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Organisation and Social Order

Chapter IX

KINGSHIP: STRUCTURES OF POWER AND THE PURSUIT OF AUTHORITY

I

The dukedoms and kingdoms which emerged from the confusion of the sixth and seventh centuries were all established by force of arms. This does not make them unusual, of course, but they were not imperial conquests, like Rome's, or territories ceded by countries to foreign invaders, or colonial settlements of immigrant farmers or traders planted and protected by force from some distant place. They were, to begin with, settlements of people who removed themselves and their possessions from that distant place and re-established themselves among or in place of the previous inhabitants. (It is only in the last conquests, of Sicily and England by the Normans, that it became more usual for the invaders to superimpose themselves on the conquered in true power-elite fashion rather than to merge with or exterminate them, or commandeer their land, buildings, and belongings, and consign them to destitution, bondage, or slavery.) Invasion and settlement followed decades or generation-long series of raids, which presumably yielded enough information for deciding on which territory to occupy. Nor is it likely that movement took place *en masse*. The first territories to be occupied would need a fair concentration of armed men to secure the new properties; families and fellow-tribesmen would follow, spreading out gradually. Encounters with other incomers from other tribes might be friendly, if there was local resistance to overcome, or hostile, if rivalry mattered more.

One thing did become abundantly clear as the invasion period lengthened. Power in its most unmistakable form of compelling obedience by brute armed force became more and more incontestably the overriding source of rights. In Maurice Keen's words, "The direction of events, in so far as it lay with human agency at all, lay with kings and noblemen, with swords in their hands."¹

All the same, Hume's dictum concerning the dependence of rulers, however despotic, on the 'opinion' or 'interest' of the people they rule over still holds good. While medieval kingship rested, in the first and the last resort, on military power made manifest in violence and terror as well as war, its origins lay in the practice by which local chiefs, whenever they combined offence and defence, appointed a military leader (as they had done from time immemorial). The more difficult and far-ranging enterprises of the long period of invasion and conquest meant that such leadership positions might be held for

¹ M. Keen, *A History of Medieval Europe*, Penguin edn. 1969, p.24.

life; and a king's or a duke's son would, usually, be in the best position to carry the election of a successor - if he had not already challenged his father, as many did. However, it also meant that, in the words of a recent historian, the "*heer-koenig*... was condemned to conquer in order to maintain his authority, and warriors remained faithful as long as their leader was the strongest."²

The idea that kings held their positions on sufferance, or only so long as they could fend off challenges, was inherent in the electoral forms by which kingship was conferred. Interestingly, however empty they may have become later, forms of election were retained in most kingdoms of Western Europe for many centuries. So did the possibility that a king's election might be revoked and he supplanted. With military forces made up of groups of warriors each with their own chief and bound to an elected leader by promises of reward, once the new kingdoms were established, the military power of kings might be matched, or overmatched, by a combination of chiefs, now ennobled, or kinsmen - or sons.

From the start, also, kings were hedged around by their commitment to uphold traditional laws and the rights of subjects (especially the more powerful ones). Well before the ninth and tenth centuries, such commitments were incorporated in the coronation ceremony, along with the undertaking to follow God's commandments (as interpreted by the Church). Of course, the strength of these commitments varied inversely with the military power and wealth of the king, but it was never possible to ignore them altogether. But authority stems from personal loyalty or trust, or religious belief, or from some overriding belief in law, or reasoned conviction residing in those who obey, or from habit and unquestioned custom. Very soon, kings found it useful to seek the backing of authority of some kind with which to match and, if need be, cancel, the authority of oathbound commitments.

Christianity brought new forms of ceremonial induction into kingship which, by the seventh and eighth centuries, had introduced an element of the sacred. Yet while the main instrument by which the king's person was made sacrosanct was the coronation ceremony, the sanctions of religion were soon backed by law. Germanic law made treason to one's chief a capital crime. Assaults, woundings or homicides perpetrated on others were wrongs rather than crimes, but assaulting or plotting against the king, or even imagining his death, soon headed the list of capital offences. This was in clear imitation of the Roman law of *maiestas* which literacy and Church teaching had brought to the barbarian kingdoms. "No part of Roman law," remarks Maitland, "was more likely to be imitated by the conquerors of Roman territory and provinces."³

Later, when longer spells of peace intervened, medieval kings looked increasingly to support by the kind of authority being built up on the basis of widespread and frequent recourse to legal process and judicial decision. Law in this and other respects made up the

² M. Rouche, "The Early Middle Ages in the West," A History of Private Life, Vol. I (ed. P. Aries and G. Duby) Harvard Univ. Press (trans. A Goldhammer), 1987, p. 420.

³ F. Pollock and F.W. Maitland, History of English Law, 2nd. edn., C.U.P., 1968, Vol.I, p. 51.

third constituent element of medieval kingship. Law, jurisdiction, and law enforcement reinforced the hierarchic structure established by possession of land and military command.

To begin with, jurisdiction was almost entirely a matter of local courts, and law largely a matter of strictly tribal, or local, custom (it being understood that by custom is meant a body of oral tradition about what had been decided in roughly similar instances - certainly not a set of rules which dictated or constrained judgment). With the one exception, it seems, of the last two centuries of Anglo Saxon and Danish rule, royal justice - the jurisdiction of the king, usually exercised with the support of his Council, composed of the chief officers of his household and leading nobles and prelates - was in the first place applicable to his own personal domain. Elsewhere it might (provided the local feudal potentate was, or could be made to be, agreeable) be superimposed on local jurisdictions. Suitors who feared adverse judgments in a local court, presided over by the noble feudatory in whose 'honour' (principal estate) or manor the court was held, or thought they had a chance of having them overridden, might apply for an evocatory writ, removing the case to the king's court. In England, the system was extended through the introduction, in the twelfth century, of peripatetic judges who represented the king. But even there, the judicial role of the king, and the King's Council, where it was not a matter of jurisdiction over his own domain, was largely appellate.

There was more to the spread of royal jurisdiction than a desire to spread the blessings of literate and experienced judges, of the ability to invoke the sanctions of royal power, and of legal process and traditional authority common to the kingdom as a whole. Justice had to be paid for. All writs, evocatory or not, had fees attached to them. "Henry I," says H.A.Cronne, "was remembered as the 'Lion of Justice', but it is well to remember that the lion is a beast of prey. It can be seen with the utmost clarity in every single membrane of the one surviving pipe roll of Henry's reign that justice was a source of profit."⁴

Leadership in battle, sanctity of person, paramount jurisdiction, the three components of the institution of medieval kingship, hardly amount to what is nowadays understood by the role or function of government. Even as late as the twelfth century, the rulership exercised by kings - government - is in many instances difficult to separate out from the ownership and the possession (not at all the same thing) of land, or from jurisdiction, or from the protection-service exchange relationship involved in medieval forms of the patron-client relationship. Most important of all, the domains and the jurisdictions of emperors, kings and other territorial princes - and the allegiance owed them - were parcelled out among their tenants-in-chief and subdivided further still among the vassals subordinate to tenants-in-chief. Since rulers were in fact dependent on their feudatories for military resources, a monopoly of coercive power was out of the question. (England, again, proves to be the one exception; English kings could mobilise an army - the *fyrd* - and collect a navy.) More than that, tenants-in-chief of the king considered they had the incontestable right to take up arms against their peers, who were also the king's vassals:

⁴ H.A.Cronne, *The Reign of Stephen: Anarchy in England 1135-54*, Weidenfeld and Nicolson, 1970, p.147.

"Private war - what we would call civil war - was held to be a perfectly legitimate course of action by the nobility".⁵

This had a number of consequences. In the first place, not only the right to make war but the military and other resources for doing so were all dispersed among a variety of feudatories, great and small, along with dispensing justice and keeping the peace, the other two main responsibilities of rulership. So too was the financial provisioning of kingdoms; for any expenditure out of the ordinary (which meant military expenditure) kings were largely dependent not only on the military service his tenants owed him but on the money and supplies he could persuade them to agree to by way of general levy or subsidy. ('Ordinary' expenditure was expected to be met from the income from his own properties, plus what could be extracted by way of customs duties and tolls when these were royal preserves, as they were in England.)

In the second place, kingdoms themselves (and dukedoms) were under perpetual threat of dismemberment, annexation, or merger. By the eleventh and twelfth centuries, kingship, in the form of the assertion of governmental command over a realm in which it had more or less settled down was never seriously challenged (outside Italy), however often individual incumbents of thrones were evicted from them. But the amount of control exercised by individual kings over their kingdoms was always vague, liable to erosion as much as to augmentation, and at times threatened with extinction by rival potentates from outside or by their chief feudatories from within, individually as well as in combination.

