforlag, 2001), p. 9.

⁵⁶ See Reynolds, *Fiefs and Vassals* and 'Fiefs and Vassals after Twelve Years'.

⁵⁷ Sverre Bagge, 'Svar til Hans Jacob Orning', *Collegium Medievale*, 10 (1997), 197–99 (p. 199), and *Society and Politics*.

⁵⁸ Sverre Bagge, 'Snorres bilde av det tidlige norske kongedømme', in *Myte og ritual i det førkristne Norden*, ed. by Jens Peter Schjødt (Odense: Odense Universitetsforlag, 1994), pp. 9–22.

or revenge are pretexts rather than real reasons for conflict, and where alliances are the results of personal interests.⁵⁹ However, as I have pointed out, long-lasting political success and control was dependent on more factors; the general political and administrative landscape was more complex than just a struggle between magnates using force. From the late twelfth until the first part of the fourteenth century, the political and administrative apparatus in Norway was built up with elements similar to other parts of Europe and some of them are often characterized as 'feudal'. The administrative duties of the *lendirmenn* can only be reconstructed in any detail by the Norwegian regional laws, which in their preserved condition are from the second half of the twelfth or first half of the thirteenth century.⁶⁰ The quasi-bureaucratic system of *sýslu menn* is first presented in its full scope in sources from the second half of the thirteenth century. There are some indications that the system was relatively new at this point and evidently it represented a bureaucratization of the royal administrative apparatus in Norway.⁶¹ At the same time the law of the royal *hirð* (*hirðskrá*) was revised, with the consequence that the Norwegian lay aristocracy was more clearly defined and became more exclusive. Membership of the royal *hirð* had become the formal criterion for being accepted in society as a member of the aristocracy. The same law described a ceremony for entrance into the *hirð* consisting of handclaps, an oath, and sword-taking.⁶² In addition, only members of the royal *hirð* could receive a *sýslu* or other regional posts in the royal administrative apparatus. Titles like 'baron', 'knight', and 'esquire' were replacing the Norwegian titles *lendmaðr*, *skutilsveinn*, and *hirðmaðr*, etc. As far as the rights of property and renting property are concerned, new research has uncovered a development in Norway during the thirteenth century towards a system that exhibited similarities to the division between *dominium directum* and *dominium utile*.⁶³

A possible conclusion for this article could be that Susan Reynolds's fundamental critique of European feudalism has made Norway more 'European' even in the early Middle Ages. Norway can be viewed as an example of the European diversity of the period, exhibiting similarities to and differences from other countries and regions. Norway, like the rest of Europe, became more homogenous during the high

⁵⁹ Bagge, *Society and Politics*, p. 121.

⁶⁰ Andersen, *Samlingen av Norge og kristningen av landet 800–1130*, pp. 21 and 282–83.

⁶¹ Bagge, *Fra knyttneve til scepter*, p. 41.

⁶² Steinar Imsen, *Hirdloven til Norges konge og hans håndgangne menn* (Oslo: Riksarkivet, 2000).

⁶³ Tore Iversen, 'Jordeie og jordleie — Eiendomsbegrepet i norske middelalderlover', *Collegium Medievale*, 14 (2001), 79–114. See Reynolds, *Fiefs and Vassals*, p. 72.

Middle Ages, in a process that Robert Bartlett has labelled 'the making of Europe'.⁶⁴ But perhaps Susan Reynolds's work can open for a nuanced perspective of Professor Bartlett's model, by placing a stronger emphasis on the reciprocity between centre and periphery in the process that created Europe and European society?

⁶⁴ Bartlett, *The Making of Europe*.

FEUDALISM IN HUNGARY?

János M. Bak

The question mark in the title of my paper is warranted by two facts. First, because the semantic terms we need to study are almost entirely lacking in the historical documentation available, and, second, by evidence which seems wholly to contradict Susan Reynolds's thesis that fiefs and vassals were invented by early modern lawyers.¹

Pro primo. As far as I can see — and I rely here on the rather extensive research of other scholars — the words *vassal* and *fief* (in any form) do not appear in medieval records of the kingdom of Hungary-Croatia. There is one major exception: land held by men from ecclesiastical institutions is often referred to as a *feudum*, but this frequently, however, means peasant plots.² This may be partly because clerical scribes were familiar with (for want of a better phrase) 'western' usage, but also because the noble and non-noble servitors of churches, usually called *prediales* (a term drawn from *predium*, estate or village), were themselves obligated to provide specified services to their lords spiritual.³ These nobles (which term I will discuss below) usually had no subject peasants but supplied the

¹ I beg the reader's indulgence for not offering the usual detailed references to sources and literature. The present article is intended to open up further research and does not purport to be a systematic study of the issues touched upon. Furthermore, full referencing would require an exhaustive survey of the social and political history of Hungarian nobility, with a large number of works being in Magyar, and this is beyond the scope of the present task.

² Examples of *feudum*, *infeodatio* in the records are listed in György Bónis, *Hűbériség és rendiség a középkori magyar jogban* (Kolozsvár: Nagyenyedi Bethlen, [c. 1944]) (hereafter Bónis), pp. 313–15, where he demonstrated that the word was used for a kind of long-term rental agreement, also called *arenda*, *census*, etc.

³ Bónis, pp. 181–216.

troops which churches were expected to send to the king's army. A version of *Lehen* appears occasionally in charters — and when it appears it refers to peasant holdings — but it is so rare that I consider it irrelevant.⁴ Clearly, the word may have travelled to our area of investigation but the meaning had been lost en route. The word *homagium* does show up in the records but in contexts hardly relevant for our subject, as I shall soon explain.

Pro secundo. If fiefs and vassals or anything similar to them did exist (and I will raise the question whether something similar may have existed), we might ask why nothing feudal-smelling was mentioned by the sixteenth-century lawyer-politician, Stephen Werbőczy, whose law book, the so-called *Tripartitum* (1514, printed 1517),⁵ summarized the medieval legal situation and served as a bible for Hungarian law courts for centuries. By contrast, Werbőczy went out of his way to hide the fact that there were lesser landowners in the kingdom who were dependent on other, major landowners (*familiares* — about whom more later). To be precise, he only hints at this fact in a very few cases (where reality forces its way in, one might conclude). For instance, he mentions the crime of a nobleman who abandons 'his lord's' castle and he speaks of 'non-noble retainers' in contrast to noble ones. Erik Fügedi has nicely pointed out, in his book about the Elefánty noble kindred, the conspicuous differences between norms set down in law books and the reality as reflected in charters.⁶ Nor does this great collection of customs ever mention the private donation of land: in Werbőczy's world, only royal donation exists, and that is what makes persons *veri nobiles*, and thereby entitled to the privileges (and legal procedures regarding their properties) which he then describes in detail. The reason for this is essentially political: the author of the law book was a proponent of the rights of the lesser nobility and did not wish to admit that the central tenet of belief held by Hungarian nobles — that all of them

⁴ Bónis, p. 329.

⁵ *Tripartitum opus iuris consuetudinarii incltyti regni Hungariae per Stephanum de Werbewcz editum. The Customary Law of the Renowned Kingdom of Hungary: A Work in Three Parts Rendered by Stephen Werbőczy (The "Tripartitum")*, ed. and trans. by János M. Bak, Péter Banyó, and Martyn Rady, with an introduction by László Péter (Budapest-Idyllwild: CEU Medieval Studies – Schlacks, 2005) = *The Laws of Medieval Hungary/Decreta regni mediaevalis Hungariae* (hereafter DRMH), v (hereafter Trip.).

⁶ Erik Fügedi, *The Elefánty: The Hungarian Nobleman and His Kindred*, ed. by Damir Karbić (Budapest: Central European University Press, 1998), pp. 20–68.

enjoyed the same liberty, *unam eademque nobilitatem*⁷ — was far from reality. I shall return to this topic later.

Werbőczy did use the word *homagium*: usually as the Latin for man-price, i.e. compensation to the family of a wronged person, a late version of *Wergeld*. It is therefore irrelevant for a study into feudal practice. However, twice, I believe, he referred to the homage due to the king from lords spiritual, ‘just as from lords secular’, using his words.⁸ Unfortunately, there is no evidence for any formal homage ever having been rendered from either kind of lords (unless one includes the acclamation and ritual acceptance of the new ruler at coronation ceremonies). Here the law book seems not to reflect actual practice but Werbőczy’s extensive reading of legal literature (he knew Bartolus well, and some others too, probably from some textbook).⁹ In fact, he knew — or at least knew about — the *Libri feudorum* which he mentioned in a subordinate clause.¹⁰

We may conclude, therefore, that the situation in Hungary in relation to the use of feudal terms by lawyers, particularly the most important one, Werbőczy, is the exact opposite of what is argued for France by Susan Reynolds and her supporters.

Before I speak further about ‘noble’ landholding, let me add a caveat, which may be well known to the reader. The word *noble* in the kingdom of Hungary refers to a wide stratum of landowners who held the privileges of freedom from taxes, *habeas corpus*, and unlimited inheritance rights to their estates as long as there was a male heir within the kindred (or clan).¹¹ All of them claimed to be descendants of the land-taking clans of the ninth century or, at any rate, owned

⁷ The sentence appears first in the law of 11 December 1351, para. 11 (DRMH II, ed. by János M. Bak, Pal Engel, and James R. Sweeney, p. 11), originally referring to nobles of the different regions of the country — see my, ‘Louis I and the Lesser Nobility’, in *Louis the Great: King of Hungary and Poland*, ed. by Steven B. Vardy, Géza Grosschmid, and Leslie S. Domonkos (Boulder: East European Monographs, 1986), pp. 67–80 — and received its ‘general validity’ by being included in Trip. I, 2, pp. 48–49.

