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2. Medieval Feudalism

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2. Medieval Feudalism

Abstract

Feudalism was the natural response to the greatest political need of the Dark Ages: security. Since there was no central government capable of providing this security, men fell back on their own resources, making local arrangements. Already, in the last chaotic centuries of imperial rule, Roman magnates had supported, and had been supported by, groups of clients. Among the Germanic tribes beyond the imperial frontiers, a roughly similar system of armed personal retainers had existed. From these precedents and from sheer necessity, feudalism was created in the Carolingian state in the ninth and tenth centuries. Thence it was transplanted in Spain, the British Isles, and eastern Germany. Although historians dogged by the need to generalize speak of feudalism, actually feudal institutions varied greatly from district to district. However, certain elements were common, or at least general, in the mature feudalism of Western Europe in the years from 1000 to 1200. Men turned for protection to local magnates, some of whom had official positions, others of whom were simply powerful private citizens. These magnates were glad to have men under them because their subordinates could serve them in a number of useful ways. The subordinates were called vassals and their superiors, lords. There was nothing dishonorable about being a vassal. Even the Church became involved in the system with bishops and abbots serving as both lords and vassals of laymen. Although everywhere there were some upperclass freemen who were not vassals, feudal lawyers were essentially correct in their contention, "No land without a lord." The system was too useful to one or both parties not to spread. The kings secured officials and, above all, an army at little or no financial cost; the magnates obtained recognition of considerable independence and the support of armed clients; and the lesser warriors got a measure of political and economic security. [excerpt]

Keywords

Contemporary Civilization, Rome, Roman Empire, Byzantine, Constantinople, Islamic, Greek, Medieval Era, Feudalism, Magna Carta

Disciplines

Byzantine and Modern Greek | Classics | Defense and Security Studies

Comments

This is a part of [Section II: Medieval, Political, and Economic Development: Feudalism and Manorialism](#).

The [Contemporary Civilization](#) page lists all additional sections of *Ideas and Institutions of Western Man*, as well as the [Table of Contents](#) for both volumes.

More About Contemporary Civilization:

From 1947 through 1969, all first-year Gettysburg College students took a two-semester course called Contemporary Civilization. The course was developed at President Henry W.A. Hanson's request with the goal of "introducing the student to the backgrounds of contemporary social problems through the major concepts, ideals, hopes and motivations of western culture since the Middle Ages."

Gettysburg College professors from the history, philosophy, and religion departments developed a textbook for the course. The first edition, published in 1955, was called *An Introduction to Contemporary Civilization and Its Problems*. A second edition, retitled *Ideas and Institutions of Western Man*, was published in 1958 and 1960.

It is this second edition that we include here. The copy we digitized is from the Gary T. Hawbaker '66 Collection and the marginalia are his.

Authors

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2. Medieval Feudalism

Feudalism was the natural response to the greatest political need of the Dark Ages: security. Since there was no central government capable of providing this security, men fell back on their own resources, making local arrangements. Already, in the last chaotic centuries of imperial rule, Roman magnates had supported, and had been supported by, groups of clients. Among the Germanic tribes beyond the imperial frontiers, a roughly similar system of armed personal retainers had existed. From these precedents and from sheer necessity, feudalism was created in the Carolingian state in the ninth and tenth centuries. Thence it was transplanted in Spain, the British Isles, and eastern Germany. Although historians dogged by the need to generalize speak of feudalism, actually feudal institutions varied greatly from district to district. However, certain elements were common, or at least general, in the mature feudalism of Western Europe in the years from 1000 to 1200. [Men turned for protection to local magnates, some of whom had official positions, others of whom were simply powerful private citizens. These magnates were glad to have men under them because their subordinates could serve them in a number of useful ways. The subordinates were called vassals and their superiors, lords. There was nothing dishonorable about being a vassal. Even the Church became involved in the system with bishops and abbots serving as both lords and vassals of laymen. Although everywhere there were some upper-class freemen who were not vassals, feudal lawyers were essentially correct in their contention, "No land without a lord." The system was too useful to one or both parties not to spread. The kings secured officials and, above all, an army at little or no financial cost; the magnates obtained recognition of considerable independence and the support of armed clients; and the lesser warriors got a measure of political and economic security.]