II

So far as English usage is concerned, the word 'feudal' was an invention of a seventeenth century antiquarian. In France, it came into popular usage during the Revolution as an epithet for the abuses of the *ancien regime*. Its later currency may well owe more to the writings of Sir Walter Scott and the popular historical novelists who came after him than to the work of historians. But whatever its provenance, by the twentieth century the 'feudal system' had become the canonically accepted term for both the system of government and the social order; Weber went on to invest it with 'ideal type' qualities. Thereafter, institutional forms and patterns of behaviour characteristic of feudalism come to be deduced, idiosyncratic variations noted, and the whole phenomenon to be subjected to comprehensive exposition in magisterial works like Marc Bloch's *Feudal Society* and F.L. Ganshof's *Feudalism*.

'Feudalism' was in this kind of account treated as largely the product of the disintegration of the Carolingian establishment. Charlemagne had attempted, with some success, to rationalise the miscellany of relationships embodying domination and subordination in the different areas of what became his empire. For the most part, northern France, the Low Countries, and western and southern Germany were assigned to parcels of territory under counts and, fairly often, church magnates - bishops and abbots. In the outlying border territories, much larger areas - dukedoms - were created in order to provide and

⁵ F.Lot and R.Fawtier, *Histoire des Institutions Francaises au Moyen Age*, P.U.F., 1958, p. 37.

support the armies which might be needed at short notice. Each subordinate ruler - duke, count, bishop, abbot - had his own sizeable band of armed followers, but normally could exercise his authority through a court attended by all lesser nobles, barons and knights, who were, as his vassals, bound to attend and to execute the orders, or the judgments, issued by the court. While the counts formed the basic structure of Carolingian administration, the emperors made much use of *missi domenic* - imperial agents who went out from the imperial court (wherever that might be at the time) in pairs, one clerical, one lay, to carry communications to the counts (and also, presumably, to inspect what was going on in the counties).

The Treaty of Verdun in 854, by which his three grandsons split the whole of Charlemagne's territories between them was an acknowledgement rather than a cause of the collapse of the Carolingian empire. The break-up of the empire initiated a period of near anarchy, worsened by the second wave of invasions and raids, this time by Muslims and Vikings. The 'feudal system', it was thought, emerged out of this period.

The classic picture of feudalism is of pyramidal structures of personal relationships among the greater and lesser nobility by which one declared himself the vassal of (i.e., declared himself 'the man of- 'did homage to') another, thereby committing himself to regular armed service in his cause. Such service was in return for an endowment of landed property (a fief) which was in principle returned to his lord (or his heir) on the death of the man; no rent was paid.

The portrayal of medieval society as ordered according to a stratified system of formal, legally attested or oath-bound relationships must now, it has been argued, be treated as largely fictional, and an impediment to proper understanding. The picture of feudalism one retains after reading the recent literature is of a landscape littered with conceptual ruins; and a paper by Elizabeth Brown which appeared in 1974⁶ reads like the manifesto of a 'down with feudalism' movement. "The tyrant feudalism," it concludes, "must be declared once and for all deposed and its influence over students of the Middle Ages finally ended." It hasn't quite come to that, yet (although it now seems obligatory for the word 'feudal' to appear between quotation marks). Careful inspection reveals that the 'feudal system' so carefully constructed and embellished by past historians has not been obliterated by later historians so much as dismembered.

A useful summary of the state of play at the end of the 1980's is provided by Wendy Davies in an incidental passage about the kind of 'feudalism' which prevailed in post-Carolingian western Europe. It occurs in her detailed study of the social situation in a small corner of France on the borders of Brittany in the latter part of the ninth century and the first half of the tenth.

"Nowadays," writes Davies, "scholars tend to modify the clean lines of [the] traditional picture and talk of usages or *liens feodo-vassaliques*." Rulers might look for loyalty or

⁶ E.A.R. Brown, "The Tyranny of a Construct: Feudalism and the Historians of Medieval Europe", *Am.H.R.*, Vol.79, 1974, pp. 1063-88.

'fidelity' from the nobility rather than active service, relying instead on their own armed followers, with different kinds of relationship being entered into between the higher and the lower nobility - although there was still landed support for public service. "In particular, aristocratic relationships of that period now tend to be seen in terms of a pattern of alliances rather than a series of unbreakable relationships."⁷

What has in fact been demolished, then, is the vision of feudalism as a system, as a great chain of reciprocal duties binding the whole of medieval western Europe, lords and peasants alike, into one social conglomerate of dependency and service by means of ritual declarations of fidelity, allegiance or subservience. It ought to be said that it had in any case long been realised that the betrayal of such declarations played almost as prominent a part as their affirmation; hence the multiplicity of disputes, settled by arbitration, tribunal, court of law, or *force majeure* - the records of which, incidentally, provide most of the evidence about the nature of 'feudalism'.

One can, however, out of the *disjecta membra* of the corpse that once was feudalism, reassemble one or two serviceable models for our present purposes. It is still possible to discern the kind of ethos which went into the formation of political and administrative relationships wherever the king or duke was either absent or too lacking in resources for purposes of command. Such relationships constituted a form of social organisation which, however minimal or fragile, was capable most of the time of sustaining the everyday economic and other public concerns of communities.

What stands out as most clearly defined and substantial is that in one way or another the 'feudalism' of the high Middle Ages was about land, and landholding. There is, however, a peculiarity about the medieval notion of landholding, a peculiarity which is central to the idea of feudalism and which is largely responsible for the conception of feudalism as a comprehensive system. For "several different persons, in somewhat different sense, may be said to have and to hold the same piece of land."⁸ At the lowest level, the 'tenant in demesne' has the right to use it more or less as he pleases. But he has an immediate superior, a lord, of whom he holds the land, and to whom he has to render services of some kind; that lord, however, may well hold his rights in the land of someone else, to whom he, in turn, has to render services; and the interlocking of rights in the land and services may extend through any number of stages until it reaches a 'tenant-in-chief', who holds his rights in the land from the king, duke, or other territorial overlord. Every one of them has some rights in the same piece of land.

Of course, it was the personal relationships which proceeded out of the proprietary relationships determining the tenure of land that complicated matters. "Lordship was property, the object of protection from above, just as it was jurisdiction, the source of legal protection for rights below." Nevertheless, historically, the whole affair started the other way round. Personal relationships came first. "The rights of a great landowner were

⁷ W.Davies, *Small Worlds*, C.U.P., 1988, pp.183-4.

⁸ F.Pollock and F.W.Maitland, *History of English Law*, O.U.P., 1978 edn., Vol. I, p.237.

not over empty land but over the people who worked the land, or over inferior lords with rights over those people."⁹

The ties of loyalty between fighting men and their chief which had provided the basis of a system of mutual defence and assistance in the Germanic tribes had a material backing. 'Heriot' (arms and horses) was given by a lord to his followers, to be returned to him after death - unless they fell in battle 'before their lord.' These ties were, however, supplementary to the bonds of kinship. Such elementary legal provisions as did exist acknowledged kinship to constitute not only as a right of inheritance but a kind of property right in persons as well. Those found guilty of murder paid the victim's relatives sums of money according to a fixed tariff related to his status. And among Germanic tribes, wrote Sir Henry Maine, the "*allod* or domain of the family was the joint property of the father and his sons. It does not ... appear to have been habitually divided even at the death of the parent."¹⁰ Proprietary interest in land enters in gradually after the invasions had turned great expanses of territory first into booty and then into largesse. To begin with, the different groups now in contact with each other in the more settled kingdoms established by the invaders - such as those carved out of Roman Britain - seem either to have accepted the hegemony or admitted the superior jurisdiction of one tribal king for the settlement of disputes and relationships previously subject to fractionally different customary practices. At least some formula seems to have been arrived at between them, and written down as law. The earliest surviving records of such laws are English, and they carry a suggestion that a kind of relative stability had been achieved by the seventh century.

But whatever happened in England, the experience of continental Europe seems to have been very different. Conquering alien people and acquiring rich lands could have bred an unquenchable appetite for more acquisition, this time at the expense of neighbouring incomers; or sporadic resistance and rebellion may have formed the invaders into permanent combinations under local chiefs; or the constantly renewed pressure from other invading groups may have generated an habituation to force and violence. The evidence concerning the peasants and labourers of the early Middle Ages that continental historians have found points to an unbridgeable gap between fighting men and labouring men - with the clerical orders gaining acceptance alongside the class of *bellatores*. (Bishops, after all, took their place in battle among the warrior nobles, whereas peasants were prohibited from taking holy orders.) The peasant was ignorant, cultureless, potentially dangerous and, by definition, pagan - 'more animal than man ... a medieval Caliban.' And he remained so for the most part even in later centuries.¹¹

Continuing warfare between the newly established kings and princes of the early settlements on the mainland of western Europe was followed by the extensive campaigns

⁹ S.F.C.Milsom, *Historical Foundations of the Common Law*, p.99.

¹⁰ H.S.Main, *Ancient Law*, (10th edn.) Murray, 1905, p.202.