⁸ See Trip., Glossary s.v. man-price, p. 451.

⁹ Werbőczy’s knowledge and dependence on Roman Law is a long-debated issue; see Martyn Rady, ‘The Prologue to Werbőczy’s *Tripartitum* and its Sources’, *English Historical Review*, 121 (2006), 104–45.

¹⁰ He argued that custom even if written down as in *consuetudines Feudorum que redacta sunt in scriptis* still remains custom; Trip., Prologue, pp. 34–35.

¹¹ On the inheritance system — and in general on Hungarian nobility — see, besides Fügedi, Elefánthy, passim, Martyn Rady, *Nobility, Land and Service in Medieval Hungary* (Basingstoke: Palgrave, 2000).

their land as grant from the king, the owner of all the land in the kingdom. They may have constituted some 5 to 6 per cent of the population (in Poland, where similar conditions prevailed, it was perhaps as high as 8 to 9 per cent), so they are by no means comparable to what was called *noblesse* in France or *Adel* in Germany. Perhaps, the word *freeman* (which Lisa Wolverton uses for their Czech equivalents¹²) would be a more precise characterization. Yet, from the late thirteenth century onwards, our sources call them *nobiles* and the term had relevance. This legal category included a few dozen magnates/aristocrats who owned several castles, or large estates with the income from and jurisdiction over thousands of dependent peasants, including townsfolk, as well as many thousands of landowners who had no subjects at all and lived in conditions rather similar to their peasant neighbours (*nobiles unius sessionis*). There were, of course, lesser landowners, lords with one castle and so on, in between these two extremes. But, *de iure*, they all enjoyed the same privileges.

The myth of the ancient, original ‘conquest’ was used in the medieval kingdom to permit virtually all landed (noble) property to be regarded as inheritable within the kindred (to the last surviving male, however far removed). There were very few exceptions. It was, therefore, comparable to what is generally called alodial property. In other words, unless explicitly stated otherwise, the land of *nobiles* was in theory not burdened with any duty. Every nobleman had the duty to follow the king’s flag in battle and had the right and duty to appear at noble assemblies — both of these in person — but these flowed from his fidelity to the crown, not from his landholding. Indeed, both royal (and, as we shall see, private) donations always refer to services already rendered by the grantee, for which the donation is a reward. Admittedly, the grant often goes on to say that it should encourage the grantee to even greater fidelity and service, but it is rare for a grant to stipulate some future *conditio*. Such ‘perscription’ would have been regarded as incompatible with noble liberty. Thanks to these legal fictions and common perceptions, anything resembling relationships between freemen burdened with required service would have been unthinkable. If there is no fief, there can be no vassal, unless I am mistaken.

A very brief *Forschungsgeschichte* may not be inappropriate here. I do not wish to wish to give the impression of having done extensive archival research in order to make authoritative statements about what is and what is not in charters. Yet, such a survey is also important for recognizing the political background to the use

¹² Lisa Wolverton, *Hastening toward Prague: Power and Society in the Medieval Czech Lands* (Philadelphia: University of Pennsylvania Press, 2001), *passim*.

of feudal vocabulary, not in the sixteenth or seventeenth centuries, but rather in the nineteenth and twentieth. Hungarian critics of the *ancien régime* and its remnants (the great landed estates, usually referred to as *latifundia*) used the notion of 'feudal' just as widely as the radicals and liberals in France, Germany, and elsewhere. This tradition has continued until today, as we know from Frederic Cheyette and many Hungarian commentators. However, from the very beginning of academic, legal, and constitutional history into the Hungarian past, the prevailing position was that there was never anything feudal in Hungary. According to this view, the 'thousand-year-old constitution', claimed to be comparable only with the English, did not allow the 'German and French style encroachments' of private power on the public authority of the monarchy, and this was supported ever since the arrival of the Magyars in the Carpathian Basin by the consensus of the 'nation'.¹³ This notion went further and presented the Holy Crown of St Stephen as the embodiment of the joint sovereignty of king and estates (*ország* = Land) and was the source of all property and nobility.¹⁴ The classics of legal history which are best known abroad include Ákos Timon, the inventor of the so-called theory of the Holy Crown and someone who rejected any attempt at detecting elements of *Lebenswesen* in the Hungarian Middle Ages.¹⁵ One may call this, perhaps, a 'super-Whig' narrative, positing the existence of gentry-parliamentarism from the earliest history, and which then never allowed bad feudalism to intrude. The first breach in this wall was, I believe, the studies of the very influential historian and conservative ideologue, Gyula Szekfű, who in the early twentieth century published a study on *servientes* and *familiares*, demonstrating that a significant number of Hungarian nobles were in fact clients and servitors of their better-off fellows.¹⁶ This feature was then explored in some depth by Péter Váczy¹⁷ and, for the mid-fifteenth century, by the late medievalist,

¹³ On the 'thousand year old constitution', see, e.g., János M. Bak and A. Gara-Bak, 'The Ideology of a "Millennial Constitution" of Hungary', *East European Quarterly*, 15 (1981), 307–26.

¹⁴ On this complex issue, see László Péter, 'The Holy Crown of Hungary: Visible and Invisible', *Slavonic and East European Review*, 81 (2003), 421–510.

¹⁵ Ákos Timon, *Ungarische Verfassungs- und Rechtsgeschichte* (Berlin, 1904; 2nd edn Berlin: Puttkammer, 1909).

¹⁶ Gyula Szekfű, *Servientek és familiárisok* (Budapest: Magyar Tud. Akad., 1912); a short version appeared also in German as 'Die Servienten und Familiaren im ungarischen Mittelalter', *Ungarische Rundschau*, 2 (1913), 524–57.

¹⁷ Péter Váczy, 'A királyi servientek és a patrimonális királyság' (The Royal *servientes* and the Patrimonial Monarchy), *Századok* (1927–28), 243–90, 351–414.

Elemér Mályusz (recently deceased). The latter went so far as to style this kind of dependency a Hungarian version of 'feudalism', and called the fifteenth century an age of 'feudal state' in the kingdom.¹⁸ (Mályusz and his contemporaries understood 'feudalism' not in Marxist terms — though we could discuss elsewhere their tendencies in this direction — but in those of Max Weber.)

The crucial work on this topic appeared at the very end of the Second World War by György Bónis. His book on *Feudalism and Corporatism in Medieval Hungarian Law* is a gold mine of information on any matter pertaining to our subject and especially the *familiares* and similar kinds of servitors or clients.¹⁹ Bónis wished to escape the quandary of the previous generation of legal historians by contrasting, as the title suggests, 'feudal' with 'corporatist' (*ständisch*) — in the sense used by Weber. He argued for the continuous growth of horizontal social bonds, which were parallel to, and increasingly more important than, vertical social bonds. By admitting the existence of 'feudal' elements, but characterizing them as incomplete and limited by patrimonial features (again a Weberian ideal type), he emphasized the development of corporatist (*ständisch*) features. By doing this, he was able partly to rescue the tenet of a 'special' Hungarian constitutional development, while avoiding the nationalist ideas of earlier literature about a 'special Magyar legal spirit'.

Within a few years of its publication, Bónis's findings were swept away by the imposition of the 'feudal mode of production' theory in its Stalinist form. The following decades produced little of merit. Even such a fine historian as Emma Lederer wrote books about the development of feudalism in Hungary; she merely told the story of the growth of secular landholding under this heading.²⁰ There was no extensive *Feudalismusdiskussion* in Hungary — like the one in the GDR — which might have brought some new insights to the fore. However, this Procrustean bed had some unintended consequences. Narrow-minded dogmatism irritated the critically and independently minded historian Pál Engel, enough to make him look carefully at possible 'feudal' features (in the non-Marxist sense). He drew appreciatively from Bónis's neglected work, and this led him to his

¹⁸ Elemér Mályusz discussed these matters in several studies; most comprehensively in 'Magyar társadalom a Hunyadiak korában' (Hungarian Society in the Age of the Hunyadi), in *Mátyás király emlékkönyv*, ed. by Bálint Hóman, 2 vols (Budapest: Franklin, 1940), I, 309–419.

¹⁹ See n. 2, above.

²⁰ Emma Lederer applied the Soviet Marxist notion of feudalism in her *A feudalizmus kialakulása Magyarországon* (Development of Feudalism in Hungary) (Budapest: Akadémiai, 1969).

pioneering study about the governmental system of fourteenth- and fifteenth-century Hungary, in which ‘honours’ played a central role. This feature is worth comparing with ‘feudal’ arrangements.²¹

Two major subjects that seem to relate to matters feudal in a more or less technical sense are *familiaritas* and *honores*. Not having spent the necessary time to reflect on all this in the light of Susan Reynolds’s critical propositions, and not being well-enough equipped for deciding this matter by myself, I wish to present to you the results of relevant research by other scholars, particularly Bónis and Engel, on these two aspects of medieval Hungarian state and society. In so doing, the reader can decide whether the question mark in the title should remain or not.

