

Feudalism

Etymology

This term is derived from the Old Aryan *pe'ku*, hence Sanskrit *pacu*, "cattle"; so also Lat. *pecus* (cf. *pecunia*); Old High German *fehu*, *fihu*, "cattle", "property", "money"; Old Frisian *fia*; Old Saxon *fehu*; Old English *feoh*, *fioh*, *feo*, *fee*. It is an indefinable word for it represents the progressive development of European organization during seven centuries. Its roots go back into the social conditions of primitive peoples, and its branches stretch out through military, political, and judicial evolution to our own day.

Definition

Still it can so far be brought within the measurable compass of a definition if sufficient allowance be made for its double aspect. For feudalism (like every other systematic arrangement of civil and religious forces in a state) comprises duties and rights, according as it is looked at central or local point of view.

(1) As regards the duties involved in it, feudalism may be defined as a contractual system by which the nation as represented by the king lets its lands out to individuals who pay rent by doing governmental work not merely in the shape of military service, but also of suit to the king's court. Originally indeed it began as a military system. It was in imitation of the later Roman Empire, which met the Germanic inroads by grants of lands to individuals on condition of military service (Palgrave, "English Commonwealth", I, 350, 495, 505), that the Carolingian Empire adopted the same expedient. By this means the ninth century Danish raids were opposed by a semi-professional army, better armed and more tactically efficient than the old Germanic levy. This method of forming a standing national force by grants of lands to individuals is perfectly normal in history, witness the Turkish *timar* fiefs (Cambridge Modern History, I, iii, 99, 1902), the *fief de soudée* of the Eastern Latin kingdoms (Bréhier, "L'Église et l'Orient au moyen âge", Paris, 1907, iv, 94), and, to a certain extent, the Welsh *uchelwyr* (Rhys and Jones, "The Welsh People", London, 1900, vi, 205). On the whole feudalism means government by amateurs paid in land rather than professionals paid in money. Hence, as we shall see, one cause of the downfall of feudalism was the substitution in every branch of civil life of the "cash-nexus" for the "land-nexus". Feudalism, therefore, by connecting ownership of land with governmental work, went a large way toward solving that ever present difficulty of the land question; not, indeed, by any real system of land nationalization, but by inducing lords to do work for the country in return for the right of possessing landed property. Thus, gradually, it approximated to, and realized, the political ideal of Aristotle, "Private possession and common use" (Politics, II, v, 1263, a). To a certain extent, therefore, feudalism still exists, remaining as the great justification of modern landowners wherever, — as sheriffs, justices of the peace, etc. — they do unpaid governmental work.

(2) As regards the rights it creates, feudalism may be defined as a "graduated system based on land tenure in which every lord judged, taxed, and commanded the class next below him" (Stubbs, "Constitutional History", Oxford, 1897, I, ix, 278). One result of this was that, whenever a Charter of Liberties was wrung by the baronage from the king, the latter always managed to have his concessions to his tenants-in-chief paralleled by their concessions to their lower vassals (cf. Stubbs, "Select Charters", Oxford, 1900, § 4, 101, 260, 304). Another more serious, less beneficent, result was that, while feudalism centrally converted the sovereign into a landowner, it locally converted the landowner into a sovereign.

Origin

The source of feudalism rises from an intermingling of barbarian usage and Roman law (Maine, "Ancient Law", London, 1906, ix). To explain this reference must be made to a change that passed over the Roman Empire at the beginning of the fourth century. About that date Diocletian reorganized the Empire by the establishment of a huge bureaucracy, at the same time disabling it by his crushing taxation. The obvious result was the depression of free classes into unfree, and the barbarization of the Empire. Before A.D. 300 the absentee landlord farmed his land by means of a *familia rustica* or gang of slaves, owned by him as his own transferable property, though others might till their fields by hired labor. Two causes extended and intensified this organized slave system: (1) Imperial legislation that two thirds of a man's wealth must be in land, so as to set free hoarded specie, and prevent attempts to hide

wealth and so escape taxation. Hence land became the medium of exchange instead of money, i.e. land was held not by rent but by service. (2) The pressure of taxation falling on land (*tributum soli*) forced smaller proprietors to put themselves under their rich neighbors, who paid the tax for them, but for whom they were accordingly obliged to perform service (*obsequium*) in work and kind. Thus they became tied to the soil (*ascripti glebae*), not transferable dependents. Over them the lord had powers of correction, not apparently, of jurisdiction.