¹¹ J. Le Goff, "Peasants and the Rural World in the Literature of the Early Middle Ages (Fifth and Sixth Centuries)" in *Time, Work and Culture in the Middle Ages*, (trans. A. Goldhammer, Univ. of Chicago Pr. 1980, p.97.

of the Merovingians and then Charlemagne. The respite afforded by Carolingian rule lasted longer in Germany, but elsewhere, the first quinquennium of the Middle Ages culminated in two more centuries of warfare, worsened by the Moslem invasions and Viking raids of the ninth and tenth centuries. It all made for incessant demands for military mobilisation. The characteristic relationships of the invaders' traditional social order was now, however, distorted by the fact that, by the eighth century, making war called for mounted troops, trained and practised in fighting, provided with horses (though fighting on foot, before stirrups came into use), equipped with swords or maces and clad in protective armour, not simply men with spears mustered into a primitive militia under their village leaders.

"Disorder," as Marc Bloch has said, "can be a most important historic fact."¹² Maintaining fighting men, whether for defence or aggression, was costly, and had to be paid for. The only economic resource from which such provision could be made on a permanent footing was the labour which individual peasants could provide in working their chief's land, and in surrendering some of the produce from their own holdings.

Any rationale of protection as an exchange for services in labour and kind merged soon enough into standardised *seigneurial* oppression. There was a handy model; in many places the servitude of the peasant workers of the great estates of the later Roman Empire had been preserved, even after the estates themselves had been divided and subdivided among a chief's followers; elsewhere the gifts which had been offered to the head of a village or a tribal chief were transmuted into regular service. In most places, the comparative freedom of 'allodial' peasants was either elevated into the greater freedom of the lesser nobility or lost, merged into the general subjection of peasants and labourers to the *seigneur*, from whom they held their land as 'tenements.'

In continental Europe, Charlemagne's conquests and system of imperial administration served to accelerate the shift from personal to tenurial relationships. Not the least of the achievements of the Carolingian empire were the great strides made towards 'manorialisation' - the relative standardisation of taxes and labour services imposed on all peasant proprietors, free or unfree, by officials claiming to act in the name of the Emperor - the bishops, and abbots and 'counts of the Empire' and their agents. With the break-up of the Carolingian regime, such exactions came to be primarily for their own use and profit; their offices almost inevitably became hereditary - family - tenures. As Bloch observes, the oppression of the poor by the powerful was being deplored even in the official texts of the Carolingian period.¹³ An independent peasantry lasted longer in England, but Domesday shows that, a few years after the Conquest, "many little independent estates had been unceremoniously 'attached' to the adjacent manor."¹⁴

The lifetime ties between a beneficiary and his benefactor did not replace the ties of kinship entirely. In many parts of Europe it was for centuries customary for succession to

¹² M. Bloch, *Feudal Society*, p. 359.

¹³ M. Bloch, *Feudal Society*, p.244.

¹⁴ F.M.Stenton, *Anglo-Saxon England*, p.274.

pass to a brother, or to a member of a collateral branch of the family who seemed to be the most capable leader. But it also made assassination often too tempting to resist; seven out of the nine kings who ruled in Scotland during the hundred years before 1040 (i.e., before the reign of Macbeth) were killed in feud or by their successors.

After the death of Charlemagne in 814 and the disintegration of his empire thereafter, there came a period of near anarchy - outside of Germany, that is, where "the most solid political structure in Europe"¹⁵ lasted into the eleventh century and beyond. In France, - northern Italy, and elsewhere, the only question was how far disintegration would go. The dominant central power of kingship disappeared, or was too remote or weak to count. Armed force reigned virtually supreme.

For the most part, the power which had attached to kingship was dissipated among a multiplicity of regional and local lords, who took it on themselves to assume something approaching 'regalian' rights. As the overall political power belonging to kings was fragmented and dispersed, what protection it had offered to people in general disappeared (see Chap.V, pp.). Ganshof, echoing Bloch, points to the "dispersal of political authority" when personal dependence came to supersede all other social ties.¹⁶

It was such conditions that bred what used to be regarded as 'feudalism'. It seems altogether different from societies based on kinship and from those dominated by royal power. None the less, as Bloch emphasised, feudalism "was their successor and bore their imprint." On the one hand, ties of personal subjection retained some resemblance to the familial relationship typical of the original *companionage* and, on the other, a good deal of the political authority assumed by regional and local lords "had the appearance of a usurpation of 'regalian' rights."¹⁷

Among the 'regalian' rights they took over was that of deciding the succession. Even the great and powerful wanted to ensure the 'rightful' succession of heirs to the lands they had won by force of arms - and also by marriage - and the uncontested installation of their appointees. A pragmatically sanctioned succession preserved the peace more often than a disputed succession broke it - a real improvement on what had gone before. They recruited 'masters' - literate clerics, mostly, at first - who could document their acquisitions, record their decisions and (a widespread practice, even then) discover, and reconstitute (or fabricate) their ancestral lineage so as to affirm their descent from some remembered nobleman.

The principal motor of inequality in rank became inheritance, allied to primogeniture. With the establishment of direct inheritance, the benefice transformed itself into the hereditary fief. Primogeniture, as Maine remarked, spread itself over Europe with remarkable rapidity, so that younger sons and unsuccessful contestants for heritable fiefs were relegated to some inferior order of society, though still well above even the well-to-

¹⁵ R.W.Southern, *The Making of the Middle Ages*, Hutchinson, 1967, p.22.

¹⁶ F.L.Ganshof, *Feudalism*, Longmans, 1952, p.xv.

¹⁷ M.Bloch, *Feudal Society*, p. 443.

do lower orders of town and country. It was then that even the great lords who seemed most firmly established employed literate 'masters' to seek out, or invent, genealogies which would connect them with memorable great men of the past.

In the end, the structure of *seigneurial* power was given the backing of law. Jurisdiction and government were inseparable; more to the point, they were indistinguishable. This was especially true of the everyday affairs of local communities: "Courts were the governing bodies of their communities, dealing with all their public business; and to us they would look more like public meetings than courts of law."¹⁸

So it was that as conquest came to lie more and more in the past, and terror and violence became too hazardous, expensive or chancy to afford a substantial basis for the continuous exercise of lordship, territorial magnates began to need the kind of reinforcement offered by authority. The legitimacy conferred by the Church's blessing came in handy (although how mixed the blessing could be became quickly obvious to many of them, kings, dukes and lords, when the 'Hildebrandine age' began). For the possibility of trade-offs between the hierarchy of the Church under the pope and the feudal hierarchies under emperor and king was too obvious for lawyers, who were clerics themselves, to miss. The Church, for its part, was only too conscious of the need which it alone could satisfy. "Who does not know," wrote Gregory VII, "that kings and princes derived their origin from men ignorant of God who raised themselves above their fellow men by pride, plunder, treachery, murder - in short, by every kind of crime?"

III

Attempts to establish royal supremacy within kingdoms on a firmer footing began, as did so many other institutional developments, with the relatively peaceful and prosperous conditions that succeeded the last wave of invasions by Moslems, Vikings and Magyars. It so happens, however, that the two of the most notable moves of the whole medieval period towards the establishment of effective kingship if not of royal sovereignty were made by immediate descendants of the Viking invaders in two islands: Sicily and England. By the end of the twelfth century there were, in both countries, systems of government which covered the whole of their territories over and above the tenuous - and frequently ignored or contested - bonds of fidelity, kinship or dependence which obtained elsewhere. True, it was limited in scope, compared to what could be done five and six hundred years later. It amounted to no more than the suppression of independence among their feudatories, severally or in combination, the assertion of their own supremacy in the administration of justice, and insistence on being paid what was due to them in the way of taxes, tolls, rents, fines and service, military or other.

Even so, much of the success of Norman kingship in Sicily and England was due to the institutional foundations that existed beforehand - more, probably, than any innate capacity for government of the kind that historians were fond of attributing to Normans,

¹⁸ S.F.C.Milsom, *Historical Foundations of the Common Law*, p.12.

or to the recency of conquest. A fairly solidly established hierarchy of a quasi-feudal kind had existed in England under the Anglo-Saxon and Danish kings, and this eased the way for the new rulers. In Sicily, there was an administrative system of some sophistication left by its Arab conquerors, much of it surviving from the Byzantine Empire. Sicily, moreover, was extremely wealthy. It was still the granary which served much of the Mediterranean, as it had under the Romans; tolls and dues were collected from the great number of ships for which its harbours were still the natural ports of call on the way to or from the western half of the sea and the Levant.

Not that any of the Norman and Angevin kings of England or the Norman kings of Sicily had trouble-free reigns, but William I, Henry I and Henry II of England, and Robert Guiscard and his brother Roger de Hauteville ('Roger I') of Sicily were more than capable - most of the time, at least - of dealing with recalcitrant barons.