The emergence and development of the wide stratum of nobles is a long and controversial story. We know very little about the first centuries of the kingdom after its foundation at the turn of the first millennium, but by the early thirteenth century a group of people called *servientes regis* appear alongside the small number of the king’s great men who at that point were alone called *nobiles*. Within a few generations, most of these *servientes* (and other men in the king’s service, usually attached to royal castles) were referred to as nobles (or noble servitors) and their basic privileges — as outlined above — were codified in royal charters of liberty. These documents — such as the so-called Golden Bull of Andrew II — already hint at the right of any *serviens* to change his lord, although, at this time it was only permitted between the king and his son, the *rex iunior* Stephen.²² (To be precise, something similar already existed in the two-hundred-years-old law of St Stephen, stating that no *senior* should be allowed to lure away the *miles* of another to his service. Nonetheless, we do not know what status these *milites* may have had.²³)

Thirteenth-century charters ‘ennobling’ royal servants stated that they were being accepted into the king’s *familia*. The ennoblement was usually accompanied

²¹ Pál Engel’s studies are now reprinted in his selected works: *Honor, vár, ispánság* (Honor, Castle, County), ed. by Enikő Csukovits (Budapest: MTA TTI, 2003), pp. 73–161. One of them was partially translated by Stanisław Soroka and published in *Questiones medii aevi novae*, 1 (1996), 91–100. Engel himself summarized his findings in his *The Realm of St Stephen: A History of Medieval Hungary 895–1526*, trans. by Tamás Pálosfalvi, ed. by Andrew Ayton (London: Tauris, 2001), pp. 151–53.

²² 1222, para. 18; DRMH I, ed. by János M. Bak, György Bónis, and James R. Sweeney, 2nd edn (Idyllwild: Schlacks, 1999), pp. 33–34.

²³ 1 St Stephen, 23; DRMH I, 6.

by the grant of land from the gradually diminishing royal domain, in return for (almost exclusively martial) services rendered to king and crown. However, as early as the end of the thirteenth century, a period often referred to as one of 'feudal anarchy', when powerful men used the succession crisis to build up veritable territories under their command, the *familia* and the *familiares* of these so-called oligarchs were mentioned more and more frequently. In 1298 the Diet (at that time dominated by the middling and lesser nobility) considered it necessary to pass a law 'that nobles should be free to serve whichever lord they wish according to their free will', and threatened those who forced noblemen into service with excommunication.²⁴ In the course of the following centuries, the notion of a noble person being a *familiaris* of another, more powerful and richer, noble became widespread in the kingdom. For a while different words were used for such a relationship, from *servitor* to *famulus*, etc., but *familiaris* became the generally used one. (It may have been 'imported' from Angevin South Italy, via Dalmatia and by the new dynasty, but that is a separate discussion.²⁵)

Let me present a few characteristics (as collected by Bónis²⁶) of such arrangements and we can then decide to what extent *familiares* were vassals and their lands fiefs. It is not always easy to distil the precise conditions, since *familiaris* was used for both noble and non-noble servitors, but usually some additional evidence allows us to separate the two. The principle of voluntary acceptance of service (in the sense expressed in law 12 in the 1298 Diet) remained valid, even if in its breach. When, especially in the early 1300s, oligarchs forced nobles to become their *familiares*, several court cases prove that they acted illegally and were condemned. The nobleman became a *familiaris* of a lord by promising him — and sometimes his son as well — fealty and loyalty and service in any manner. There are cases when oaths were sworn, either by both sides or by the servitor. Later, especially when the private seals of nobles became common, written instruments, spelling out the obligation and sealed by the retainer, have also been issued. More formal or ceremonial inductions do not seem to have been usual.

These documents rarely specify the services required. They were primarily military ones, that is, when called up by the king the retainers had to serve in the troops of the lord, under his flag (whence the name *banderia*). Other duties of

²⁴ 5 August 1289; 12; DRMH I, 50.

²⁵ Damir Karbić started to explore this possibility in 'The Subići of Bribir' (A Case Study of a Croatian Medieval Kindred) (unpublished doctoral dissertation, CEU, 2000), pp. 25–28.

²⁶ See n. 2, above; the following paragraphs are based on that monograph, especially pp. 217–312.

familiares included attendance at the lord's court, assistance in the management of his estates (including sitting with or for him in the manorial court), acting for the lord in courts of justice, and serving as his deputies or subordinates in administrative positions. So, for example, it was typical that retainers were *vice-comites* for lords holding the office of the *comes* of a county, or were castellans in castles assigned to them as honours. It was also common for them to follow their lord into royal judicial offices as his so-called protonotaries, i.e. *de facto* judges in the higher courts (and this was particularly true in the fifteenth and sixteenth centuries). General John Hunyadi is a good example. He rose to higher office by being a retainer first of the Csáki family, then of the bishop of Csanád/Cenad, from whom he went to serve the bishop of Zagreb and then the magnate Ujlaki, and so it continued until he ended up as regent of the kingdom in 1445–53. And the aforementioned Werbőczy started his career in some way connected to the magnate Bátori family, then became a retainer of Peter, Count of St George and Bazin, and finally, for many decades, of Michael Szobi, a major player in the power politics of the 1500s. He may have obtained his office in the chancellery through these men, but remained in this office even when his *dominus* was moved to other tasks and another baron took over the bench (which was common for lawyers who were practically trained). He ended up as the leading judge of the royal court of personal presence, briefly even count palatine.²⁷ Both of these gentlemen (especially Hunyadi) having started out with middling properties, ended up as great landowners with many retainers of their own.

In return for different services — and they were hierarchically organized, some retainers being closer to the lord and higher in status than others — the *familiaris* was rewarded by necessities of subsistence. In earlier times they may have been actual table- and house-companions of their seniors, but later they usually received cash, rewards in kind (such as clothing, horses, and foodstuff), or, occasionally, rights to certain revenues of their lord. In 1317, *comes* Pető of the county of Szatmár promised to Michael son of Michael, who *deo volente se nobis servire adiunxit*, either the post of *vice-comes* of his county or a post in the treasury, thirty marks of silver (ten upon his entering the service), a surcoat and a fur coat, and,

²⁷ On these men see Joseph Held, *Hunyadi: Legend and Reality* (Boulder: East European Monographs, 1985); and András Kubinyi, 'István Werbőczy als Politiker vor Mohács (1526)', in *The Man of Many Devices, Who Wandered Full Many Ways [...] Festschrift in Honor of János M. Bak*, ed. by Balázs Nagy and Marcell Sebők (Budapest: Central European University Press, 1999), pp. 558–82.

if he could obtain it, a village by royal grant.²⁸ Wills regularly list *subsidia* due to retainers which will be paid by the heirs. Payment in coinage became so widespread that by the end of the Middle Ages *familiaris* and mercenary were sometimes indistinguishable.²⁹

If the senior had insufficient moveable goods or revenues, *familiares* were rewarded in land. As early as in 1255, Simon, *familiaris* of the Hospitallers in Esztergom, received a vineyard for his two years of service because the knights did not have cash. In 1314, Master James Tornai wrote that because *servicia Alberti cum rebus [...] refundi non possumus* he would instead grant him his village Zempléngyümölcsi.³⁰ As far as one can see, while rewarding retainers with landed property was not general practice, it was not rare either. However, as Bónis noted, the history of private donations in Hungary has not been properly researched, and this is still true. (As we noted above, the *Tripartitum* entirely omits any reference to such grants.) It seems that the donation of private land gradually took over from remuneration in coin and kind in the later centuries, but we cannot argue as Bónis does that there is a change from a truly personal and familiar relationship to one that gradually became reified and 'businesslike'.

These donations of land were, as a rule, granted in perpetuity to the retainer and his male heirs, just like any other noble land in the country. (Admittedly, there are some examples of time-limited grants, but those are usually more businesslike transactions, such as mortgages and temporary usufruct grants in recompense for damages.) Since a noble *familiaris* could not lose his noble status, he would have regarded time-limited tenure of some landed property as inappropriate. Furthermore, Bónis found many cases where this sort of private grant was confirmed by the king, or a royal grant on the same property was issued shortly after the private grant had been made. In that case, of course, there could be no doubt about the — for want of an alternative word — alodial character of the property. It remains unclear whether such royal consent had to be, and was always, obtained and whether it is simply historical accident that such a limited number of cases are known. To make our life a bit more difficult, grants of land seem to have been possible with or without the 'royal right' in them. It is unclear what *ius regium* exactly implied, as the expression shows up only in the form of condemning people for 'hiding royal right' (*celatores iurium regium*). It was

²⁸ Bónis, p. 224.

²⁹ Bónis, p. 250.

³⁰ Bónis, p. 251.

self-evident that when there were no legitimate heirs the land was to escheat to the crown; so what precisely would *ius regium* have meant? With regard to escheat: in many cases, private grants included the clause that the estate would escheat to the grantor in the case of 'default of issue' (*defectus seminis*). In this respect, therefore, the seniors emulated the king when granting land to their retainers.