[The lord-vassal relationship was one between superior and inferior, but both had obligations. First, let us examine what the lord owed the vassal. (1) The lord was obligated to protect his vassal, his vassal's family, and his vassal's property.]

response to challenge - feudalism gov't based on ^{a series of} contracts

This was more than merely a legal duty, for the lord's self-interest induced him to fulfill this obligation. A dead or rebellious vassal, or one deprived of a livelihood, was of no use to the lord. (2) The lord owed his vassal justice. If the vassal was called before a royal court, the lord was obligated to see that he got a fair trial. If a vassal thought his lord was making unfair demands on him, he had the right to have the matter settled in the lord's court. There fellow vassals -- his peers or social equals -- would be asked to state what was the custom of the area. To medieval man, law was something already in existence. It was sought for and found in custom, not made. The concept of legislation as the Romans knew it had been lost, and was not generally recognized until late in the thirteenth century. (3) Finally, the lord owed his vassal a source of income, called a fief -- hence the word feudalism. A fief might be the tolls from a bridge or even an annual payment of money, but generally it was the usufruct of a particular piece of land. In an economy short of cash, land was the one asset the lord was most apt to have. Some form of income was essential if the vassal was to perform his own obligations. He had to provide for his family. He had to equip himself with armor, shield, lance, sword, and a horse. By the eleventh century the heavily armed knight was the basic unit of medieval warfare. The special chargers which could carry him in battle cost alone as much as several hundred sheep, far beyond the means of a simple peasant. Moreover, the would-be knight had to have the time to learn and practice the skills needed to use his weapons.

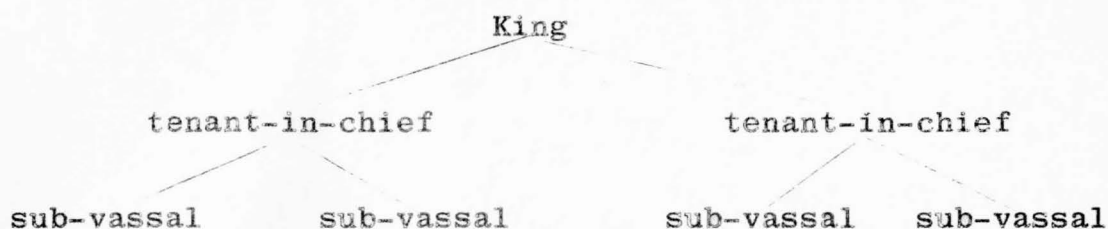
At the ceremony which inaugurated the feudal contract, the vassal knelt before his lord, between whose hands he placed his own, clasped in the attitude of prayer. Thus the vassal did homage, promising to be his lord's man. Next, on the Bible or holy relics, he swore fealty, to be faithful to his lord. Afterwards, the lord handed the vassal a flag, clod of earth, or some other object symbolizing the fief. Gradually, the idea developed that the contractual relationship should pass from father to son (often the eldest son), each assuming the obligations and rights of his predecessor.

Feudal lawyers summarized the vassal's obligation to his lord in the phrase "aid and counsel." (1) First of all, the vassal owed service, generally military in nature. Gradually the amount required became fixed. For offensive operations it was often the service of one or more armed knights (depending on the size of the fief) for forty days. For defensive operations service was generally unlimited, since here both parties presumably benefited directly. The short length of service on the offensive usually meant that any castle which could withstand a siege of forty days duration was safe, because at the end of that period the besiegers melted away. Here again the essentially defensive nature of feudalism and of medieval warfare is apparent. Another usual type of military service was garrison duty in the lord's castle. In yet other cases, the service owed was not military at all. One English vassal in Kent held

his estate on condition that he hold the king's head in the boat whenever the monarch made the rough channel crossing between Dover and Wissant. Other vassals filled administrative posts in the lord's household. (2) The vassal owed his lord counsel. He attended the court of his lord, whose social standing depended on the size of his entourage. There the vassal gave advice. He helped judge cases on the basis of local custom, no small responsibility because if the guilty party refused to accept the verdict a member of the court might be called on to enforce it in armed combat. Moreover, the vassal was obligated to take his grievances to the court of his lord, who profited from various fees and fines levied there. (3) Sometimes the vassal owed his lord a certain amount of hospitality each year. For this reason, even medieval kings often traveled from the castle of one vassal to that of another, eating the provisions they lacked the money to buy. (4) In some places, if the vassal died leaving an heir who was a minor, and therefore unable to fulfill his duties to his lord, the lord exercised the right of wardship, taking the income of the fief until the heir was of age. In return, the lord was expected to maintain the productivity of the fief unimpaired and provide suitable maintenance for the minor. Female heirs could marry only with the lord's approval. Otherwise, the fief might fall into the hands of a husband unfriendly to the lord. (5) Upon assuming his inheritance, the heir paid the lord a sum of money called a relief, usually one year's income. (6) The vassal generally owed the lord an additional sum of money during specified emergencies when he faced an unusual drain on his cash resources: when he had to be ransomed, when his eldest son was knighted, when his eldest daughter was married, and when he went on a crusade. From such income and from the produce of the estates retained for his personal use, the lord had to support himself and carry on his rudimentary government as best he could.)