Neither Robert nor Roger were, in fact, kings *de iure*; Robert Guiscard had the title of Great Count of Sicily, and designated himself king; and he gave Roger most of the island as a fief. Yet both not only acted out to the full the role of king as it was understood in the eleventh century, but actually extended it to supreme authority over the church and over the ecclesiastical courts in their dominions; what is more, they did so with papal support, since, as military allies of the Pope, they proved more than a match for the Emperor.

In Sicily, as in England, the new Norman rulers, far from making a clean sweep of the existing institutional structure, were quite prepared to take it over. In Sicily, they also kept on many of the officials who possessed a kind of administrative competence far surpassing anything available elsewhere in Western Europe. The post of emir of Palermo, governor of Sicily, was retained as *amiratus* (the title which later became 'admiral'); bailiffs were appointed to serve as executive officers of the king in the first place but given wider administrative and judicial authority later on.

In both kingdoms, the Norman kings established a special authority by abrogating the feudatory hierarchy and requiring an oath of loyalty to the king to be sworn by vassals on the occasion of swearing fealty to their lord. In Sicily, Roger II and his son William II went further, and here too they may have been following Arab or Byzantine models. They were *absolutus legum*: not bound by any law. Nor did they acknowledge in their coronation ceremonies the intercession of Church or Pope; they, like the emperors in Byzantium, were chief priests of their realms. In fact, they went beyond notions of medieval kingship and aimed at an oriental despotism; they certainly acted as tyrants.

"There is not much suggestion here," Maurice Keen has written, concerning Sicily, "of the fragmentation of power; all matters, feudal and local, are to be ultimately controlled, through royal officials, from the highly organized court of Palermo. Many of Roger's officers were, significantly, of Greek or Arab extraction, trained in traditions of administration older than any known in the west. The multi-racial composition of his kingdom's population contributed more to the exceptional power of his crown; the royal

authority was the only one which Greek, Norman and Arab alike acknowledged. This was also what made Roger's court a centre of magnificent and cosmopolitan culture."¹⁹

England and Sicily were exceptional in that there was a ready-made system of relatively ordered subordination, in the first case, and of administration, in the second, ready to hand - if the hand were ready. But just how unstable the situation was can be seen from the collapse of the Kingdom of Sicily after the death of Roger II's grandson, the Emperor Frederick II, and, in the case of England, in the disruptive conflicts that consumed the reigns of Henry I's and Henry II's sons.

Instability seems, in fact, to have been inherent in all kingdoms during this phase of the Middle Ages. It could even have been built into them, if the English case is any guide, by the way the spoils of conquest were divided up. The Domesday Book, uniquely, shows the way the land of England was distributed after the Norman Conquest.

The four large northern shires were excluded from the Domesday survey, which was carried out some twenty years after the Conquest, being handed over almost *in toto* to the great marcher lords, lay and ecclesiastical. Of the total annual value of the rest, William and his family had just under a quarter, and his servants and aides 2.5 per cent. The church (and it has to be remembered that many, if not most, of William's bishops received their benefices for their martial rather than their religious zeal) was awarded 26 per cent, a bigger share than the King's. The rest, apart from some assigned to a few of the more collaborative English lords, was divided among some 170 baronies, "as rewards for the Normans who had shared in the enterprise of conquest."²⁰ Their combined share amounted to 31 per cent, to which, of course, must be added the northern counties.

The barons' estates, and also much of the land awarded to churchmen, would have been subdivided in much the same manner among the knights and freemen who had fought with their chiefs, now lords with sizeable holdings of land; they naturally looked to him for reward and for recompense for continuing service as their vassals.

If one remembers that the Norman kings of England are held up as models of powerful medieval kingship, the balance of resources revealed by the Domesday survey gives some inkling of what medieval kings ordinarily had to contend with. A king was more *primus inter pares* than autocratic ruler, even in name. What authority he had derived from the unction conferred at his coronation and a juridical supremacy which, often enough, was operative only in those places where he could display the military power he commanded; hence the peripatetic careers of most medieval kings.

There were substantial variations in the way the monarchic and *seigneurial* system operated at different times and in different places, but for most people their ruler was the local, sometimes the regional territorial magnate, whether seigneur or bishop. It was to

¹⁹ M. Keen, *A History of Medieval Europe*, p.106-7.

²⁰ A.L.Poole, *Domesday Book to Magna Carta*, O.U.P., 1955, p.2, quoting figures given by W.J.Corbett in *Cambridge Medieval History*, Vol.5.

him they paid their rents and dues, looked for protection, and sued for relief or mercy. So far as peasants and country people were concerned - and they made up the vast majority - what counted was the proximity and weight of *seigneurial* and, very occasionally, kingly, power.

There was no capital. The king, if he was intent on keeping his position, had to be constantly on the move. This was, incidentally, as much to ensure the supply of provisions for him, his household and his retinue (a charge laid on his hosts) as to parade his forces, hold a council meeting, and deliver justice.

In all, therefore, it would be a mistake to envisage the typical territorial dominion of medieval Europe as a state ruled by a king rather than by a dictator, an oligarchy, a democratically elected legislature, a 'politburo', or any other sovereign power. Medieval kingdoms hardly reckoned as political units; even to call them 'empires', which R.G.A.Pocock thought more suitable,²¹ stretches things too far in the case of most countries before the thirteenth century, especially if it connotes a single jurisdiction, as he seems to think. Royal jurisdiction could overrule noble or municipal jurisdictions, as they did in England, but elsewhere it was not so simple. The overall jural authority attached to kings was reserved largely for the settlement of disputes between subordinate jurisdictions; the exemplary case is that of Germany, where sovereign jurisdiction within their own territories was the fundamental entitlement of the hundreds of greater and lesser principalities, with each acknowledging the overall jurisdiction of the Emperor, along with the right to call on them for military and financial aid in war.

As Wendy Davies puts it: "The three prongs of power in early European states are the power to raise tax, raise an army, and give judgments in aristocratic cases. The crux of the issue in this case is: did all early kings have all three from Day One? I think not." What is more, right up to what we think of as the last century of the Middle Ages (indeed, especially during that last century) each and every one of those three 'prongs of power' might well be contestable, and so contingent on the possession of superior forces.

IV

The situation of the Capetian kings of France during the first two centuries after the accession of Hugues Capet in 987 illustrates the kind of limits set in practice to early medieval kingship. While the Capetian kings were in no sense typical, yet their plight, and the way in which they sought to overcome it, gives some insight into the situation prevailing midway through the medieval millenium in a country which was on its way, during their reigns, to become the intellectual and cultural centre of western Europe.

By the time the Capetians came on the scene, little remained of the structure of government which had been built under Charlemagne, if only because the great Carolingian offices of state had been turned into powerful baronies - an example which

²¹ R.G.A.Pocock, "The Political Limits to Pre-modern Economics", in J.Dunn, ed. *The Economic Limits to Modern Politics*, C.U.P., 1990, p. 125.

less important functionaries had been able to imitate. So far as the kingdom as a whole was concerned, it is precisely the situation which called forth Bloch's comment about the dissipation and usurpation of 'regalian rights.' "The regular administration of royal justice was a thing of the past, there were no royal revenues, and the king could hardly muster his own army without baronial consent." Changes in the administrative set-up followed a course completely opposite to what happened in England then and later. The office-bearers who still attended the king had functions which were virtually confined to the royal household and the king's domains; beyond that, their authority was barely even nominal. "During the first two centuries of Capetian rule the king could only secure the means of royal action by summoning to court his great barons, the men with whom true power lay, and appealing for their support. Without it he was, as sovereign, powerless."²² But it is not just the difficulties, the weaknesses and the vicissitudes of early medieval kingship which are so clearly illustrated in the case of France. What also becomes visible is the kind of strategies used in order to overcome them.

Throughout the whole history of the dynasty, which lasted from 987 to 1328, the Capetian kings of France had to contend with a succession of invasions by foreign potentates, pretensions to their throne by rival claimants, and challenges to their supremacy by powerful nobles. Not that the troubles ended with the Capetians, of course. The House of Valois was soon immersed in the still greater troubles of the Hundred Years War; and even after the English were finally expelled in the fifteenth century, the internal threat posed by the nobility, small as well as great, was not dispersed for another two hundred years. But the nature of medieval kingship is most clearly revealed in the way in which the Capetians 'managed' their kingship and contended with their troubles (even though they appeared perversely to sow more difficulties for their successors to encounter), to emerge, at long last, supreme, as 'emperors within their own kingdom'.