Did the land granted become forfeit if services were not performed? Since the grants were based on past accomplishments (adopting the formula found in royal grants of 'encouraging even more faithful service in the future'), they were not conditional upon future service. In a few known cases, grantees did return their land to their seniors, because, in their own words, they felt that, due to old age or frailty, they could not live up to their lord's expectations. In one case, the document added that the son of the retainer had died, implying that he would otherwise have continued to serve and thereby deserve the property.³¹ While royal grants could be annulled and forfeited because of a number of crimes specified as *infidelitas*, including not only treason or *lèse majesté* but a number of crimes that would be called felony in English law, there is no evidence for a retainer's losing his land because of *infidelitas* to his lord.

The question of financial and legal responsibility and independence by the retainer is a related, but entirely separate, matter. Retainers in charge of their lord's affairs were financially responsible for their own conduct and could be taken to court, for example, for having absconded without rendering accounts. The independent noble status of *familiares* is demonstrated by their status when called to court. There is ample evidence that *familiares* could not be 'presented' (taken, hauled) to a court of justice, but had to be formally summoned according to the set procedure for all nobles and 'men of property'.³² As a consequence of the principle of *habeas corpus*, a free man in the kingdom had to be formally summoned from his 'usual place of residence' (or, which is not irrelevant to our present study, from his 'place of office', *officulus*) by a bailiff of the court, frequently accompanied by a witness from a chapter of a convent (for the sake of written evidence). Attempts at taking *familiares* to court without such formal summons were regularly opposed and frustrated. On the other hand, scholars seem to agree that the retainers were subject to their lord's jurisdiction in matters of their service. It is unclear precisely what *ius regium* implied, because in 1490 George Kondé of Pókatelek

³¹ Bónis, p. 279.

³² Trip. II, 23, DRMH v, 277.

successfully sued his senior in court, the provost of Alba Julia, for having been incarcerated for failure to render accounts of an estate entrusted to his management.³³ We have indications of courts consisting of peers and chaired by the senior for adjudicating affairs of retainers, but no written record of this is known to me.

Let us now turn to the obligations of noble retainers to 'follow the king's flag'. Originally, personal military service in the defence of the country was a core concept behind noble liberty, and in noble ideology it was even more prominent. Throughout the Middle Ages it was unquestioned that every free man was bound to appear on the call of a general levy (*exercitus generalis*), and that retainers came under the flag of their lords (especially if they were the great men of the realm, lords of *banderia*, *Bannerherren*), while others were led to camp by the county's *ispán*. Only in the later fifteenth century did legislation take cognizance of the poverty of many nobles and prescribed that *nobiles unius sessionis* need not appear in person, but one in ten of them had to send to the campaigns an equipped light cavalryman (whether from among themselves or hired for this service was not specified).³⁴ But even then, no distinction was made between nobles with and without a lord.

We may ask, finally, how strongly such a *familiaris*-retainer was bound to his lord. There is no evidence in the records for *diffidatio* in any form. In early legislation (such as that of 1222), the retainer's freedom to change lords was connected to *licentia obtenta* and this formula does show up, though rarely. But that the service was clearly terminable is evident from many mentions of 'former retainers' and from the careers of soldiers and administrators who moved from one lord to another (as we have seen with Hunyadi and Werbőczy).

There are not enough specific studies on noble families or kindreds — such as Fügedi's on the Elefánthy or Cosmin Popa Gorjanu's on the Himfy³⁵ — and even fewer on lesser nobles to be able to decide how general *familiaritas* was among the wide stratum of nobles in the kingdom. We know much more about the number

³³ Among other laws, in the *Decretum maius* of King Matthias the problem of the responsibility of retainers and the right as well as duty of their lords to punish them for trespasses is regulated in some detail: 1486, paras 33 and 34; DRMH III, ed. by János M. Bak, Leslie S. Domonkos, and Paul Harvey (Los Angeles: Schlacks, 1996), pp. 56–57.

³⁴ For example, in 1492, para. 20 (DRMH IV, forthcoming).

³⁵ Cosmin Popa-Gorjanu, 'Medieval Nobility in Central Europe: The Himfi Family' (unpublished doctoral dissertation, CEU, 2004).

and function of retainers in the service of one major lord or another,³⁶ but much less about the percentage of lesser nobles who took service with a senior. Among the Elefánthy, a kindred of middling status (in which only one member from among over eighty made it to royal service), only two were retainers of a better-off noble. The Himfy were overwhelmingly *familiares* of the king but had a fair number of retainers themselves. Fügedi pointed out that becoming a retainer was one of the most common ways of avoiding impoverishment, otherwise inevitable due to the partible inheritance system in the kingdom. However, that depended on the number of sons in more than one generation. Many more such monographs are needed before we can risk anything like a quantitative statement.

Let me draw some conclusions. Noble retainers seem to have, as a rule, joined a lord freely and were able freely to leave his service. They did not lose their noble status (such as in terms of jurisdiction or freedom from taxes) and their own (family) properties were not involved. Remuneration, if not in moveable goods, was in the form of private donations, but these became the full property of the grantee whether or not they were subsequently confirmed by royal grant. While the services expected from retainers were rarely specified, they were not legally connected to lands granted to them. Can we really talk here of vassals or fiefs?

The second 'feudal-looking' feature in the Hungarian kingdom was the system of honours. Honours were clearly a feature of the administration of the realm under the Anjou in the fourteenth century, but in all likelihood this institution went back to the previous century. Let me just outline the main argument, since space precludes a detailed analysis. Pál Engel studied the administration of the one hundred and fifty or so royal castles in Angevin Hungary.³⁷ He demonstrated that many were not entrusted to royal castellans, but to men in the service of magnates (*familiares*, as we have described them above). Upon closer examination he found that in the fourteenth century the king granted *honores* to a relatively small number of leading men, who usually held a post in the king's court and were given three, four, and sometimes more, counties to be their *comites* (*ispáns*), together with the royal castles in them. The 'county' at that time was in transition from its original meaning as a territorial part of the extensive royal domain (as in the eleventh and twelfth centuries), towards a corporation of nobles of a district

³⁶ A good example is the study of the household of Nicholas Újlaki by András Kubinyi, 'A kaposújvári uradalom [...]' (The Estate of Kaposújvár etc.), *Somogy megye múltjából*, 4 (1973), 3–44; see also the doctoral dissertation of Karbić (as n. 26), listing the different types of retainers of the Šubići.

³⁷ See n. 22, above, pp. 73–163.

(which itself grew out of the 'royal county'). The *ispán* was to be the king's representative in the particular district, administering justice and finances in concert with elected officials of the noble corporation. The king was less and less interested in these activities. The *ispán* of the fourteenth and early fifteenth centuries was to collect revenues from direct taxes through different dues and incomes from justice. The district was a remnant of the royal domain—usually attached to and often located around a castle. The great lords of the honours had actual 'ownership' of their territories: that is the usage of their charters. Alas, no charters of appointments remain, but several other documents make it clear that these honours were granted *ad beneplacitum regis* and indeed changed hands quite frequently. (One interesting document survived among the papers of the Himfy kindred, in which, when the king was granting one of his counties as an *honor*, he ordered the nobles and all the inhabitants to obey the appointed person 'as if he were the king himself'.³⁸) Engel compared these honours to *fiefs de dignité* or *Amstlehen* but emphasized their transitional character. He quoted with approval Giovanni Villani's characterization of the Hungarian system: 'le baronie d'Ungheria non sono per successione ne a vita, ma tutte si danno et tologno a volontà del signore.'³⁹ Were the men holding *honores* tenants in chief? And can we also ask if this institution was 'feudal'?

*

I rest my case. While the jury is out — and I'm afraid it will take some time to reach a unanimous verdict — let me admit something, strictly 'in chambers'. While re-reading Bónis especially, I became uncertain whether it makes sense to try to characterize *familiaritas* as such with one label, feudal or otherwise. My impression is that different *servientes*, *familiares*, and *famuli* stood in various relationships to their superiors. The same word may have meant different things and the various words may not have meant specifically different types of clientele or service. In his legalistic approach (and his attempt to strictly define feudal *vs* corporative, or *ständisch*) Bónis (and some other historians) lumped together a number of interpersonal relationships. Maybe Werbőczy made a wise choice by steering clear of this 'institution'. The solution will be for the next generation of scholars, who would be advised not to restrict themselves by the construct 'feudalism'.

³⁸ Popa-Gorjanu, as n. 35 above, p. 66.

³⁹ Quoted by Engel, *Honor, vár, ispánság*, p. 94.

THE QUESTION OF FEUDALISM IN ROMANIAN PRINCIPALITIES IN THE MIDDLE AGES

Cosmin Popa-Gorjanu

Feudalism and its derivatives are omnipresent in the scholarly literature concerning the social and political realities of the medieval principalities Wallachia and Moldova. History textbooks present students a chapter entitled 'Romanian Feudalism' and a wide array of phenomena, structures, and objects have earned the label 'feudal'. What does it mean? The adjective 'feudal' has become a synonym of 'medieval', when it is used merely as a chronological indicator. When employed as a noun, 'feudal' is a generic word referring to the members of the upper strata of society, the prince, the boyars, and the lay and ecclesiastic landowners as opposed to subject peasantry or burghers. Beyond these meanings, these terms have acquired complex ideological implications produced by their twofold origin in the Marxist and non-Marxist feudalism. These terms have been used for more than a century and have penetrated the historical discourse so deeply as to make their problematic nature almost unnoticeable.