Meanwhile, the slaves themselves had become also territorial not personal. Further, the public land (*ager publicus*) got memorialized by grants partly to free veterans (as at Colchester in England), partly to *laeti*, — a semi-servile class of conquered peoples (as the Germans in England under Marcus Antonius), paying, beside the *tributum soli*, manual service in kind (*sordida munera*). Even in the Roman towns, by the same process, the urban landlords (*curiales*) became debased into the manufacturing population (*collegiati*). In a word, the middle class disappeared; the Empire was split into two opposing forces: an aristocratic bureaucracy and a servile laboring population. Over the Roman Empire thus organized poured the Teutonic flood, and these barbarians had also their organization, rude and changeful though it might be. According to Tacitus (Germania) the Germans were divided into some forty *civitates*, or *populi*, or folks. Some of these, near the Roman borders, lived under kings, others, more remote, were governed by folk moots or elective princes. Several of these might combine to form a "stem", the only bond of which consisted in common religious rites. The *populus*, or *civitas*, on the other hand, was a political unity. It was divided into *pagi*, each *pagus* being apparently a jurisdictional limit, probably meeting in a court over which a *princeps*, elected by the folk moot, presided, but in which the causes were decided by a body of freemen usually numbering about a hundred. Parallel with the *pagus*, according to Tacitus (Germania, xii), though in reality probably a division of it, was the *vicus*, an agricultural unit. The *vicus* was (though Seebohm, "English Historical Review", July, 1892, 444-465 thought not) represented in two types (1) the dependent village, consisting of the lord's house, and cottages of his subordinates (perhaps the relics of indigenous conquered peoples) who paid rent in kind, corn, cattle, (2) the free village of scattered houses, each with its separate enclosure. Round this village stretched great meadows on which the villagers pastured their cattle. Every year a piece of new land was set apart to be plowed, of which each villager got a share proportioned to his official position in the community. It was the amalgamation of these two systems that produced feudalism.

But here, precisely as to the relative preponderance of the Germanic and Roman systems in manorial feudalism, the discussion still continues. The question turns, to a certain extent, on the view taken of the character of the Germanic inroads. The defenders of Roman preponderance depict these movements as mere raids, producing indeed much material damage, but in reality not altering the race or the institutions of the Romanized peoples. Their opponents, however, speak of these incursions rather as people-wanderings — of warriors, women, and children, cattle even, and slaves, indelibly stamping and molding the institutions of the race which they encountered. The same discussion focuses around the medieval manor, which is best seen in its English form. The old theory was that the manor was the same as the Teutonic mark, plus the intrusion of a lord (Stubbs, "Constitutional History", Oxford, 1897, I, 32-71). This was attacked by Fustel de Coulanges (Histoire des institutions politiques et de l'ancienne France, Paris, 1901) and by Seebohm (The English Village Community, London, 1883, viii, 252-316, who insisted on a Latin ancestry from the Roman villa, contending for a development not from freedom to serfdom, but from slavery, through serfdom, to freedom. The arguments of the Latin School may be thus summarized: (1) the *mark* is a figment of the Teutonic brain (cf. Murray's "Oxford English Dictionary", s.v., 167; "markmoot" probably means "a parsley bed"). (2) early German law is based on assumption of private ownership. (3) Analogies of Maine and others from India and Russia not to the point. (4) Romanized Britons, for example, in south-eastern Britain had complete manorial system before the Saxons came from Germany. — They are thus answered by the Teutonic School (Elton, Eng. Hist. Rev., July, 1886; Vinogradoff, "Growth of the Manor", London, 1905, 87, Maitland, "Domesday Book and Beyond", Cambridge, 1897, 222, 232, 327, 337): (1) the name "mark" may not be applied in England but the thing existed. (2) It is not denied that there are analogies between the Roman vill and the later manor, but analogies do not necessarily prove derivation. (3) The manor was not an agricultural unit only, it was also judicial. If the manor originated in the Roman vill, which was composed of a servile population, how came it that the suitors to the court were also judges? or that villagers had common rights over waste land as against their lord? or that the community was represented in the hundred court by four men and its reeve? (4) Seebohm's evidence is almost entirely drawn from the positions of villas and villeins on the demesnes of kings, great ecclesiastical bodies, or churchmen. Such villages were admittedly dependent. (5) Most of the evidence comes through the tainted source of Norman and French lawyers who were inclined to see serfdom even where it did not exist. On the whole, the latest writers on feudalism, taking a legal point of view, incline to the Teutonic School.

Causes

The same cause that produced in the later Roman Empire the disappearance of a middle class and the confronted lines of bureaucracy and a servile population, operated on the teutonized Latins and latinized Teutons to develop the complete system of feudalism.

(1) Taxation, whether by means of *feorm-fultum*, *danegelt*, or *gabelle*, forced the poorer man to commend himself to a lord. The lord paid the tax but demanded in exchange conditions of service. The service-doing dependent therefore was said to have "taken his land" to a lord in payment for a tax, which land the lord restored to him to be held in fief, and this (i.e. land held in fief from a lord) is the germ-cell of feudalism.