The Capetian kings had *seigneurial* rights over their own domain, of course, but they were virtually all the territorial rights they did have. Moreover, not only is the extent of this property difficult to establish until the thirteenth or fourteenth century but, as Fawtier has remarked, the definitions of 'domain' given by jurists and historians are 'full of qualifications, confused, and sometimes erroneous'.²³ Roughly speaking, their 'patrimony', after consolidation (i.e., after actually getting their own vassals under control), extended some 40-60 miles to the north-east and the north-west of Paris, half that distance to the east and west, and up to a hundred miles southwards, beyond Orleans and Sens. This, the 'Ile de France', was ringed by principalities which had been consolidated during the same period and in much the same manner. They were just as extensive in territory and at least as well integrated and organised as the royal domain; there were six of them: the duchies of Burgundy, Normandy and Brittany, and the counties of Flanders, Toulouse and Champagne.

All, beginning with Flanders, were, one way or another, either absorbed or brought to heel eventually. Force was very rarely used. The most direct, most favoured, and readiest

²² R. Fawtier, *The Capetian Kings of France*, (trans. L. Butler and R.J. Adam) Macmillan, 1966, p. 170.

²³ F. Lot and R. Fawtier, *Histoire des Institutions Francaises au Moyen Age*, P.U.F., 1958, p. 99.

instrument of policy was inheritance as a consequence of judicious marriages, by which territories could, in the long run, be acquired outright. Of course, both families who were party to a marriage were potential beneficiaries through inheritance. The advantage held by the royal family was that, in the case of a disputed inheritance (and, to all appearances, the chances of this arising were better than even throughout the Middle Ages) the royal jurisdiction allowed the king to intervene in disputes between rival heirs, even though he or members of his family were interested parties, and so arrange things that the outcome benefitted the crown; Philip Augustus was particularly adept at this kind of thing. Championing the cause of the Church at critical moments proved useful too, as in the case of Toulouse, which became heavily involved in the Catharist ('Albigensian') heresy in the twelfth and thirteenth centuries. It was by such methods that the Capetians were able actually to annex whole territories. The utmost patience was brought to bear on the task of wearing down all resistance. The final episodes consisted in securing "legal titles to confirm a de facto possession which was in some cases a century old."²⁴

While dismemberment leading to annexation served the Capetians in the case of Flanders and Toulouse, Burgundy and Brittany were rather more formidable. These latter were dealt with by a mixture of subversion and infiltration encroaching on the rights and jurisdiction of the lesser nobles, overriding the orders of the dukes, posing as the champion of Burgundian or Breton liberties when these were 'threatened' by alliances with or submission to foreign princes, and siding with one or other parties in the case of a disputed succession.

There were other strategies, other policy devices. One of them, *pariage*, was used with great effect on smaller fiefdoms. *Pariage* was a means, under certain systems of customary law, whereby property descended to the eldest male heir exclusively, but on condition that the feudal dues and rights were apportioned equally between the heir and his feudal superior, who in return placed the heir under his protection. In most cases where the king of France as feudal superior chose to intervene, the "result, sooner or later, was the annexation of the lordship to the royal domain, most frequently by the king's purchase of his partner's share of the revenues."²⁵

The *sauvegarde* appears to have been less widely used, but was nevertheless an extremely effective instrument, in that it obtained for the king a foothold in areas which had not previously acknowledged royal authority. The *sauvegarde* was an agreement whereby the king offered protection, usually to a town or a monastery, without any reciprocal duty or service being required. This ostensibly generous gesture had the effect of procuring a foothold for royal power and authority in places from which it had previously been excluded. Here, too, the final step was usually outright purchase.

The territorial domain and the power and authority of the French kings increased steadily throughout the Middle Ages, despite the inroads made by kings of England from the twelfth to the fifteenth century. Fawtier, from whom this account is drawn, insists that

²⁴ R.Fawtier, op. cit., p.130.

²⁵ *ibid.*, p.158.

there was no long-term plan for territorial acquisition. By way of confirmation of his view, he points to the contrary actions of the Capetian kings in alienating royal lands, by gifts to their followers and to the Church in the manner of their forefathers and by the donation of territories as *apanages* (which were supposed to revert to the king or his heirs, but often did not) to members of the royal family. "The dynasty had nothing of the peasant's attitude to land. The kings never looked on it as something to be collected, to be hoarded, to be exploited with prudence. Nor did they have the outlook of far-seeing statesmen."²⁶ This may do them less than justice. Peasant 'land-hunger' had little to do with it. It was the rights that went with overlordship that mattered. The Capetian kings of France were no more pertinacious in pursuit of territorial gain, perhaps, than were the great nobles who were their neighbours, and who were also in many respects rivals or opponents as well as owing some loyalty to the throne. They were assuredly no less so. The line which kings followed in their pursuit of power was, however, significantly different from any open to their rivals. The difference lay in the elements on which kingship was founded: the concentration of military power he could dispose of, the sanctity of his person and office, and his position as chief dispenser of justice. It was in knowing this, in putting each of the elements which made up his kingship to appropriate use at the appropriate time - in sheer opportunism, in other words - that the political strength of medieval kings lay. A larger than average proportion of Capetian and Valois kings became pastmasters of this kind of politics.

The history of the Capetians offers some kind of testimony to the extraordinary tenacity not so much of the men who wore the crown but of the hold the idea of kingship had over men's minds, insubstantial and amorphous as the power of kingship was in practice.

It also signifies the growth in potency of the rule of law. By the twelfth century the notion of property rights as vested in individuals has been built firmly into the customary beliefs which sustain legal practice; property is seen therefore to be transferable through marriage and inheritance. Rights in property ownership (roughly, but only roughly, dominium as against possession) can also be parcelled out - or rather, stretched, and spread out - between a variety of claims by kinship, marriage, 'feudal' dominium, testament, benefice, treaty, covenant, and so forth.

This opened up any number of ways for the rich, the powerful, and, *a fortiori*, kings and princes, to establish in law partial rights in other people's property. It became possible, as we have seen, to use the particular rules of primogeniture which obtained in some areas to insert a claim for royal rights of dominium in the first place and to follow that up with a claim to full property rights, up to and including possession. Legal opportunism of an even more glaring kind is displayed in the claim to rights over places which had at some time been promised protection by the king's troops (and so had, presumably, to let them in and provision them), even though the promise had been made *gratis*, with nothing asked for in return.

²⁶ *ibid.*, p.168.

Clearly, the methods adopted by many of the Capetian Kings of France for adding to their possessions were devious and opportunist. But they equally deserve to be called 'rational', and even 'logical.' They exemplify a view of action ('social action') in which individuals act not by obeying some norm or rule (which assumes that the appropriate guiding norm is self-evident) but by devising, or acquiring, strategies derived from personal experience (their own and others') and aimed not at specific ends but simply at doing the best one can under the circumstances. Increasingly throughout this period of history (and later, of course) the 'circumstances' included law - or appeal to one rather than another code of acceptable legal practice (sc. accumulation of previous judgments). Picking out the set of customary, established, or lawful practices which offer the best chance of success is as rational a course of action as any, as Milsom has made convincingly clear.²⁷

Kingship at any particular period in history tends to be *sui generis*. Kings did have to wear their kingship with a difference until quite late in the Middle Ages, but it has to be emphasised that, practicalities apart, there is little notional distinction between medieval monarchy and the 'absolute monarchy' which came later. Although there was precious little theorising about monarchy when medieval monarchies were in process of being established, what evidence there is from coronation ceremonies, surviving chronicles and at least one treatise (the *De institutione regia*), the essentials of absolutism and even of divine right were contained within the concept of kingship as early as the ninth century.²⁸ The king was ordained by God as his minister; he was 'absolved from' (i.e., above) the law. Even more important, he was above all other territorial lords within the kingdom, and he recognised no temporal superior outside or inside it.

Kings in the Middle Ages had strategic advantages peculiarly their own. In the long run, opportunism played by far the bigger part.

V

While national government in any sense meaningful today can hardly be said to have existed, there was a great deal of royal business, quite apart from military command over the country's armed forces in time of war. This business was of two kinds: political (including negotiation with foreign powers) and judicial decisions; and management of the king's property and finances, which included providing funds for the upkeep of armed forces and for military supplies. The first was the concern of the King's Court, or King's Council, the second of the Royal Household.

Of necessity, as well as by expedience, kings ordinarily consulted leading nobles and ecclesiastics before deciding on any course of action of any significance: "The typical feudal king, if we may make such an abstraction, should have a court consisting of his immediate vassals, his tenants-in-chief. How much or how little he will be influenced by them, whether they will be utterly powerless or whether he will be but the first among

²⁷ S.F.C. Milsom, "Reason in the Development of the Common Law," in *Studies in the History of the Common Law*, Hambledon Press, 1985, (esp. p. 170).

²⁸ F.Lot and R.Fawtier, op. cit., p. 11.

equals is a different question - but such control over him as there is will be the control of a court thus formed."²⁹

The King's Council, composed as it was of royal kinsmen and nobles who were powerful in their own right, of leading churchmen, and certain officials either appointed by the king or chosen by the Council itself, remained the main forum for political discussion - and dissension. Also, although constitutionally it acted as a consultative and advisory body only, its decisions and pronouncements carried weight which was derived not only from the king's presence, in person or by deputy, but also from its being the highest court of law. For besides giving advice and counsel, the Council was also there to perform judicial and administrative functions. Giving and making law were the two especially royal functions, but in both he took counsel with other members of the royal family and those more powerful barons and prelates who were available.