I became interested in the roots of feudalism in Romanian historiography several years ago, after reading Elizabeth A. R. Brown's *Tyranny of a Construct*. My aim was to find out when Romanian historians started to understand the Romanian medieval past in terms of feudalism and how they handled this question.¹ I thus began a sort of archeological investigation of major works written by the most authoritative historians during the first half of the twentieth century and under the Communist regime. As I came to realize,

¹ Cosmin Popa-Gorjanu, 'Feudalismul românesc?', *Mediaevalia Transilvanica*, VII–VIII, 1–2 (2003–04), 39–51.

Romanian historians relied heavily on the concepts used by their Western colleagues in the assessment and shaping of the medieval past through the feudal paradigm. The questioning of the usefulness of 'feudalism' in various Western historical schools raised in my eyes the problem of the relevance of 'Romanian feudalism'. In this paper I will use a part of that material supplemented with an analysis of the customs and institutions deemed feudal. In the first part of this paper I will present some results of my investigations of twentieth century historiography and in the final part I will discuss some social and political phenomena, namely social categories, types of landed property, and terminology of property.

Although my investigation was confined to works of professional historians who were active from late nineteenth century, I can risk saying that the concept of feudalism must have been introduced in Romanian culture much earlier, most probably by Romanians who studied in France. By the late nineteenth and early twentieth century, the model of feudalism based on the fief was already employed in descriptions of medieval society in the principalities, although some historians hesitated in calling them feudal. Later generations of medievalists have regarded the question of feudalism in the principalities in different ways, ranging from cautious and even skeptical views, to the outright affirmation of feudal elements in the social structure.

Alexandru D. Xenopol, author of the first major synthesis of the history of Romanians, was reluctant to equate the social practices of Moldova and Wallachia with western ones. In comparison with later works, the terms *feudalism* and *feudal* were used extremely sparingly. His synthesis was quite voluminous. As a positivist historian he valued facts and events, thus allowing very little space for theoretical digressions. However, Xenopol admitted that elements of western feudalism played a role in the principalities as monarchies. The state organization, and particularly the ruler's prerogative of disposing of the land of the country, was a key element of 'western feudalism', first borrowed by Hungarians and then later introduced in the principalities by the Romanians who left the kingdom of Hungary in order to settle beyond the Carpathian mountains. Xenopol accepted what is called in Romanian historiography the historical tradition of *descălecat*,²

² The historical tradition concerning the creation of the principalities was intensely debated during the twentieth century. There are two opposite theories on this process. The first one accepts the tradition of *descălecat* (lit. dismounting) which attributes Wallachia's foundation to a legendary figure, Negru-vodă, who led an exodus of Transylvanians from Făgăraș at the turn of thirteenth century. For this see Gheorghe Brătianu, *Tradiția istorică despre întemeierea statelor românești* (The Historical Tradition Concerning the Creation of the Romanian

finding in this way the link between western feudalism and the principalities. The people who left Transylvania, he wrote, were bringing from their native regions the monarchic principle in governance, the idea of nobility with its rights and obligations, and finally the feudal custom of granting land.³ Thus Xenopol came to the issue of the origins of landed property, a highly debated aspect in Romanian historiography. I will come back to this in a later section of this paper. His use of the concept of feudalism shows that the model was already used for understanding such aspects as princely power and his relations with the subjects.

Another famous Romanian historian, Nicolae Iorga, employed the terminology of feudalism when analysing the relations between the Romanian princes and the kings of Hungary. He used terms such as 'fief', 'feudal dues', 'vassalage', 'feudal rights', 'feudal ties', 'Serbian semi-feudalism', 'full-fledged feudalism in Hungary and Poland'.⁴ Some of the works containing these words were written in 1915–16, demonstrating the adoption of the current terminology of western medievalists. The introduction of these terms in the Romanian historical discourse and their use in descriptions of historical realities which, it should be emphasized, did not know the terms *vassalus* or *feudum*, were likely to create the premises for later more resolute affirmations in favour of feudalism in the principalities.

However, there were controversies concerning the presence of feudalism. Some historians doubted the existence of a property resembling the fief of the Western countries. For example, Ion C. Filitti denied that fiefs existed and argued that the only type of property of freemen known in the principalities was the allod.⁵ Not

Principalities) 2nd edn (Bucharest: Eminescu, 1980). The second theory, which rejects the tradition of *descălecat* as inaccurate, envisages the creation as an internal process of social and economic development; see Nicolae Stoicescu, "Descălecat" sau întemeiere? O veche preocupare a istoriografiei românești de-sine-stătătoare' ('Dismounting' or Foundation? An Old Preoccupation of the Romanian Independent Historiography), in *Constituirea statelor feudale românești* (The Formation of the Romanian Feudal States) (Bucharest: Academiei, 1980), pp. 97–165.

³ Alexandru D. Xenopol, *Istoria Românilor în Dacia Traiană*, Ediția a IV — a *De la întemeierea Țărilor Române până la moartea lui Petru Rareș* (The History of Romanians in Trajan's Dacia, 4th edn. From the Foundation of the Romanian Principalities till the Death of Peter Rareș) (Bucharest: Științifică și Enciclopedică, 1986), pp. 41–42, 161–62.

⁴ Nicolae Iorga, *Studii asupra evului mediu românesc* (Studies on the Romanian Middle Ages) ed. by Șerban Papacostea (Bucharest: Științifică și Enciclopedică, 1984), pp. 54, 55, 59, 61, 62, 82, 83, 84.

⁵ Ion C. Filitti, 'Evoluția claselor sociale în trecutul principatelor române' (The Evolution of Social Categories in the Romanian Principalities' Past), *Arhiva pentru știința și reforma socială*, 1–2 (1924), 76–79.

only was the nature of landed property called into question, but the presence of other elements of the feudal paradigm was debated as well. One of the factors that triggered attempts at denying the existence of feudalism was the question of independence of the principalities. In order to remove the stain of possible dependence of the Romanian principalities, which was real, some authors went so far as to deny that there existed acts of homage that princes made to the kings of Hungary or Poland. But in the 1940s Valeria Costăchel and Petre P. Panaitescu investigated various aspects and institutions which led them to argue in favour of the presence of feudal elements in the principalities.⁶ In this way another step towards a more resolute affirmation of the existence of feudalism in Romania was taken.

Before the instauration of the communist regime, leading medievalists such as Gheorghe Brătianu and Petre P. Panaitescu recognized elements of the model of non-Marxist feudalism in Romanian medieval states and criticized what they called 'the prejudice against feudalism'.⁷ An adept of the usefulness of Weberian ideal types, Brătianu conceded that complete feudal institutions existed only in France and in the crusader states of the Middle East, but this fact, he maintained, did not preclude the investigation of other constitutional arrangements. Relying on the results of careful investigations of social stratification, regime of property, obligations, and values existing in the principalities and the surrounding states, he stated that a 'penetration of the feudal notion, in different forms and with a variable degree of intensity in the social regime of the principalities' must be admitted. He argued in favour of accepting the feudal origins of the social estates, rejecting the hesitations of previous historians. For Gheorghe Brătianu, an influence of western feudalism was evident not only in the organization of the structure of power, but also in the way of life of the social elites. Not only feudal customs were in his opinion discernible in the principalities, but also elements of chivalric culture represented by tournaments and the use of coats of arms.⁸

Petre P. Panaitescu, a colleague of Brătianu in the group of revisionist historians centred on the *Revista Istorică Română* in 1940s, was even more categorical

⁶ Valeria Costăchel, 'La Formation du benefice en Moldavie', *Revue Historique du Sud-Est Européen*, 23 (1946), 118–30.

⁷ Gheorghe I. Brătianu, *Sfatul domnesc și adunarea stărilor în principatele române* (Prince's Council and Assemblies of Estates in Romanian Principalities) (Bucharest: Enciclopedică, 1995), p. 41. The book was written in 1946; afterwards its author was imprisoned and killed by the Communist authorities at Sighet prison. It was first published in France, in 1977, and translated and published in Romanian in 1995.

⁸ Brătianu, *Sfatul domnesc și adunarea stărilor în principatele române*, p. 44.

in arguing that the hierarchical structure of power in the principalities was feudal, with the prince and boyars connected through feudal ties, making what he called without hesitation Romanian feudality. He also discussed the subjection of peasantry during the early Middle Ages in terms of Marxist feudalism. Accepting the model of western feudalism put forward by Marc Bloch, Panaitescu affirmed that 'feudality in its formal and juridical sense existed in Romanians in the Middle Ages, just as in western Europe'.⁹ The arguments proving his thesis were the existence of some elements of the western feudal system, namely the immunity, and the principle of *dominium eminens* which made the prince suzerain of the boyars, who were equated to western vassals. Although homage is not attested in our sources, he tried to argue that the chancery formulas of the charters prove that homage existed between boyars and the prince. After comparing customs, social relations, and types of property, Panaitescu emphasized his conclusion that 'there was a Romanian feudality, displaying all Western forms and rights'.¹⁰ If the previous generations of historians hesitated to speak of feudalism in the principalities, Panaitescu's work contributed immensely to the creation of the concept of Romanian feudalism. The works of Brătianu and Panaitescu can be regarded as representative for the conclusions reached by Romanian historiography in the wake of the instauration of the communist regime. In conclusion, by the 1940s medieval Romanian society was conceived just as feudal as Western societies.¹¹

After 1948, as it was common in the entire communist bloc, the national historiography was dictated by ideological commands which led to the creation of a hybrid between the non-Marxist and the Marxist model of feudalism. This model adopted the Marxist view, giving primacy to the mode of production and insisting on the subjection of peasantry, serfdom, the formation of two opposite classes, the oppressors (landowners) and the oppressed (serfs). Elements of the former non-Marxist model of feudalism survived in descriptions of relations among the members of the upper classes, centred on vassalage. Feudalism became

⁹ Petre P. Panaitescu, *Interpretări românești: Studii de istorie economică și socială* (Romanian Interpretations: Studies of Economic and Social History), 2nd edn (Bucharest: Enciclopedică, 1994), pp. 57–58. The first edition was published in 1947.