Over the centuries, by the process known as subinfeudation, a pyramid of contractual relationships was established in each country. At the top was the king, from whom vassals called tenants-in-chief held land directly. Some of these tenants-in-chief were dukes and counts whose fiefs were virtual kingdoms in themselves, covering hundreds of square miles, as large as or larger than the personal estates of the king, with their own administration and their own sub-vassals. The Count of Champagne, for example, had at one time 2039 sub-vassals in his fief, for which he owed the king the services of only 10 knights. The sub-vassals in their turn might have sub-sub-vassals of their own, and so on down to simple knights whose fiefs might be even smaller than an average-sized American farm. When, as frequently happened in the latter Middle Ages, a man held fiefs from several lords, one of the latter was often designated his liege lord to whom primary allegiance was due in case the vassal's lords fought each other and made conflicting claims on his services. In practice, however, the vassal often chose to obey the stronger lord.

The Feudal Pyramid



Feudalism was, therefore, a system of government based on mutual private contracts and direct personal relationships. It is important to remember that each party had specified rights and duties. Only if one party defaulted was the contract broken and the other party freed from all obligations. In practice, however, a strong vassal could often ignore the rights of a weak lord. This points up one of the unresolved problems of feudalism: enforcement. Private warfare was "built into" the system as the way to solve problems of loyalty and obedience. However, much medieval private warfare was not very lethal. The common people took little direct part in the fighting, and the armor of the knight protected him from most mortal blows. Moreover, the capture and eventual ransom of one's opponent was generally considered more profitable than his death.

Up to the thirteenth century, the royal government in feudal states was generally unsuccessful in maintaining order. During the Dark Ages, most political authority had been divided among royal vassals who appropriated and retained it for their own advantage. Understandably, the vassals were very suspicious of any attempt to increase royal authority. Therefore, most rulers were little more than unusually powerful lords -- the first among equals -- and often not even that. The royal administration and civil service were usually rudimentary, and occasionally inferior to that found in some of the great fiefs. For example, the dukes of Normandy in the eleventh century curbed their vassals and ran their government with a tight rein that put to shame the efforts of their own nominal overlords, the kings of France. Lacking the power of taxation, the kings had to live from their own income as landlords and feudal lords. Also, they lacked the power to legislate. Like every other lord, the kings had duties as well as rights. They were supposed to ask the advice of their vassals, who sat in their courts and gave them counsel. If the king broke the feudal contract, his vassals could -- and frequently would -- unite to coerce him into legality. Although in theory the kings remained the font of justice -- a belief on which they were eventually to capitalize in their efforts to rebuild royal power -- in the early Middle Ages this theory was of little practical importance. Crimes were often tried by feudal lords, if at all, with little or no reference to royal authority, even when their own vassals were not involved. Militarily the kings were dependent upon their vassals, the very group against which the army would be used if the royal will was to be enforced.

Consequently, with the central government so curtailed, a thirteenth century French jurist's definition of a baron as one who was "king in his own barony" is seen to be a pardonable overstatement. A lower vassal, with enough income to live, with enough administrative machinery to keep his estates operating, and with a castle strong enough to withstand a siege, was the key unit in government. As far as most men were concerned, here on the local level was the place where effective government was found.

To balance this picture of feudal decentralization, it must be emphasized that feudalism was not anarchy. There was always some government, often a bare minimum, often inefficient and unjust. This was an achievement, however limited.