The *concilium regis* was a consultative body which fluctuated in size and met irregularly but was of major political and judicial importance. There was to begin with no specialisation - apart from the major division between the literate and illiterate. Great lords, bishops, abbots, acted as judges, administrators, financial controllers, or counsellors as occasion offered.

The secular and ecclesiastical magnates (together with their retinues and kinsfolk), priests and knights who were attending the Court were there partly as a show of force and dignity for the king, but they were also there by right. One good reason for this was that even after succession and inheritance had become largely hereditary, medieval kings were still being elected to their thrones by the great feudatories of the kingdom - nominally by all of them, but at the very least a strong group of them.

There was one major difference between the French and English Councils. In both countries, formally speaking, all tenants-in-chief of the king were rightfully members of the King's Council. In France, this obtained in practice, but William I had made it his business to see that all his armed followers, down to hundreds of knights, owed fealty to him for the English land he allocated to them; tenants-in-chief were numbered in their hundreds in England. Convocations of all tenants-in-chief in England, of the kind which did meet in 1215 and later in the thirteenth century, came together as a national assembly: *consilium commune regni*. Hence, from the eleventh century onwards, the King's Council in England was a small, select group, (though larger than what was later created in France as the inner, 'privy' or 'secret' Council). It is this circumstance, as much as any, which lies at the origin of the different constitution of the English Parliament and the French *parlements*.

It was for the king and his council ('the king in council') to make and administer the law, and to decide matters of war and peace with enemies and potential enemies without the realm and within it. Also, they had to come to some agreement as to how best to raise the money to pay for the wars it was decided the king should fight. For the most part, the

²⁹ F.W.Maitland, *Constitutional History of England*, C.U.P., 1977, p.61.

view taken of the expense of reigning was much what magnates would say of each other: that it was up to the king, and the king alone, to find the money - from the income from his estates, from dues, tolls, and what regular taxes there were. The king should 'live of his own'. It was never enough, of course. Apart from anything else, the obligation to serve in the king's, or a feudal lord's, armed forces was usually for a limited space of time (forty days is often cited), and anything beyond that had to be paid for. It was the king's perpetual search for more money for his campaigns which, more than anything else, induced him to convene larger gatherings of representatives of counties and towns who might be persuaded to agree to his levying extra taxes beyond those which were traditional.

Not only the King's Council but, when they came into existence in the thirteenth century, the English Parliament, the *parlements* of Paris and other parts of France, and similar convocations in other countries, originated as courts of law, were presided over by the king or by a chief minister designated by him. But whereas in France the creation of *parlements* was a response to the overburdening of the King's Council with legal business, and included a large proportion of experienced lawyers in their relatively small number of members, the first English Parliaments of the thirteenth century were summoned to meet as an assembly of all the king's tenants-in-chief, a very large number. A distinction (first recorded in Magna Carta) between major and minor tenants-in-chief was put to convenient use in that whereas archbishops, bishops, abbots, earls and other great barons were summoned by letter addressed to them individually, all other tenants-in-chief were summoned by general writs sent out to the sheriff of each county. Towards the end of the thirteenth century, a further element was introduced by applying the notion of representation, already familiar in the context of elected juries for juridical and tax-assessment purposes.

The purpose for which such a national assembly had to be convened was also laid down in Magna Carta, to be repeated all the many times the Charter was renegotiated and ratified: it was the only way agreement could be obtained for levying a tax ('scutage' or 'aid') on the whole realm outside of the three feudal aids regarded as ordinarily admissible (for ransoming the king, for his son on attaining knighthood, and for a daughter's marriage). Repeated outbreaks of war meant that money was needed time and again. Whereas for English kings, war had more often than not to be waged in France in defence of the lands they held there, and hardly qualified as a compelling reason for taxing English fiefs and boroughs, French kings fought wars in their own realm - or on Crusades - and so could insist on (or make a good case for) all feudal services due to them. Not that French kings were always so much more wealthy than English, but wealth came to the Capetians and Valois as their domain swallowed up one great fief after another, and numberless smaller ones almost incidentally; there was no comparable resource for the English to exploit, nor much chance of similar strategies succeeding.

VI

From the earliest times, medieval kings kept about them sizeable retinues, consisting of nobles, clergy, armed followers, servants and storekeepers, with a few of the nobles and clergy appointed to superintend them. There was also the Council, whose members, each with his own retinue, might be in attendance. The whole constituted the 'King's Court', a mildly ambiguous term, since its Latin form, *curia regis*, also stood for the King's Council in its judicial - i.e., primary and more enduring - capacity.

The maintenance of a large organised 'Household' staff was no more than the common pattern which obtained for the nobility generally. The more powerful magnates, indeed, reproduced the structure of the king's court as well as the royal household, with their chief tenants forming a council, without whose consent their chief might be reluctant to act, just as the king would without the support of the *curia regis*. A "great man, like William of Aumale, earl of York in Stephen's reign, could address his letters to 'his steward and his sheriff and all his ministers, French and English,' very much like the king himself. Waleran of Meulan and others gave orders to their 'justices'. Some few had a private exchequer." By the next century, according to Denholm-Young, what Stubbs says of baronial houses - that their administration was the counterpart of the economy of the kingdom itself - already held good.³⁰

In fact, this remark puts the position back to front - or, more properly, carries the unwarrantable implication of the nobility aping their betters. As in the case of the Roman emperors of the Principate, the royal household was no more than the kind of establishment common to leading magnates writ large. Even in the twelfth century, an honour (the manor which served as the principal seat of a tenant-in-chief, or 'baron') had its own *dapifer* ('steward', in England), chamberlain, and constable, and these were only the chief members of the household. All were of at least knightly rank, and, in those early times, were hereditary, like the counterpart offices of the royal household. Later, in more settled and more prosperous times, inheritance played a smaller part. At the king's court, the office of constable declined in importance and tended to be filled by men of lesser rank. There were two stewards, one for the hall itself and the other, more important, responsible for estate management; and the supervision of revenue and of expenditure was split between two chamberlains.

The out-of-doors business of *seigneurial* estates was managed by reeves, to begin with. With the increased business and responsibilities resulting from the growing prevalence of commutation (substituting money payments for work service and produce), leasing out demesne lands, and new ways of farming demesnes, reeves were being supplanted by bailiffs by the end of the fourteenth century. Eventually, bailiffs, whose office had been at first more or less interchangeable with the reeve's, took over the whole management of manorial estates, although their designation might vary from serjeant (i.e., deputy or vicar), or constable, or even steward, to coroner or private sheriff.³¹

³⁰ N. Denholm-Young, *Seignorial Administration in England*, O.U.P., 1937, p.2.

³¹ *ibid.*, p.32.

One has to envisage, then, a sizeable stratum - almost a class - of professional, or quasi-professional, laymen, who staffed the households of the nobility. Many of them were younger sons of nobles and all of them at least bachelor knights, who were skilled - or at least experienced - in the administration of great estates. They moved from one estate to another along career paths which quite often led them into the royal household - and out again, mingling with and in time supplanting clerics as they became more literate, and looking for ultimate reward in the office of sheriff, or of lord's, or king's, justice. In England it was the stewards, lords, sheriffs, sergeants, chamberlains, and bailiffs, the 'men of business' of the Middle Ages, who, when the time came, were the kind of people nominated to represent counties and boroughs when Parliaments were summoned.

The rank of knight attached to all these officials was no empty title. They took their place among the armed horsemen maintained by the earl or baron they served, wore his livery like them, and, if they were fit, followed him into battle. "Edward I's cavalry was made up of small units each under a magnate and wearing his livery, as did his bailiffs and other officials."³²

Reeves were not part of the household, being villagers of some standing in the neighbourhood, and often elected. Even though their relative importance declined after the twelfth century, they, or their deputies - '*repereves*' or '*messors*' - superintended the whole work of harvest, and had daily duties: impounding strays, taking security from persons wishing to lodge complaints in the manorial court, attaching property by way of fines or dues, issuing summonses.

Household administration, like all administration in the Middle Ages, was intermingled with the law - with litigation and jurisdiction - and at times almost indistinguishable from legal processes. Household officials might be short of arithmetic or knowledge of accounts (although there were treatises on estate management), and lack Latin, but they had to know their law. In fact, officialdom grew with authority, which grew with law.