(2) Another, and more outstanding cause, was the royal grant of fole-land. Around this, too, historians at one time ranged in dispute. The older view was that fole-land was simply private land, the authoritative possession of which was based upon the witness of the people as opposed to the bok-land, with its written title deeds. But in 1830 John Allen (*Rise and Growth of Royal Prerogative*) tried to show that fole-land was in reality public property, national, waste, or unappropriated land. His theory was that all land-books (conveyances of land) made by the Anglo-Saxon kings were simply thefts from the national demesne, made for the benefit of the king, his favorites, or the Church. The land-book was an ecclesiastical instrument introduced by the Roman missionaries, first used by that zealous convert, Ethelbert of Kent, though not becoming common until the ninth century. Allen based his theory on two grounds: (a) the king occasionally *books* land to himself, which could not therefore have been his before; (b) the assent of the Witan was necessary to grants of fole-land, which, therefore, was regarded as a national possession. To this Professor Vinogradoff (*Eng. Hist. Rev.*, Jan., 1893, 1-17) made answer: (a) that even the village knew nothing of common ownership, and that a fortiori, the whole nation would not have had such an idea; (b) that the king in his charters never speaks of *terram gentis* but *terram juris sui*; (c) that the land thus conveyed away is often expressly described as being inhabited, cultivated, etc., and therefore cannot have been unappropriated or waste land. Finally, Professor Maitland (*Domesday Book and Beyond*, Cambridge, 1897, 244) clearly explains what happened by distinguishing two sorts of ownership, economic and political. Economic ownership is the right to share in the agricultural returns of the land, as does the modern landlord, etc. Political ownership is the right to the judicial returns from the soil — ownership, therefore, in the sense of governing it or exercising ownership over it. By the land-bok, therefore, land was handed over to be owned, not economically but politically; and the men suing on the courts of justice, paying toll, etc., directed their fines, not to the exchequer, but to the newly-intruded lord, who thus possessed suzerainty and its fiscal results. In consequence the local lord received the privilege of the *feorm-fultum*, or the right to be entertained for one night or more in progress. So, too, in Ireland, until the seventeenth century, the chieftains enjoyed "coigne and livery" of their tribesmen; and in medieval France there was the lord's *droit de gête*. This land-tax in kind, not unnaturally, helped in villeinizing the freemen. Moreover the king surrendered to the new lord the profits of justice and the rights of toll, making, therefore, the freeman still more dependent on his lord. However it must also be stated that the king nearly always retained the more important criminal and civil cases in his own hands. Still the results of the king's transference of rights over fole-land was easy enough to foresee, i.e. the depression of the free village. The steps of this depression may be shortly set out: (a) the Church or lord entitled to food-rents established an overseer to collect this rent in kind. Somehow or other this overseer appropriated land for a demesne, partly in place of, partly along side of, the food-rents; (b) the Church or the lord entitled by the land-bok to jurisdictional profits made the tenure of land by the villagers depend upon suit to his court; the villager's transfers came to be made at that court, and were finally conceived as having their validity from the gift or grant from its president.

(3) Meanwhile the action of the State extended this depression (a) by its very endeavor in the tenth century Capitularies to keep law and order in those rude cattle-lifting societies. For the system evolved was that men should be grouped in such a manner that one man should be responsible for another, especially the lord for his men. As an example of the former may be taken the Capitularies of the Frankish kings, such as of Childebert and Clotaire, and of the English king Edgar. (Stubbs, *Select Charters*, 69-74); and of the latter the famous ordinance of Athelstan (*Conc. Treatonlea*, c. 930, ii; Stubbs, *Select Charters*, Oxford, 1900, 66): "And we have ordained respecting those lordless men of whom no law can be got, that the hundred be commanded that they domicile him to folk right and find him a lord in the folk-moot"; (b) another way was by the institution of central taxation in the eleventh century — in England by means of *danegelt*, abroad by various *gabelles*. These were monetary taxes at a time when other payments were still largely made in kind. Accordingly, just as under the later Roman Empire, the poorer man commended himself to a lord, who paid for him, but demanded in stead payment in service, a *tributum soli*. The dependent developed into a retainer, as in the Lancastrian days of maintenance, to be protected by his lord, even in the royal courts of justice, and repaying his master by service, military and economic, and by the feudal incidents of herlot, wardship, etc. (for details of feudal aids, cf. Maitland, *Constitutional history*, 27-30)

(4) Nor should it be forgotten that a ceorl or merchant could "thrive" (Stubbs, *Select Charters*, 65; probably of eleventh century date), so as to amass wealth to the loss of his neighbors, and gradually to become a master of

villeins — possessing a church, a kitchen where the said villeins must bake their bread (*jus furmi*), a semi-fortified bell-house and a burgh-gate where he could sit in judgment.