¹⁰ Panaitescu, *Interpretări românești: Studii de istorie economică și socială*, pp. 58–60. An oath of allegiance was made by boyars during the coronation ceremony.

¹¹ Both works were republished after 1989 and quickly became mandatory bibliography in History classes at university level. This revaluation of works uncontaminated with Marxist ideology was regarded as a return to the sound historical writing of the interwar period.

one of the five historical ages of human history. According to the well-known scheme, feudalism was born out of the crisis of late Roman slavery mixed with the germs of feudalism contained in the tribal organization of the barbarian invaders and was wiped out by the bourgeois revolutions. The Romanian medieval past was forced to conform to this general scheme, often disregarding the specific realities of its medieval society. I shall not insist on this here, but I want to draw attention to some vigorous and salutary reactions, however limited in scope, against the overuse of the theoretical models in interpreting medieval society. These are all the more remarkable as they appeared in a historiography characterized by lack of freedom, rigidity, and ideological control.

One of these reactions belonged to the historian Manole Neagoe, who criticized the thesis of 'feudal fragmentation' in the medieval principalities. He attacked P. P. Panaitescu's thesis which 'was not inspired from our social realities, as they can be defined on the basis of documents, but from the identification of Romanian feudal institutions with those of the western feudal society, selecting from documents those parts which confirm the theory of feudal fragmentation and centralization of the state and ignoring everything else'.¹² Testing the theory of feudal fragmentation against the evidence of primary sources, he pointed out that 'there are errors in the tendency of making an ideal scheme of the organization of our feudal society and the role of foreign influences is somewhat exaggerated, not to say the model which suggested this concept'.¹³ After analysing medieval documents Neagoe denied the existence of vassalage in the relations between boyars and their servants, but he admitted that boyars were vassals of the prince. He goes on to demonstrate that there is no evidence of fiefs. When a village is donated to a servant, Neagoe wrote, it is not a fief, but rather represents a reward of services already accomplished.¹⁴ He also stressed that the terminology of our medieval documents does not contain the words *vassal* and *vassalage*.¹⁵ The boyars were vassals of prince, but there was no homage ceremony. The Romanian 'feudal domain' is not comparable to the type of classic domain, and hypotheses concerning

¹² Manole Neagoe, *Problema centralizării statelor feudale românești Moldova și Țara Românească* (The Question of Centralization of the Romanian Feudal States Moldova and Wallachia) (Craiova: Scrisul Românesc, 1977), p. 271.

¹³ Neagoe, *Problema centralizării statelor feudale românești Moldova și Țara Românească*, p. 54. Although he did not make any reference to Elizabeth A. R. Brown's article, he was coming quite close to her main thrust against the use of the model.

¹⁴ Neagoe, *Problema centralizării statelor feudale românești Moldova și Țara Românească*, p. 58.

¹⁵ Neagoe, *Problema centralizării statelor feudale românești Moldova și Țara Românească*, p. 107.

the emergence of a seignorial reserve cannot be supported with documents.¹⁶ Manole Neagoe's study made a salutary effort of returning to the examination of sources rather than building up theoretical frameworks or trying to fit social realities to prefabricated ones. In this way he was able to demonstrate flagrant errors and inconsistencies present in the major historical works produced during the 1950s and 1960s. But his work had limits. His vocabulary was contaminated with feudal terminology. Although he demonstrated that vassalage is not to be found in the medieval sources, he used terms such as 'feudal relations', 'monastic feudal land', 'lay feudal land', and 'Romanian feudal society'. In 1978, in a much shorter but equally effective article, Dinu Giurescu arrived at similar conclusions regarding Romanian feudalism.¹⁷

Henri H. Stahl, a famous sociologist who dealt extensively with the organization of village communities,¹⁸ approached the question of feudalism drawing on the Marxist criterion of the predomination of a certain mode of production. He distinguished the 'tributal' type of exploitation, in which the ruler does exact surplus products of the subjects in specific amounts and at precise dates, but does not interfere in the organization of the productive work, which in his typology is specific to the feudal type. He then criticized the vague terminology applied by historians insisting that his 'tributal' and 'feudal' types are only 'two models, two ideal types [...] having only heuristic value, and being only research tools and not two historical phases succeeding chronologically one another'.¹⁹ As a long-time researcher of agrarian society, Stahl noticed and criticized the exaggerations, inconsistencies, and errors committed by historians who described the medieval past according to ideological requirements. In his view they misunderstood Marxist terminology and applied it inconsistently in trying to understand the Romanian Middle Ages.

¹⁶ Neagoe, *Problema centralizării statelor feudale românești Moldova și Țara Românească*, pp. 122–23.

¹⁷ Dinu C. Giurescu, *Caracteristici ale feudalismului românesc* (Characteristics of Romanian Feudalism), *Anuarul Institutului de Istorie și Arheologie 'A.D. Xenopol'*, 15 (1978), 395–402.

¹⁸ Henri H. Stahl, *Traditional Romanian Village Communities: The Transition From the Communal to the Capitalist Mode of Production in the Danube Region* (Cambridge: Cambridge University Press, 1980).

¹⁹ Henri H. Stahl, *Teorii și ipoteze privind sociologia orînduirii tributale* (Theories and Hypotheses Concerning the Sociology of Tributal System) (Bucharest: Științifică și Enciclopedică, 1980), pp. 191–92. See also the other work by Stahl, *Probleme confuze în istoria socială a României* (Confused Problems in the Social History of Romania) (Bucharest: Științifică și Enciclopedică, 1992).

Although these reactions represent results of sound historical analysis intended to correct some distortions, their use of 'feudal' and its derived terminology is symptomatic of one of the most significant transformations that occurred during the second half of the twentieth century, namely the pervasive and carefree usage of these terms. One of my observations is that the concept of feudalism was introduced into Romanian discourse by degrees. Present in Xenopol's writings as a broad theoretical device that was used to explain the relations between the prince and the boyars, feudalism's attraction became stronger later on. Mid-twentieth-century medievalists became more daring. They investigated and affirmed the identity between some social institutions from Wallachia and Moldova and Western ones. In the wake of the Communist domination the concept of Romanian feudalism was already prepared.

It is hard to make progress in distinguishing Romanian social and political organization from western influences when feudalism and its derivatives are accepted and implied in descriptions of social categories and political relations. They were not only explanatory devices or models employed in order to render clear a custom or institution by comparison with a well-known external model. A short survey of the current Romanian historiography shows that *feudal*, from an adjective, has evolved into a noun that is applied to the prince, boyars, nobles, churchmen, and the church itself. As an adjective it is attached to castles, churches, archeological finds, objects, ideas, concepts, rituals, and so on. All these examples indicate how far removed they are from Elizabeth A. R. Brown's recommendation to use the term *feudal* only in connection to fiefs. I will come back to the question of fiefs in the principalities in a moment. Moreover, despite these criticisms, history textbooks continue to present a section entitled 'Romanian Feudalism' and for a number of medievalists feudalism is still a valid and unquestionable notion.

Before examining the social organization of the principalities, I need to make a few introductory remarks. The principalities appeared relatively late for the chronological limits of, let's say, Susan Reynolds's *Fiefs and Vassals*. As concerns the thirteenth century, the written sources are almost inexistent, while for the fourteenth century their number is still low. However, from fifteenth century onward we have a better documentary basis, something comparable with Western realities of thirteenth century. This characteristic derived from the late formation of the states during the first half of the fourteenth century and the relatively slow process of evolution from memory to written records.²⁰ Furthermore, in both

²⁰ In order to give an idea of what is the documentary basis for the two principalities one can

principalities the language of written records was Old Church Slavonic. For this reason the Latin terminology associated with feudalism cannot be found. The written sources consist almost exclusively of charters related to property rights, donations, confirmations, litigations, and so on. These charters, and specifically their terminology, remain the principal source material that Romanian medievalists draw upon when trying to qualify social and political realities.

In this section I would like to discuss the question of vassals and fiefs, types of relations between rulers and subjects, and their properties in the principalities. Before the formation of the principalities, it seems that Romanian society was headed by two types of lord: *knezi* (sing. *knez*) and *voivods*.²¹ These are Slavic words, usually applied to rulers of Slavic populations of Eastern Europe. The Romanian *knezi*, mentioned for the first time in 1247 in Wallachia, were chieftains of large territorial units called *knezats*, presumably having the extensions of a modern county.²² In Romanian historiography it is maintained that originally they were elected leaders of village communities. Due to a process of social differentiation, they succeeded to turn their leadership functions into hereditary

use the systematic collections of the Romanian Academy, published under the title *Documenta Romaniae Historica* (shortened *DRH*). While for Wallachia between 1247 and 1500 there was one volume published containing about three hundred pieces, the quantity of documents surviving for the same time period from Moldova is about three times larger.