From the twelfth century on, there are times when it seems that the lifeblood of the whole social structure was litigation - primarily because legal records are much more plentiful than any other. At all events, lawsuits, pleas before justices, and court appearances figure very large in the affairs of the stewards, bailiffs and other officials of noble households. And there are times, too, when it seems that money was the lifeblood of the law; for all such business was - had to be, as a matter of course - lubricated by 'fines' (for writs and judgments), and by gifts or outright bribes: all figure largely in surviving manorial accounts: "A present of corn is sent, or the judge is allowed to send his men to take deer in the countess's forest, or 20s. are paid to the judge's clerk for reading charters of liberties at the eyre."³³

³² *ibid.*, p.4.

³³ *ibid.*, p.111.

VII

The Royal Household, too, had its distinct groups concerned with equipment, horses and stables, kitchens, cooking, food and drink, clothing and furnishings. But there were in addition chaplains and groups of clerics who provided the secretariat of the king's courts of law and attended to a miscellany of business to do with the management of the royal estates, the collection of taxes and feudal dues, the receipt of fines (i.e., payments made by litigants for their case to be heard by the court - always a considerable fraction of the royal revenue in the Middle Ages), disbursement of money, and other matters. In France, an *ordonnance* of 1291 sets the total number of staff of the King's Household at 165. In addition, the principal officials of the Household had their own servants, the queen had her own household, and so had the king's children. The total probably amounted to 700.

At the head of the King's Household there were a few officers responsible for the management of the king's military resources, his domain, and the finances of the kingdom. Others, in the absence of the king, took his place at the head of the King's Council.

Chief offices like these were assumed as of right by powerful nobles (often the descendants of leading men among the armed followers of the first kings), and treated by them as hereditary perquisites. The progress of medieval kingship in France and England towards the 'absolutism' of the Renaissance is punctuated, sometimes interrupted and put into reverse, by the succession of tussles between king, lay and ecclesiastical magnates, and the 'owners' of the great offices over the disposal of these offices and the powers attached to them, conflicts which, during the reign of one or two kings - Louis X in France, and John in England - merged into, or assumed the appearance of, conflicts between the king and his council. They often ended in the disappearance of the offices themselves. In England, there were no Justiciars after the beginning of Henry III's reign, and there were no Seneschals of France after 1191.

It is the lengthy series of altercations over the centuries which accounts for the fluctuations in power of the great offices of the Royal Household and the shifts in the distribution of powers between them. In England, for example, one consequence of the conversion of the exchequer's lay offices into what Tout calls hereditary serjeantries was that as the proprietary families got richer, they tended to appoint underlings to do the actual work. This led in turn to the working members of king's exchequer being appointed by great nobles who as often were bitter opponents of royal policy. "We may well pity Edward II when one of his fiercest opponents, the grim Earl of Warwick, nicknamed by the royal favourites the Black Dog of Arden, had the right to nominate the man who did the work of his hereditary office of chamberlain of the exchequer."³⁴

As for France, the Seneschal, the most ancient office of all (the direct successor, probably, of the Merovingian *major domus*), was in fact a true viceroy. Master of the

³⁴ T.F.Tout, "The English Civil Service in the Fourteenth Century," in *Collected Papers*, Vol III, Manchester Univ. Pr., 1934, p.201.

royal household, he was also, to begin with, chief of the royal army, head of the administration of the king's domain, and deputised for the king in the role of chief justice. The office was left vacant for five years after Louis VI finally got rid of the over-mighty Etienne de Garlande, and there was no successor at all after 1191.

Before then, one of the Seneschal's subordinates, the Constable (the *comes stabuli* of Merovingian times) had taken over the Seneschal's military functions, but since it was the king himself who nearly always took command of the army, the role of the Constable was much more that of adviser and aide - a military lieutenant rather than a deputy. This clearly subordinate role made the Constable less suspect than the Seneschal became under the Capetians, so that the office actually grew in authority, with Constables deputising for the king in the administration (i.e., of justice) in some of the larger provinces, and attaining, eventually, the kind of eminence which the Seneschals had previously possessed. In the end, however, the office of Constable too became politicised, over-powerful, and too close to a kind of shogunate to be tolerable: "There is the fact that at one time the Constable de Richemond was actually in command of royal policy. There is, finally, the fact that Louis XI was driven to have the Constable de Saint-Pol beheaded."³⁵

Other lesser, though still principal, household officials in France were the Butler and the Chambrier. The Butler's importance derived simply from the fact that wine was the principal product of the royal domain and of sufficient fiscal - and indeed, general economic - significance to put him, along with the head of the exchequer, in charge of the royal finances. The *Chambrier*, nominally the equivalent of the Keeper of the Wardrobe in England, where the office assumed primary importance in the fourteenth century, was of comparatively minor rank, although he had under him 'chamberlains', some of whom, being constantly in the company of the king, achieved some importance politically.

Apart from these, there was one principal official who was not a member of the Household either in France or England. He was the Chancellor, the keeper of the great seal, and so empowered to issue writs, pronounce judgment, and make decisions on the king's behalf. Ordinarily, he was a prelate. In France, indeed, his office was an offshoot of the principal chaplain of the Royal chapel, the 'arch-chancellor' - so that the office could hardly become hereditary, although the French chancellorship did become virtually a perquisite of the Archbishops of Reims. It was the Chancellor, in both countries, who came to be regarded, during the thirteenth century, as the king's 'first minister', the chief justice, and the king's deputy.

VIII

The same endless series of bouts of tug-of-war between king, barons, the king's ministers, courtiers, clergy and the towns meant that any increments of administrative effectiveness and sophistication were usually checked or reversed before they could attain maturity,

³⁵ F.Lot and R.Fawtier, op. cit., p.53.

and a presence and momentum of their own. Apart from the times when there was open hostility, threatening or actually developing into armed conflict, the struggle was pursued in the court, in and around the king's council, where the leading members of the chief interest groups met the king, his kinsmen, ministers, and favourites. Towards the end of the Middle Ages, Parliament in England, and comparable assemblies in other countries, provided opportunities for other social groupings to intervene. Nevertheless, over the centuries, there were some improvements in administrative effectiveness. They were virtually exclusive to the king's household, however, since this was the king's own, even private, affair.

For the king, the great merit of the household organisation was that administrative arrangements could be made independently of ministers or the King's Council: "The chief interest of the organisation of the king's household," T.F.Tout has written, "is due to the fact that it was to the chief officers of the household that the great offices of state of later times owe their development. It is equally true to say that the men of the Middle Ages did not clearly distinguish between the King in his private and public capacity."³⁶

Tout unfortunately goes on to overstate the case and to muddle the point when he asserts that the land and the people (like the law courts and the army), "were as much the king's own personal possession as were his various demesne manors or the furniture of his palace".³⁷ Army command and the royal prerogative were hardly property rights. But his conclusion holds good, namely that "when in England the great departments of state, the Exchequer and the Chancery, gradually acquired an existence separate and independent in essentials from that of the King's household, the primitive undifferentiated household organisation still continued in existence, still kept up the early confusion between king and kingdom, and still from time to time threw off offshoots, which continued, as of old, to disregard our modern separation of the private and the public spheres of the royal activity."

The royal household served as a reservoir of administrative competence which enabled kings to provide and activate an alternative administration completely under their control. Renewals of this kind were instigated whenever the chief administrators succeeded in pushing their way from being instruments of the king's power to publicly acknowledged holders of power in their own right, and so to aspire to membership of the small power-elite of landed and church magnates.

Apart from a handful of chief officials, though, the king's household did not play any substantial role as such in affairs of state which, until very late in the medieval day, were not properly its concern, but that of the king, his family, and the King's Council. Least of all was it there to administer 'services', for there were none to speak of. The household had as its prime concern the management of the king's own properties, which provided the main source of revenue for the kingdom. Outside of this, most of its work lay in

³⁶ T.F.Tout, Chapters in the Administrative History of Medieval England, Vol.I, Univ. of Manchester Pr. 1920, pp.19-20.

³⁷ *ibid.*, p.19.

claiming fines from appellants and suitors in the king's courts, fees and rightful dues from feudatories and, increasingly through successive reigns, collecting the customs duties from the towns and the local notables to whom they had been farmed out, together with such tax revenues and subsidies as the Council and, later, Parliament, had agreed. These tasks, especially the last, had to be accomplished in the face of avoidances, resistances and outright challenges so obstinate and persistent that it was their successful resolution over a period of years that did most to determine whether or not any king's reign could itself be counted successful - or such kings as Edward I or his grandson 'great'.