(5) The last great cause that developed feudalism was war. It is an old saying, nearly a dozen centuries old, that "war begat the king". It is no less true that war, not civil, but international, begat feudalism. First it forced the kings to cease to surround themselves with an antiquated fyrd or national militia, that had forgotten in its agricultural pursuits that rapidity of movement was the first essential of military success, and by beating the sword into the plowshare had lost every desire to beat back the iron into its old form. In consequence a new military force was organized, a professional standing army. This army had to be fed and housed in time of peace. As a result its individual members were granted lands and estates, or lived with the king as his personal suite. At any rate, instead of every able-bodied man being individually bound in person to serve his sovereign in the field, the lords or landowners were obliged in virtue of their tenure to furnish a certain quantity of fighting men, armed with fixed and definite weapons, according to the degree, rank and wealth of the combatant. Secondly, it gave another reason for commendation, i.e. protection. The lord was now asked, not to pay a tax, but to extend the sphere of his influence so as to enable a lonely, solitary farmstead to keep off the attacks of a foe, or at least to afford a place of retreat and shelter in time of war. This the lord would do for a consideration, to wit, that the protected man should acknowledge himself to be judicially, politically, economically, the dependent of his high protector. Finally, the king himself was pushed up to the apex of the whole system. The various lords commended themselves to this central figure, to aid them in times of stress, for they saw the uselessness of singly trying to repel a foe. They were continually being defeated because "shire would not help shire" (Anglo-Saxon Chronicle, ann. 1010). Thus the very reason why the English left Ethelred the Unready to accept Sweyn as full king (Anglo-Saxon Chronicle, ann. 1012) was simply because Ethelred had no idea of centralizing and unifying the nation; just as in the contrary sense the successful resistance of Paris to the Northmen gave to its dukes, the Lords of the Isle of France, the royal titles which the Carolingians of Laon were too feeble to defend; and the lack of a defensive national war prevented any unification of the unwieldy Holy Roman Empire. This is effectually demonstrated by the real outburst of national feeling that centered round one of the weakest of all the emperors, Frederick III, at the siege of Neuss, simply because Charles the Bold was thought to be threatening Germany by his attack on Cologne. From these wars, then, the kings emerged, no longer as mere leaders of their people but as owners of the land upon which their people lived, no longer as *Reges Francorum* but as *Reges Franciae*, nor as *Duces Normannorum* but as *Duces Normanniae*, nor as Kings of the Angleycin but of Engla-land. This exchange of tribal for territorial sovereignty marks the complete existence of feudalism as an organization of society in all its relations (economic, judicial, political), upon a basis of commendation and land-tenure.

Essence

We are now, therefore, in a position to understand what exactly feudalism was. Bearing in mind the double definition given at the beginning, we may, for the sake of clearness, resolve feudalism into its three component parts. It includes a territorial element, an idea of vassalage, and the privilege of an immunity.

(1) The territorial element is the grant of the enfeoffment by the lord to his man. At the beginning this was probably of stock and cattle as well as land. Hence its etymology. Littré makes the Low Latin *feudum* of Teutonic origin, and thus cognate with the Old High German *fihu*, Gothic *faihu*, Anglo-Saxon *feoh* (our *fee*), modern German *vieh*. That is to say the word goes back to the day when cattle was originally the only form of wealth; but it came by a perfectly natural process, when the race had passed from a nomadic life to the fixity of abode necessitated by pastoral pursuits, to signify wealth in general, and finally wealth in land. The cattle, stock, or land was therefore handed over by the lord to his dependent, to be held, not in full ownership, but in usufruct, on conditions originally personal but becoming hereditary. (This whole process can be easily traced in Hector Monroe Chadwick's "Studies in Anglo-Saxon Institutions", Cambridge, 1905, ix, 308-354; x, 378-411, where a detailed account is given of how the thegn, a personal servant of the king, developed into a landowner possessing an average of five hides of land and responsible to his sovereign in matters of war and jurisdiction). The influence of the Church, too, in this gradual transference of a personal to a territorial vassalage has been very generally admitted. The monastic houses would be the first to find it troublesome (Liber Eliensis, 275) to keep a rout of knights within their cloistral walls. Bishops, too, howsoever magnificent their palaces, could not fail to wish that the fighting men whom they were bound by their barony to furnish to the king should be lodged elsewhere than close to their persons. Consequently they soon developed the system of territorial vassalage. Hence the medieval legal maxim: *nulle terre sans seigneur* (Vinogradoff, English Society in the Eleventh Century, Oxford, 1908, ii, 39-89). This enfeoffment of the lord or landowner by the king and of the dependent by the lord was partly in the nature of a reward for past services, partly in the nature of an earnest for the future. It is this primitive idea of the lord who gives land to his supporter that is answerable for the feudal incidents which otherwise seem so tyrannous. For instance, when the vassal died, his arms,