²¹ Wallachia's birth was a prolonged process, documented since 1247, when five small political units were attested on its territory. During the second half of the thirteenth century these units were united under the leadership of a single *voivode*, known in the person of Basarab. In 1330, he defeated the Hungarian army of King Charles Robert of Anjou, in this way saving his throne and rejecting the territorial claims of the Hungarian crown. Moldova's beginnings are better documented. They started with a Hungarian offensive against the Tartars in 1340s. A Romanian *voivode* from Maramureș, Dragoș of Bedeu and his sons were installed as heads of a military mark in northern Moldova, as subjects of the Hungarian crown. In 1359 another Romanian voivode from Maramureș, Bogdan of Cuhea, rebelled against the king, crossed the Carpathian mountains in northern Moldova where he joined a rebellion of the local population which expelled Dragoș's descendants. Bogdan ruled between 1360–65 and succeeded to resist the Hungarian attempts at toppling him down. Thus he consolidated his power and with it the existence of the principality. The standard works on this subject remain *Constituirea statelor feudale românești* (The Formation of the Romanian Feudal States), ed. by Nicolae Stoicescu (Bucharest: Academiei, 1980), *passim* and Șerban Papacostea, *Geneza statului în evul mediu românesc: Studii critice* (The Birth of the State in the Romanian Middle Ages: Critical Studies) (Bucharest: Corint, 1999).

²² The text of the charter from 1247 is somewhat unclear, using formulations like 'terra kenezatus Lytouy woiavode' or 'terra de Zeurino [...] cum kenazatibus Joannis et Farcasii', 'terra Szeneslai woiavode'. *Documenta Romaniae Historica B. Țara Românească* (1247–1500), ed. by P. P. Panaitescu and Damaschin Mioc (Bucharest: Academiei, 1966), pp. 4–5.

attributes transmitted in their families, which is regarded by Marxist historians as a way of subjecting the members of their communities. In the fourteenth and fifteenth centuries the term *knez* suffered a sort of devaluation; it was no longer the title of a leader but came to designate a free landowner. In Moldova, fifteenth-century charters refer to *knezi* and *vatamani*, in the past tense, usually indicating where the village of *knez* X used to be, or where Y was *knez* or *vataman*. It is assumed that some of the *knezi* in Moldova were subjected to the lordship of some boyars or established themselves as boyars.

Voivode was the title of military leaders of the *knezi*. Before the formation of the state in Wallachia, there were mentioned two *voivods*, a certain Litovoi in *terra Zeurini* and the other one Seneslau in the area lying on the left bank of the river Olt. The creation of the principality of Wallachia is reflected in the official title of the prince, who was entitled 'great voivode and prince'.²³ The title of 'great voivode' is assumed to represent the stage of state formation when the superior military attributes were recognized by the other *voivods*, thus making one step towards the unification of the various territorial units mentioned in 1247 under the leadership of one ruler. After the formation of the state, only the prince bears the title of *voivode*, the other *voivods* having probably been suppressed. Very little can be said about the types of properties held by *knezi* and *voivods* due to the lack of sources, but we are in a better position to answer this question starting from the fifteenth century.

The medieval state of Wallachia was organized following the model of Bulgaria. The new state adopted not only the political model of its southern neighbour, but the imitation went as far as adopting Old Church Slavonic as the language of the prince's chancellery and the form of written documents. The terminology of property in charters from both principalities uses the term *ocina* to refer to the idea of freemen's heritable ownership of land, but also in reference to movable goods (slaves, Gipsies, and Tatars in Moldova were given as *ocina* as well). Two other terms were used interchangeably with *ocina*, namely *baştină* (in Bulgarian meaning father's property) and *dedină*. All these terms imply what in Latin was called *hereditas*, that is, a property transmitted in a family. Another term that

²³ *Documenta Romaniae Historica B. Țara Românească (1247–1500)*, pp. 14, 25. 'Ioan Mircea veliki voevoda i gospodin vāse Ungrovlahie', charter of Mircea the Old given in 20 May 1388. Other princes in Wallachia and Moldova used only the simple formula, 'Ladislaus wayvoda transalpinus, banus de Zeurinio et dux nove plantacionis terre Fougaras'.

implied property was *uric*, having a double meaning; on the one hand the charter confirming property rights, and the property rights themselves.²⁴

In the terminology of Romanian-Slavonic charters appears a term that was equated by partisans of feudalism with the Western fief. This term, *vislujenia*, appears in charters from Moldova from the late fourteenth century until the end of the fifteenth century. The term is supposed to be a loanword from the Lithuanian vocabulary of chancellery, which used *vysluga*, referring to a service property. Valeria Costăchel defined it as landed property conditioned by the fulfillment of military obligations.²⁵ Whatever might have been the intention of the princes who granted land to their servants in the fourteenth century (with conditions that were not actually mentioned or preserved in later charters that mentioned it), this type of property appears in the fifteenth century as synonymous with the *ocina*. Some owners obtained confirmations of their property rights or of transactions of land from the prince that called their property *vislujenia*, at times referring to the ancestor who obtained it. Fifteenth-century charters, however, do not suggest that these were conditional properties anymore. Nothing in their content alludes to any specific military or other types of obligations or conditions. Since no original charter of grant of *vislujenia* was preserved, it is unclear whether these were at the time of the initial grant *honores* or just like any other donation of land, rewards of faithful services. However, given the essential meaning of the term — service — one might admit that they could have been initially granted as benefices. But one should not disregard the rapidity with which they became full property; in less than two generations *vislujenia* became *ocina*, heritable property.

Unlike the charters issued for lay landowners from Moldova, contemporary charters issued by Wallachian princes contain references to grants of immunities along with the confirmation of property rights. In Moldova, only donations of land to church and monasteries contain immunity provisions. In Wallachia exemptions from paying princely dues in kind or in service were granted to boyars and monasteries for their villages. The term meaning exemption was *ohaba*. Usually a charter of this sort mentioned that a village was given 'as *ocina* and

²⁴ *Instituții feudale din țările române: Dicționar* (Feudal Institutions from the Romanian Principalities: Dictionary), ed. by Ovid Sachelarie and Nicolae Stoicescu (Bucharest: Academiei, 1988), pp. 336, 486. The Romanian counterpart of these terms was *moșie* (derived from *moș*, grandfather, old man) meaning property inherited from ancestors. The name of the free peasantry is derived from the verb *a moșteni* (to inherit), 'moșteni'/'moșneni'.

²⁵ Valeria Costăchel, "Beneficiul" în Sud-Estul Europei', *Revista Istorică*, 30 (1944), 61–86.

ohaba' (sometimes only for the lifetime of the ruler and his sons) and was to be exempted from all dues owed to the prince (taxes from sheep, pigs, wheat, wine. It was forbidden for the prince's courtiers to exert their authority in the given village, and finally the villagers were exempted from working on repairs of fortresses, transport obligations, cutting wood, or haymaking).

Concerning the social categories in the fourteenth and fifteenth century, primary sources in Wallachia mention four categories: boyars, servants (Rom. *slugi*), knezes, and other people called *sirak* or *siromah*. The first three categories were freemen. The boyars were defined in documents in two categories: great and small. Presumably the great boyars were the great landowners who were members of the prince's council, without having specific duties. In fact, earlier charters containing the lists of witnesses gave them precedence mentioning them before the holders of specific offices like the palatine or *maior domus* (Rom. *vorinic*), chancellor (Rom. *logofăt*), treasurer (Rom. *vistiernic*), and so on, indicating by this their higher hierarchical position in the society. In time the role of the office holders in the prince's council increased to the extent that boyars without office no longer appeared in charters.²⁶

Small boyars were landowners who differed from their betters in terms of wealth. The category of princely servants (Rom. *slugi* and later *curteni*) was recruited from freemen. At times, charters call a boyar the servant of the prince. But there are examples when individuals were only named servants. It is not clear that only boyars were recruited in the bureaucratic apparatus of the prince in the fourteenth and fifteenth centuries, although there are historians who maintain that access to court offices was an exclusive privilege belonging to the upper category. However, the trend was evolving towards defining the boyars primarily as a nobility of service, rather than as a class of landowners. The reason was probably that a large number of freemen owned land as allods, although living like peasants. In Wallachia they were called *moşneni* and in Moldova, *răzeşi*. They were freemen, owners of their village communities (*sate devălmaşe*), differing from boyars due to the lack of immunities. One of the facts that made some historians question the concept of Romanian feudalism (with the stress on serfdom) was the very existence of a relatively large number of free villages of this

²⁶ Nicolae Stoicescu, *Sfatul domnesc şi marii dregători din Ţara Românească şi Moldova (sec. XIV–XVII)* (The Princely Council and the High Dignitaries from Wallachia and Moldova (Fourteenth–Seventeenth Centuries) (Bucharest: Academiei, 1968); Stoicescu, *Dicţionar al marilor dregători din Ţara Românească şi Moldova* (Dictionary of the High Dignitaries from Wallachia and Moldova) (Bucharest: Enciclopedică, 1968).

type. These villages of *moşneni* (freemen) were spread in the hilly and mountain regions of northern Wallachia and eastern Moldova and were estimated to comprise about one half of the total number of villages.²⁷

For historians who argued for feudalism, the practice of granting away land together with the principle of *dominium eminens*, and the obligation for faithful services from the boyars, formed the core arguments proving the existence of a feudal connection between prince and boyars. They stated that the prince was in principle the owner of the whole land of the country, having superior rights of ownership which allowed him to confiscate landed properties of owners condemned for high treason or lacking heirs. This practice came to be equated with the right of seignorial confiscation existing in the West. One of the qualifications accepted by most of the medievalists in Romanian historiography is that of the boyars as vassals of princes.²⁸ The argument for sustaining this hypothesis consists in the provisions of charters which called the grantees almost always 'faithful servants' of the prince, who have served 'justly and faithfully'. It was implied by the partisans of feudalism that these donations of land represented grants of fiefs, or property conditioned by obligations of military service. However, military service cannot be used as an exclusive criterion of differentiation since it was a general obligation of all freemen.²⁹ In fact, most of those who served the prince occupied various administrative offices entrusted with governmental duties such as collection of dues, taxes, fines, and the supervision of the construction of strongholds or mills.