It is not necessary here to do more than sketch how new states arose out of the ruins of the mighty empire of Charlemagne. In 987, at the end of the Carolingian line, the magnates of France elected one of their number, Hugh Capet, as their king. For almost two centuries he and his descendants exercised only nominal authority outside their small personal domain around Paris, but this was the family which was to rule France until the French Revolution at the end of the eighteenth century. At the end of the Carolingian line in Germany in 911, the German lords elected a king. In 962 one of his successors took the title of Holy Roman Emperor, which was continued until 1806. The emperor was never able to give reality to this impressive title, and his vassals were noted for their ability to prevent his strengthening his hold over them. Eventually, one wit was to observe that the Holy Roman Empire was neither holy, nor Roman, nor an empire. The feudal state in which the king exercised the most authority was England. A group of Northmen had settled in France in a province which became known as Normandy. In 1066 their duke, William, led a filibustering expedition across the channel and conquered Anglo-Saxon England. William, having been a very unruly vassal of the king of France, was now a reformed robber who wanted none of his own vassals to treat him as he had treated his lord. He divided England into fiefs and distributed them among his companions, but exercised a conqueror's prerogative by insuring the retention of a significant amount of power in the hands of himself and his successors.

A typical feudal document, and one of unusual importance in the subsequent development of English, and therefore American, government, was Magna Carta. King John ruled England from 1199 to 1216. So unpleasant are the associations of his name that it has been borne by no subsequent ruler of England. John was tactless and cruel, although he possessed ability of sorts. In his relentless search for money and power, he milked every possible source of revenue for all it was worth. Feudal contracts he either ignored or violated in spirit while sticking to the letter of the law. He squeezed money from his vassals on many occasions other than those prescribed by feudal custom. While exercising the right of wardship, he sold timber from the

possessions of his wards and generally "mined" their inheritance, so that when they came of age their estates were run down. He threatened female wards with forced marriage to old and ugly men, unless the wards bought the right to marry a person of their own choice. He delayed appointing new bishops and abbots, and while the sees and abbeys were vacant appropriated their income for himself. This was his right, but to delay making appointments was a violation of the spirit of the law. He angered townsmen by threatening to revoke their charters unless additional money was given to him. His enemies were imprisoned or killed. Wealthy men were tortured until their relatives paid ransom. Foreign adventurers were given prominent offices, which were used to squeeze money from the royal subjects. To top off this list of iniquities, John's foreign policy, while imaginative, was conspicuously unsuccessful. To the king of France he lost Normandy, which had long been a possession of his family.

Led by Stephen Langton, the saintly and able archbishop of Canterbury, churchmen, feudal lords, and townsmen at length took up arms and united their forces against John. That wily king, seeing that the game was up for the moment, agreed in 1215 to meet their representatives at Runnymede, along the Thames River between London and Windsor, where he signed what has become known as Magna Carta. In this document the rebels showed no disposition to weaken the just royal rights. To have done so would have been foreign to the feudal concept of law. Instead, what the rebels tried to do was tie up King John in the feudal system more securely by making him promise to respect their rights.]

As soon as the rebel host had dispersed, John was up to his old tricks again, and only his death in the next year cut short a renewal of the civil war. Acting in the name of John's infant son, the regents of the kingdom reissued parts of Magna Carta.

As only one of many similar charters granted by medieval English kings, Magna Carta had for some centuries no unusual political significance. [Its name -- Great Charter -- came originally from its length, not from its importance. Its clauses, arranged in no logical order, represented the specific grievances of the rebellious vassals, who showed little concern for those outside the feudal system. About four centuries later, Shakespeare was to write a play about King John without even mentioning Magna Carta.]

Then, in the seventeenth century, there broke out another conflict, this one between the English parliament and kings of the Stuart dynasty, James I and Charles I. Parliamentary lawyers, seeking legal precedents to justify their opposition to royal absolutism, rediscovered Magna Carta. Their propaganda pictured it, not as the feudal document it was, but as the cornerstone of English liberty. And indeed between the lines it does contain the idea of constitutionalism -- that the kings

must live within the law and recognize the rights, not just of feudal lords, but of all Englishmen. Moreover, the conditions under which it was signed carried the further implication that rebellion was justified if the king broke the law. Finally, specific passages of the charter could easily be interpreted as justifications of the right to trial by jury and of the principle of "no taxation without representation." For these reasons, although England to this day has no written constitution, Magna Carta is considered to be indeed the cornerstone of English liberty. To it the thirteen English colonies in North America were to appeal in the eighteenth century when they protested against what they regarded as the arbitrary acts of the mother country. Both an insight into how this interpretation was possible and a familiarity with feudal ideas and practices can be gained by reading the document itself.