horse, military equipment reverted as heriot to his master. So, too, when the tenant died without heirs his property escheated to the lord. If, however, he died with heirs, indeed, but who were still in their minority, then these heirs were in wardship to the feudal superior, who could even dispose of a female ward in marriage to whom he would, on a plea that she might otherwise unite herself and lands to an hereditary enemy. All the way along it is clear that the ever present idea ruling and suggesting these incidents, was precisely a territorial one. The origin, that is, of these incidents went back to earlier days when all that the feudal dependent possessed, whether arms, or stock, or land he had received from his immediate lord. Land had become the tie that knit up into one the whole society. Land was now the governing principle of life (Pollack and Maitland, *History of English Law*, Cambridge, 1898, I, iii, 66-78). A man followed, not the master whom he chose or the cause that seemed most right, but the master whose land he held and tilled, the cause favored in the geographical limits of his domain. The king was looked up to as the real possessor of the land of the nation. By him, as representing the nation, baronies, manors, knight's fees, fiefs were distributed to the tenants-in-chief, and they, in turn, divided their land to be held in trust by the lower vassals (Vinogradoff, *English Society in the Eleventh Century*, 42). The statute of Edward I, known from its opening clause as *Quia Emptores*, shows the extreme lengths to which this subinfeudation was carried (Stubbs, *Select Charters*, 478). So much, however, had this territorial idea entered into the legal conceptions of the medieval polity, and been passed on from age to age by the most skillful lawyers of each generation, that, up to within the last half century, there were not wanting some who taught that the very peerages of England might descend, not by means of blood only, nor even of will or bequest, but by the mere possession-at-law of certain lands and tenements. Witness the Berkeley Peerage case of 1861 (Anson, *Law and Customs of the Constitution*, Oxford, 1897, Part I, I, vi, 200-203).

(2) Feudalism further implies the idea of vassalage. This is partly concurrent with, partly overlapping, the territorial conception. It is certainly prior to, more primitive than, the notion of a landed enfeoffment. The early banded hordes that broke over Europe were held together by the idea of loyalty to a personal chief. The heretogas were leaders in war. Tacitus says (Germania, vii): "The leaders hold command rather by the example of their boldness and keen courage than by any force of discipline or autocratic rule." It was the best, most obvious, simplest method, and would always obtain in a state of incessant wars and raids. But even when that state of development had been passed, the personal element, though considerably lessened, could not fail to continue. Territorial enfeoffment did not do away with vassalage, but only changed the medium by which that vassalage was made evident. The dependent was, as ever, the personal follower of his immediate lord. He was not merely holding land of that lord; the very land that he held was but the expression of his dependence, the outward and visible sign of an inward and invisible bond. The fief showed who the vassal was and to whom he owed his vassalage. At one time there was a tendency among historians to make a distinction between the theory of feudalism on the Continent and that introduced into England by William I. But a closer study of both has proved their identity (Tout, *Eng. Hist. Rev.*, Jan., 1905, 141-143). The Salisbury Oath, even on the supposition that it was actually taken by "all the land owning men of account there were all over England" (*Anglo-Saxon Chronicle*, ann. 1068), was nothing more than had been exacted by the Anglo-Saxon kings (Stubbs, *Select Charters*, *Doom of Exeter*, iv, 64; I, 67; but compare Vinogradoff, *Growth of the Manor*, Oxford, 1905, 294-306). In Germany, too, many of the lesser knights held directly of the emperor; and overall, whether immediately subject to him or not, he had, at least in theory, sovereign rights. And in France, where feudal vassalage was very strong, there was a royal court to which a dependent could appeal from that of his lord, as there were also royal cases, which none but the king could try. In fact it was perhaps in France, earlier than elsewhere, that the centralizing spirit of royal interference began to busy itself in social, economic, judicial interests of the individual. Besides, on the other hand, the anarchy of Stephen's reign that spread over the whole country (Davis, *Eng. Hist. Rev.*, Oct. 1903) showed how slight even in England was the royal hold over the vassal barons. Moreover, if English feudalism did at all differ from the hierarchic vassalage that caused so much harm abroad, the result was due far more to Henry II and his successors than to the Norman line of kings. And even the work of the Angevins was to no small degree undone by the policy of Edward III. The Statutes of Merton (1278), Mortmain (1279), *Quia Emptores* (1290) all laid the foundations, though such, of course, was foreign to their object, for the aggregations of large estates. Then came the marriage of the royal princes to great heiresses; the Black Prince gained the lands of Kent; Lionel, the dowry of Ulster; Thomas of Woodstock the linked manors of Eleanor Bohun. Henry IV, before he deposed Richard II, was "Harry of Hereford, Lancaster, and Derby", as well as Leicester and Lincoln. The result was that England, no less than France, Germany, Italy, and Spain had it's feudal vassals that acquired ascendancy over the crown, or were only prevented by their mutual jealousy from doing so. In England, too, the substitution of a *féodalité apanagée*, or nobility of the blood royal, for the old *féodalité territoriale* worked the same mischief as it did in France; and the Wars of the Roses paralleled the fatal feuds of Burgundians and Armagnacs, the horrors of the Praguerie and the anarchy of the League of the Public Weal. It will be seen, therefore, that all over Europe the same feudal system prevailed of a hierarchic arrangement of classes, of some vast pyramid of which the apex, pushed high up and separated by intervening layers from its base, represented the king.