Royal administration in the Middle Ages, it has been said, amounted for the most part to a debt-collecting system on a national scale. Yet, in the process, this kind of work fostered, almost incidentally, the development of nationhood, as well as statehood. In Powicke's perceptive words, taxes were "the expression of a social unity they did much to create."³⁸

Moves in the direction of greater royal power tended more and more to be articulated in terms of the increased authority or wider powers accorded to this or that section of the household administration. Such moves were usually matched, or quickly followed, by parallel moves towards the formation of oppositional interest groups. In so far as the king failed to assert his overall power, this was by virtue of the strength of the combination of interests between the great landlords, as often as not headed up by members of the royal family. These combinations were at times extended to include lesser nobles, churchmen, and foreign kings and princes; even major towns sometimes joined in. Each one of these parties had interests at odds with others', but were persuaded time and again to sink their differences and join forces not so much against the king himself directly as against the overweening powers accorded to household officials, originally derived powers but now allegedly exercised independently, or to the detriment of the kingdom - and the king. In so far as such challenges to royal power succeeded, they did so by securing the dismissal, disgrace, or execution of ministers or leading members of the royal household. "Personal favourites of the King, like Henry III's kinsfolk, and the Despensers, Robert de Vere and Simon, were hated by the barons, not so much because they were unworthy or incompetent, as because they were the heads of an organized court system."³⁹ Even Edward I, who was Henry III's son, did not escape when, towards the end of his reign, he overreached himself. By its "requisitioning of supplies, its encroachments on the common law courts and its supersession of the Exchequer in finance,"⁴⁰ the royal household went so far as to provoke protests from barons and clergy strong enough to win from the King an undertaking to abandon his scheme for raising money by arbitrary levies, and to institute no new tax without consent of Parliament.

³⁸ M.Powicke, *The Thirteenth Century*, O.U.P., 1953, p.523.

³⁹ T.F.Tout, *op. cit.*, p.20.

⁴⁰ H.Cam, *England Before Elizabeth*, Hutchinson, 1961, p.107.

Yet things could go the other way, and, increasingly, they did. "Much of the strength of the resistance of the English kings to baronial pressure was due to the fact that they had at their back a well-ordered institution to give effect to their wishes."⁴¹

The conflicts of the thirteenth and fourteenth centuries afford a view of the all-important distinction between 'administration through' and 'administration by' officials at its simplest, not to say crudest. The threshold between the two has at all times been jealously watched, bitterly contested - and almost impossible to establish in principle or on any permanently secure footing in practice. The administrative system, such as it was, that obtained in the larger kingdoms and principalities of western Europe reflected both the shifting emphasis between 'administration through' and 'administration by' ministers and officials but also, back of it, the balance of power between the king and his 'over-mighty' subjects, the church, and other sections of society. Both, in reality, amounted to the same thing; the structure as well as the potency of the administrative system was in many ways the outcome of claim and counter-claim, of attempts to exercise, and to stretch, royal power, and of countervailing resistance and protest.

The successive balances between the different forces could be said to have been struck in three specific areas of contention.

In the first, the law and the judicial system, the outcome was decidedly in the king's favour, in England especially, but also elsewhere, though in more complicated fashion and with many qualifications and exceptions. In England, the courts became the agents of the king's justice, superior to or even replacing local or manorial courts and, in important respects, ecclesiastical courts; the king's justices operated in the first place according to common law, which was founded on traditions recognised by the king and his justices as 'common' to the nation as a whole rather than matters of local custom or baronial preference; 'forest law' applied over those extensive areas of the country which had been appropriated early on by the Norman kings as hunting grounds; thirdly, there was statute law, hardly recognisable as such to begin with (since most statutory ordinances promulgated by the king took the form of 'reasserting' what he claimed to be ancient usage), but nevertheless held to apply to the country as a whole. These developments anticipated by centuries the development of common, i.e., nation-wide, systems of law in the countries of continental Europe, where it took the sixteenth-century 'reception' of Roman law in Germany to replace local systems of law, and Bourbon 'absolutism' to override (rather than resolve) the juridical division of the country into the southern *pays du droit écrit* and the northern *pays du droit coutumier*.

In the second area of contention, the fiscal system, each side could claim gains, but not victory. The income from the royal estates and feudal dues were no one's concern but the king's; fines and the like paid into the courts were his, as were certain customs duties, like the King's Staple, an export duty on wool, which were added by 'strong' kings. The right to levy customs duties and tolls tended to stay as part of the royal prerogative, like tallage, the levy on boroughs which, since King John, were part of the royal demesne; but

⁴¹ T.F.Tout, op. cit., p.20.

the extraordinary taxes, the subventions, loans and sequestrations were matters of constant or recurrent dispute, and remained so in France and in other continental kingdoms, as well as in England, until the seventeenth century. As for the third area, of what might be called national policy: the framing of new laws, the conduct of war, relationships with foreign kings and princes: the 'balance struck' at the end of the Middle Ages was much the same as it had been at any previous stage: this was the preserve of the king himself, or, at most, of 'the king in council.'

Success or failure in the outcome of the king's decisions or actions had their repercussions: in the fiscal area, where support for or opposition to taxation, old or new, could build up in the King's Council; in the loyalty or disaffection which found utterance in Parliament (or regional *parlements*) and ultimately in rebellion and popular protest; or in complaisance or hostility towards the king's ministers and heads of household. It is this, as much as - perhaps rather than - the endeavour to tap new sources of revenue which gives the creation and development of Parliament and other national and regional assemblies their initial significance. Parliament, to begin with, is more a contrivance for polling national opinion than anything else. For it was in the affirmations of loyalty or the proposals for alternative policies, the petitions and pleas and grievances, or the simple apathy displayed in Parliament and similar assemblies that medieval kings could read, if they would, how their own performance was being judged.

IX

One of the more striking features of the political and social life of western Europe in the Middle Ages is the dualism which permeated the institutional forms in which that life was vested. There are of course aspects and occasions of this dualism which are no more than artificial products of the comparisons to which historical description and explanation is always driven. Other aspects simply represent conflict situations. Much was made in preceding chapters of the contrast between secular power and ecclesiastical authority, but both were instruments which were more and more clearly defined and sharpened in the protracted dispute over the supremacy each side claimed. Both were in the end collapsed together in sovereignty - not that the sovereignty claimed by emperors and kings brought any final solution.

One can, however, become too simple-minded about this. It is, for example, just conceivable that the evolution of the monarchism of early modern Europe is an instance in human history of Maynard Smith's 'evolutionary game theory'⁴². In any case, the way institutional means were fitted to political ends had at least as much to do with the development of governmental forms and the development of a social technology of organisation as of any proclivity for democracy or despotism, for freeborn individualism or subservience.

⁴² J. Maynard Smith, *On Evolution*, Edinburgh U.P., 1974. See also his review of D.J. Depew and B.H. Weber, *Darwinism Evolving*, *New York Review of Books*, Vol. XLII, No. 4, 2 March 1995

If one turns to the nature of the relationships between individuals rather than the structures built out of them, the characteristic two-sidedness of medieval existence seems to become less of an artefact of the kind of discourse developed by historians and political theorists, and more substantive. The see-saw or cyclical sequence of *signorial* and popular dominance in the Italian republics did terminate in the same absolutism that affected all western Europe after the fifteenth century, but the institutional apparatus that each side sought to impose not only stood for different political principles but also for different relationships and modes of life which could affect almost every aspect of every individual's existence.

It is in the relationships and in the institutional forms which governed the everyday life of people in country and town and in most *milieux* and at most social levels that the dualism introduces a significance which is all its own. They are set apart from, and to some extent, inherently against, the major institutional structures which housed royal, *seigneurial* and clerical power or authority. For it was not only in the 'long houses' (manses) and villages that everyday life took on that commitment of the individual to the community that is central to the communality characteristic of medieval life. Duby remarks on the 'horizontal' attachments that prevailed in each rank of the hierarchic ordering of society - of the 'brotherhood' - a tightly linked 'age-set' - that existed between 'families' of knights who were dubbed at the same time no less than between members of the same monastic order. And at a more mundane level, the same sense of belonging is written into membership of guilds and of mining communities.

Medieval European society provides a rare, virtually unique, opportunity to examine two different archetypal structures of social relationships in what must be the closest approximation to their purest form - much closer, inevitably, than more recent times allow of, but also closer than what seems to have obtained in classical Greek and Roman society. At this stage, the only explanatory description I can suggest of the difference between the two archetypes is by way of biological analogy.

Institutionalised social relationships of the kind that obtained in predominantly communal *milieux* are best thought of as cellular - perhaps cryptogamic - agglomerations. Envisaging relationships determined wholly or largely by the requirements of people with power or authority calls for skeletal - perhaps vascular - structures.

This is as far as the matter need be taken for the present. There are, though, two observations which need to be inserted here. The first is that the historical development of structures of power and authority in the later Middle Ages did not so much displace systems of predominantly communal relationships as occlude or even absorb them - a point which the spectacular eruption during the sixteenth century of contrary movements in the Reformation and the Dutch revolt should be seen as reinforcing, rather than contradicting. The second point is that the biological images used for the two archetypal forms of social relationships lend themselves to further elaboration, particularly when the fact that skeletal-vascular systems lend themselves easily to organisational structures for use as communication systems, and cellular-cryptogamic agglomerations do not. The

connection between systems of power and authority and communication systems has already attracted some attention.⁴³

⁴³ N.Luhmann, "Power", in *Trust and Power*, Wiley, 1979.