In the principalities all inhabitants, free and unfree, were obliged to perform military service either as guards of border regions or in a garrison in fortresses. Immunities granted by princes of Wallachia to lay landowners in early fifteenth century maintained the obligation of the exempt village for service in 'the great army' (*oastea cea mare*) a sort of general mobilization. In Moldova, the exemptions granted to monastic villages included also 'forgiveness' of the military obligation.

²⁷ Ion Donat, *Domeniul domnesc în Ţara Românească (sec. XIV–XVI)* (The Prince's Domain in Wallachia (Fourteenth–Fifteenth Centuries) (Bucharest: Enciclopedică, 1996), p. 176; *Instituţii feudale*, pp. 304–05.

²⁸ One could ask what vassals mean in this case. Were they similar to the Carolingian *vassi*, to the French twelfth-century soldiers or valiant men, or to tenants of church land?

²⁹ During late fourteenth and fifteenth centuries there existed a military category, equivalent to the western knights, called *viteji*. They were mounted warriors, constituting the military force of the prince and were rewarded by concessions of land.

Therefore military service and landownership do not appear to have been essential criteria for social differentiation between nobility and the rest of the freemen.

Moldova displays a somewhat different situation as concerns the practice of land donation. Its particularity, compared to Wallachia, consisted in the availability of uninhabited land, open for colonization, a process that was carried out during the fifteenth century and which is attested by a higher number of new donations of land. However, examples of this type of donation appear relatively seldom in comparison with the more numerous charters that simply confirm previously owned property or record transactions of landed property. The language of the charters was somewhat confusing. The prince pronounces that he is giving to the grantees 'their properties X and Y that they have owned'. Given this kind of language it was easy for those who examined these deeds to interpret them as donations and to generalize so as to conclude that all property originates in princely donations. This reading led to the conclusion concerning the functioning of the principle of dominium eminens and the creation of boyars by the prince.

Charters of confirmation were granted to faithful servants and boyars as a manifestation of the authority of the prince as the single authorized issuer of legal documents. By the fifteenth century in Moldova, a written document was essential for proving an individual's rights in litigation over landed property; therefore each transfer of ownership was to follow certain rules. Property transactions took place at the prince's palace, in Suceava, in the presence of the prince's council and of the great and small boyars gathered there. The written document was the end result of a negotiation process (sometimes briefly narrated in the charter) which reached the prince's court in its final stage when in a ceremony the sides of the transaction (donation of land, purchase of land) made it public and obtained the written confirmation of the transaction from the prince and the boyars assembled. In the second half of the fifteenth century the payment took place in front of the assembly presided over by the prince. The princely palace functioned also as a court; sentences of property-related litigations were recorded in the same way.

Of course, the question whether the prince was involved in this process due to his *dominium eminens* over all the land in the country or to an alleged initial donation of the land involved in the transaction and therefore to his superior rights is worth examining. But one should not disregard the development of literacy which led to the creation of subtler bureaucratic and legal instruments of princely control. The presence of 'faithful service', and epithets as 'faithful boyars and servants' in fifteenth-century Moldovan charters, which have been used as arguments for a feudal structure based on the obligation of fidelity, seems to me

to obscure all too easily the fact that these charters were simply formal deeds required by the legal practice concerning transfers of property. In other words, in order to sell property one needed to make sure that one's name was mentioned in a charter concerning that property, thus ensuring his legal capacity of alienating that piece of land. Division of land through inheritance or any other arrangement was legally established at the prince's palace, in front of the peers. Litigation concerning property was also judged in front of the prince, his council and other boyars, the sentence being inserted in a charter that confirmed rights of property. So, apart from the genuine (new) grants of land, the majority of written sources testify to a rather formal role of the prince as guarantor of the safety of landownership by overseeing and ensuring the smooth functioning of the land market.

In Wallachia, the circulation of property was governed, among other rules, by two customs, *prădalica* and *darea calului* (horse due). *Prădalica* is presumed to originate in the practice of punishing the traitors by destroying their properties before confiscation. Thus, it is assumed to have two origins: the first resembling the practice of feudal forfeiture and the second the Byzantine confiscation of the goods of those guilty of public treason. In the sixteenth-century Wallachian sources, *prădalica* meant only the confiscation of properties of traitors (*hicleni*) or of the boyars who died without male heirs. In the second case, the existence of the privilege of masculinity obliged fathers having no male descendant to obtain the prince's approval for the transmission of their property to their daughters. The charter of confirmation would in this case include the names of the daughters (or other individuals) as heirs, adding also the formula 'there should be no *prădalica*'.³⁰ *Darea calului* was a tax (a horse, or later the price of a horse) paid to the prince when a property was transferred to new owners. This was seen as a compensation for the prince renouncing his right of feudal reversion.³¹ Both were interpreted as proving the existence of the conditional character of the property asserting the principle of *dominium eminens*.

As for homage, no contemporary source ever mentioned oaths taken or given by the servants to their lords, although they were inferred by modern scholars from the terminology of the charters or from seventeenth-century accounts of coronation ceremonies, which maintained that the prince swore to respect the customs and the laws of the country, and the boyars swore fealty to him. That the

³⁰ *Instituții feudale*, pp. 309, 375–78.

³¹ *Instituții feudale*, p. 142.

servant was responsible for the fulfillment of his tasks, and likely to suffer harsh punishment in case of failure, appears from the threats recorded from time to time in medieval charters. What was the position of the prince's servant then? Since the records do not prove the existence of a conditional property similar to the fief (*vislujenia* was quite short lived) it seems that the property of servants was what is called an 'allod'. References to the servants of the boyars exist, but they are so sparse as to make a real investigation of the structuring and the relations between them and their lords very difficult. Their services could have been rewarded by land donations when they served lay landowners, but the most important source of income consisted in a percentage of the dues collected. In conclusion, the fief, represented by the Moldovan *vislujenia*, was transformed in *ocina* in about two generations. Boyars' properties were called *ocina* in the sources, and thus were full properties. The boyars owed loyalty to the prince and in case of treason, they were beheaded and their properties confiscated. Was this a result of an oath of fealty? Did they owe it to the prince due to a donation of land? The charters transmitted so far show that donations were rewards of faithful services already performed.

The concept of feudalism has dominated the research of the medieval institutions of the principalities for more than a century. It has exerted an unavoidable attraction as a tool of analysis or as a theoretical model with which to understand and define institutions, social practices, and customs. But its multiple meanings and connotations, either Marxist or non-Marxist, and the disagreements of historians concerning the very definition of feudalism and 'the feudal' are generating confusion for students. For the researcher, each encounter with the word *feudal* in the secondary literature occasions a cognitive examination of its possible meanings. For the student, this exploration is more difficult and sometimes contradictory. It seems to me that the scholarly literature produced so far has achieved valuable results as concerns medieval institutions due to the careful examination of the primary sources. The use of the term, unless carefully defined, is a hindrance rather than an aid to the historian's work. The debate concerning the existence of Romanian feudalism depends on the way that western feudalism(s) will evolve, or in the way it (they) will be defined.

THE MEDIEVAL COUNTRYSIDE

All volumes in this series are evaluated by an Editorial Board, strictly on academic grounds based on reports prepared by referees who have been commissioned by virtue of their specialism in the appropriate field. The Board ensures that the screening is done independently and without conflicts of interest. The definitive texts supplied by authors are also subject to review by the Board before being approved for publication. Further, the volumes are copyedited to conform to the publisher's stylebook and to the best international academic standards in the field.

Titles in series

The Rural History of Medieval European Societies: Trends and Perspectives, ed. by Isabel Alfonso (2007)

Eva Svensson, *The Medieval Household: Daily Life in Castles and Farmsteads. Scandinavian Examples in their European Context* (2008)

Land, Power, and Society in Medieval Castile: A Study of Behetria Lordship, ed. by Cristina Jular Pérez-Alfaro and Carlos Estepa Díez (2009)

Survival and Discord in Medieval Society: Essays in Honour of Christopher Dyer, ed. by Richard Goddard, John Langdon, and Miriam Müller (2010)

Scale and Scale Change in the Early Middle Ages: Exploring Landscape, Local Society, and the World Beyond, ed. by Julio Escalona and Andrew Reynolds (2011)