(3) Feudalism lastly included an idea of an immunity or grants of the profits of justice over a fief or other pieces of land (Vinogradoff, *Eng. Soc. in the Eleventh Century*, 177-207). We have already stated how by the land books the

Anglo-Saxon kings (and the like had been done and was to be repeated all over the Continent) granted to others political ownership over certain territories that till that time had been in the medieval phrase, "doing their own law". The result was that, apparently, private courts were set up typified in England by the alliterative jingle "sac and soc, toll and theam, and infangenthef". Sometimes the lord was satisfied by merely taking the judicial forfeitures in the ordinary courts, without troubling to establish any of his own. But, generally speaking, he seems to have had the right and to have used it, of keeping his own separate courts. Feudalism, therefore, includes not merely service (military and economic) but also suit (judicial). This suit was as minutely insisted upon as was the service. The king demanded from his tenants-in-chief that they should meet in his *curia regis*. So William I had his thrice yearly crown-wearings, attended by "all the rich men over all England, archbishops and bishops, abbots and earls, thegns and knights" (Anglo-Saxon Chronicle, ad ann, 1087). So too, in France there was the *cour du roy*, dating from the earliest Capetian times, the court of the king's demesne or immediate tenants; at this royal court, whether in England or in France, all the tenants-in-chief, at any rate in the days of the full force of feudalism, were obliged to attend. The same court existed in the Holy Roman Empire and was of great importance, at least till the death of Henry V (Bryce, Holy Roman Empire, London, 1904, viii, 120-129). All those who attended these courts did so in virtue of the tenurial obligations. Now, these royal councils were not constitutional bodies, for we have no evidence of any legislation by them. Rather, like the Parlement in France, they simply registered the royal edicts. But their work was judicial, adjudicating causes too numerous or too complicated for the king alone to deal with. So Philip Augustus summoned John as a vassal prince to the *cour du roy* to answer the charge of the murder of Arthur of Brittany. Just as these royal courts were judicial bodies for dealing with questions relating to the tenants-in-chief, so these tenants-in-chief, and in a descending gradation ever y lord and master, had their private courts in which to try the cases of their tenants. The private criminal courts were not strictly feudal, but dependent on a royal grant; such were the franchises, or liberties, or regalities, as in the counties Palatine up and down Europe. Besides these however, there were the *librae curiae*, courts baron, courts leet, courts customary, and, in the case of the Church, *courts Christian* (for details, Pollock and Maitland, History of English Law, I, 571-594). The very complexity of these courts astonishes us; it astonished contemporaries no less, for Langland, in "Piers Plowman" (Passus III, ii, 318-319) looks forward to a golden day when

King's court and common court, consistory and chapter,
All shall be one court and one baron judge.

Church and feudalism

The Church, too, had her place in the feudal system. She too was granted territorial fiefs, became a vassal, possessed immunities. It was the result of her calm, wide sympathy, turning to the new nations, away from the Roman Empire, to which many Christians thought she was irrevocably bound. By the baptism of Clovis she showed the baptism of Constantine had not tied her to the political system. So she created a new world out of chaos, created the paradox of barbarian civilization. In gratitude kings and emperors endowed her with property; and ecclesiastical property has not infrequently brought evils in its train. The result was disputed elections; younger sons of nobles were intruded into bishoprics, at times even into the papacy. Secular princes claimed lay investiture of spiritual offices. The cause of this was feudalism, for a system that had its basis on land tenure was bound at last to enslave a Church that possessed great landed possessions. In Germany, for example, three out of the mystically numbered seven electors of the empire were churchmen. There were, besides, several prince-bishops within the empire, and mitered abbots, whose rule was more extended and more powerful than that of many a secular baron. As it was in Germany, so it was in France, England, Scotland, Spain, etc. Naturally there was a growing desire on the part of the king and the princes to force the Church to take her share in the national burdens and duties. Moreover, since by custom the secular rulers had obtained the right of presentation to various benefices or the right of veto, with the title on the Continent of *advocates* or *vogt*, the numerous claimants for the livings were only too ready to admit every possible demand of their lord, if only he would permit them to possess the bishopric, abbacy, or whatever else it might be. In short, the Church was in danger of becoming the annex of the State; the pope, of becoming the chaplain of the emperor. Simony and concubinage were rife. Then came the Reforms of Cluny and the remedy of the separation of Church and State, in this sense, that the Church would confer the dignity or office, and the State the barony. But even when this concordat had been arranged (in England between Henry I and Saint Anselm in 1107; the European settlement did not take place until 1122 at Worms), the Church still lay entangled with feudalism. It had to perform its feudal duties. It might owe suit and service to a lord. Certainly, lesser vassals owed suit and service to it. So it was brought into the secular fabric of society. A new tenure was invented for it, tenure by frankalmoyne. But it had more often than not to provide its knights and war-men, and to do justice to its tenants. The old ideal of a world-monarchy and a world-religion, the pope as spiritual emperor, the emperor as temporal pope, as set out with matchless skill in the fresco of the Dominican Church in Florence; S. Maria Novella, had ceased to influence public opinion long

before Dante penned his "De Monarchia". Feudalism had shattered that ideal (Barry, in Dublin Review, Oct., 1907, 221-243). There was to be not so much a universal Church as a number of national Churches under their territorial princes, so that feudalism in the ecclesiastical sphere prepared the way for the Renaissance principle, *Cujus regio, ejus religio*. For while at the beginning the Church sanctified the State and anointed with sacred chrism the king vested in priestly apparel, in the end the State secularized the Church amid the gilded captivity of Avignon. Royal despotism followed the indignities of Anagni; the Church sank under the weight of her feudal duties.

Results

(1) Evil Results

(a) The State instead of entering into direct relations with individuals, entered into relation with heads of groups, losing contact with the members of those groups. With a weak king or disputed succession, these group-heads made themselves into sovereigns. First of all viewing themselves as sovereigns they fought with one another as sovereigns, instead of coming to the State as to the true sovereign to have their respective claims adjudicated. The result was what chroniclers called *guerra*, or private war (Coxe, House of Austria, I, London, 1807, 306-307). This was forbidden in England even under its mock form the tournament. Still, it was too much tangled with feudalism to be fully suppressed, breaking out as fiercely here from time to time as it did elsewhere.

(b) The group-heads tempted their vassals to follow them as against their overlords. So Robert of Bellesme obtained the help of his feudatories against Henry I. So Albert of Austria headed the electors against the Emperor Adolph of Nassau. So Charles of Navarre led his vassals against King John of France. So James of Urgel formed the Privileged Union of Saragossa.

(c) These group-heads claimed the right of private coinage, private castles, full judicial authority, full powers of taxation. There was always a struggle between them and their sovereigns, and between them and their lesser vassals as to the degree of their independence. Each manorial group, or honour, or fief endeavored to be self sufficient and to hold itself apart from its next overlord. Each overlord endeavored more and more to consolidate his domains and force his vassals to appeal to him rather than to their direct superior. This continual struggle, the success and failure of which depended on the personal characters of lord and overlord, was the chief cause of the instability of life in medieval times.

(d) A last evil may perhaps be added in the power given to the Church. In times of disputed succession the Church claimed the right to, defend herself, then to keep order, and eventually to nominate the ruler. This, however justifiable in itself and however at times beneficial, often drove the ecclesiastical order into the arms of one or other political party; and the cause of the Church often became identified with a particular claimant for other than Church reasons; and the penalties of the Church, even Excommunication were at times imposed to defend worldly interests. As a rule, however, the influence of the Church was directed to control and soften the unjust and cruel elements of the system.

(2) Good Results

(a) Feudalism supplied a new cohesive force to the nations. At the break-up alike of the Roman Empire and the Germanic tribal loyalty to the tribal chief, a distinct need was felt for some territorial organization. As yet the idea of nationality was non-existent, having indeed little opportunity of expression. How then were the peoples to be made to feel their distinct individuality? Feudalism came with its ready answer, linked Germanic with Roman political systems, built up an inter-connected pyramid that rested on the broad basis of popular possession and culminated in the apex of the king.

(b) It introduced moreover into political life the bond of *legalitas*. Every war of medieval, or rather feudal, times was based on some legal claim, since other *casus belli* there was none. Political expediency or national expansion were unknown doctrines. No doubt this *legalitas* as in the English claim to the French throne, often became sheer hypocrisy. Yet on the whole it gave a moral restraint to public opinion in the midst of a passionate age; and the inscription on the simple tomb of Edward I: *Pactum Serva*, however at times disregarded by the king himself, still sums up the great bulwark raised in medieval days against violence and oppression. To break the feudal bond was felony; and more, it was dishonor. On the side of the king or lord, there was the investiture by banner, lance, or other symbol; on the side of the man or tenant, homage for the land, sworn on bended knees with hands placed between the hands of the lord, the tenant standing upright while taking the fealty, as the sign of a personal obligation.

(c) Feudalism gave an armed force to Europe when she lay defenseless at the feet of the old mountains over which so many peoples had wandered to conquer the Western world. The onrush of Turk, Saracen, and Moor was checked by the feudal levy which substituted a disciplined professional force for the national fyrd or militia (Oman, *Art of War*, IV, ii, 357-377, London, 1898).

(d) From a modern point of view its most interesting advantage was the fact of its being a real, if only temporary, solution of the land question. It enforced a just distribution of the territorial domains included within the geographical limits of the nation, by allowing individuals to carve out estates for themselves on condition that each landlord, whether secular baron, churchman, even abbeys, rendered suit and service to his overlord and demanded them in return from each and every vassal. This effectually taught the principle that owners of land, precisely as such, had to perform in exchange governmental work. Not that there was exactly land nationalization (though many legal and theological expressions of medieval literature seem to imply the existence of this), but that the nation was paid for its land by service in war and by administrative, judicial, and later, by legislative duties.

Decline of feudalism

This was due to a multiplicity of causes acting upon one another. Since feudalism was based on the idea of land tenure paid for by governmental work, every process that tended to alter this adjustment tended also to displace feudalism.

(1) The new system of raising troops for war helped substitute money for land. The old system of feudal levy became obsolete. It was found impracticable for the lords to retain a host of knights at their service, waiting in idleness for the call of war. Instead, the barons, headed by the Church, enfeoffed these knights on land which they were to own on conditions of service. Gradually these knights, too, found military service exceedingly inopportune and commuted for it a sum of money, paid at first to the immediate lord, eventually demanded directly by the king. Land ceased to have the same value in the eyes of the monarch. Money took its place as the symbol of power. But this was further increased by a new development in military organization. The system by which sheriffs, by virtue of royal writs, summoned the county levy had taken the place of the older arrangements. These commissions of array, issued to the tenants-in-chief, or proclaimed for the lesser vassals in all courts, fairs, and markets, were now exchanged for indentures, by which the king contracted with individual earls, barons, knights, etc, to furnish a fixed number of men at a fixed wage ("They sell the pasture now to buy the horse." — "Henry V", Prologue to Act II). The old conception of the feudal force had completely disappeared. Further, by means of artillery the attacking force completely dominated the defensive, fortified castles declined in value, archers and foot increased in importance, heavily armored knights were becoming useless in battle, and on the Continent the supremacy of harquebuses and pike was assured. Moreover, as part of this military displacement the reaction against livery and maintenance (cf. Lingard, *History of England*, IV, v, 139-140, London, 1854) must be noted. The intense evils occasioned all over Europe by this bastard feudalism, or feudalism in caricature, provoked a fierce reaction. In England and on the Continent the new monarchy that sprang from the "Three Magi" of Bacon stimulated popular resentment against the great families of king-makers and broke their power.

(2) A second cause of this substitution was the Black Death. For some years the emancipation of villeinage had, for reasons of convenience, been gradually extending. A system had grown up of exchanging tenure by rent for tenure by service, i.e. money was paid in exchange for service, and the lord's fields were tilled by hired laborers. By the Great Pestilence labor was rendered scarce and agriculture was disorganized. The old surplus population that had ever before (Vinogradoff in *Eng. Hist. Rev.*, Oct., 1900, 775-781; April, 1906, 356) drifted from manor to manor no longer existed. The lords pursued their tenants; capital was begging from labor. All statutory enactments to chain labor to the soil proved futile. Villeins escaped in numbers to manors, not of their own lords, and entered into service, this time as hired laborers. That is, the lord became a landlord, the villein became a tenant farmer at will or a landless laborer. Then came the Peasant Revolt all over Europe, the economic complement of the Black Death, by which the old economy was broken up and from which the modern social economy began. On the Continent the result was the métayer system or division of national wealth among small landed proprietors. In England under stock and land leases the same system prevailed for close on a century, then disappeared, emerging eventually after successive ages as our modern "enclosed" agriculture.

(3) As in things military and economic, so also in things judicial the idea of landed administrative (sic) sinks below the horizon. All over Europe legal kings, Alphonso the Wise, Phillip the Fair, Charles of Bohemia, Edward I of England, were rearranging the constitutions of their countries. The old *curia regis* or *cour du roy* ceases to be a feudal board of tenants-in-chief and becomes, at first partly, then wholly, a body of legal advisors. The king's chaplains and clerks, with their knowledge of civil and canon law, able to spell out the old customaries, take the

place of grim warriors. The *Placita Regis* or *cas royaux* get extended and simplified. Appeals are encouraged. Civil as well as criminal litigations come into the royal courts. Finance, the royal auditing of the accounts of sheriffs, bailiffs, or seneschals, increases the royal hold on the country, breaks down the power of the landed classes, and draws the king and peoples into alliance against the great nobles. The shape of society is no longer a pyramid but two parallel lines. It can no longer be represented as broadening down from king to nobles, from nobles to people; but the apex and base have withdrawn, the one from completing, the other from supporting the central block. The rise to power of popular assemblies, whether as States General, Cortes, Diets, or Parliaments, betokens the growing importance of the middle class (i.e. of the moneyed, not landed proprietors) is the overthrow of feudalism. The whole literature of the fourteenth century and onward witnesses to this triumph. Henceforward, to the Renaissance, it is eminently bourgeois. Song is no longer an aristocratic monopoly; it passes out into the whole nation. The troubadour is no more; his place is taken by the ballad writer composing in the vulgar tongue a *dolce stil nuovo*. This new tone is especially evident in "Renard le Contrefait" and "Branche des Royaux Lignage". These show that the old reverence for all that was knightly and of chivalry was passing away. The medieval theory of life, thought, and government had broken down.

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