Magna Carta *

John, by the grace of God, king of England, lord of Ireland, duke of Normandy and Aquitaine, and count of Anjou, to the archbishops, bishops, abbots, earls, barons, justiciars, foresters, sheriffs, stewards, servants, and to all his bailiffs and liege subjects, greeting. Know that, having regard to God and for the salvation of our souls, and those of all our ancestors and heirs, and unto the honour of God and the advancement of holy Church, and for the reform of our realm, (we have granted as underwritten) by advice of our venerable fathers, Stephen, archbishop of Canterbury, primate of all England and cardinal of the holy Roman Church, Henry archbishop of Dublin, William of London, Peter of Winchester, Jocelyn of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, Benedict of Rochester, bishops; of master Pandulf, sub-deacon and member of the household of our lord the Pope, of brother Aymeric, master of the Knights of the Temple in England, and of the illustrious men William Marshal, earl of Pembroke, William, earl of Salisbury, William, earl of Warenne, William earl of Arundel, Alan of Galloway, constable of Scotland, Waren Fitz Gerald, Peter Fitz Herbert, Hubert de Burgh, seneschal of Poitou, Hugh de Neville, Matthew Fitz Herbert, Thomas Basset, Alan Basset, Philip d'Aubigny, Robert of Roppesley, John Marshal, John Fitz Hugh, and others, our liegemen.

1. In the first place we have granted to God, and by this our present charter confirmed for us and our heirs for ever that the English church shall be free, and shall have her rights entire, and her liberties inviolate; and we will that it be thus observed; which is apparent from this that the freedom of elections, which is reckoned most

* This translation of the Magna Carta (with a few passages omitted) has been taken from W. S. McKechnie, Magna Carta, A Commentary on the Great Charter of King John (Glasgow: J. Maclehose and Sons, 1914), passim. Used with the permission of the Macmillan Co. The explanatory footnotes have been added.

No specific way in which it was written.

important and very essential to the English church, we, of our pure and unconstrained will, did grant, and did by our charter confirm and did obtain the ratification of the same from our lord, Pope Innocent III, before the quarrel arose between us and our barons: and this we will observe, and our will is that it be observed in good faith by our heirs for ever. We have also granted to all freemen of our kingdom, for us and our heirs forever, all the underwritten liberties, to be had and held by them and their heirs, of us and our heirs forever.¹

2. If any of our earls or barons, or others holding of us in chief by military service shall have died, and at the time of his death his heir shall be full of age and owe "relief" he shall have his inheritance on payment of the ancient relief, namely the heir or heirs of an earl, £ 100 for a whole earl's barony; the heir or heirs of a baron, £ 100 for a whole barony; the heir or heirs of a knight, 100s. at most for a whole knight's fee; and whoever owes less let him give less, according to the ancient custom of fiefs.

3. If, however, the heir of any one of the aforesaid has been under age and in wardship, let him have his inheritance without relief and without fine when he comes of age.

4. The guardian of the land of an heir who is thus under age, shall take from the land of the heir nothing but reasonable produce, reasonable customs, and reasonable services, and that without destruction or waste of men or goods; and if we have committed the wardship of the lands of any such minor to the sheriff,² or to any other who is responsible to us for its issues, and he has made destruction or waste of what he holds in wardship, we will take of him amends, and the land shall be committed to two lawful and discreet men of that fee [fief], who shall be responsible for the issues to us or to him to whom we shall assign them; and if we have given or sold the wardship of any such land to anyone and he has therein made destruction or waste, he shall lose that wardship, and it shall be transferred to two lawful and discreet men of that fief, who shall be responsible to us in like manner as aforesaid.

5. The guardian, moreover, so long as he has the wardship of the land, shall keep up the houses, parks, fishponds, tanks, mills, and other things pertaining to the land, out of the issues of the same land; and he shall restore to the heir, when he has come to full age, all his land, stocked with ploughs and "waynage,"³ according as the season of husbandry shall require, and the issues of the land can reasonably bear.

save the land until the heir was old enough. (fulfill contract)

-
- 1 - Note the limitation of the last sentence to freemen.
 - 2 - The sheriff was a royal official.
 - 3 - Waynage: "harvested crops necessary for seed and the upkeep of the estate."

not paying the lord, so the lord got his pay through wardships.

Barons are not trying to take away the king's power, just trying to keep it in check as to contract. (customs)
Didn't try to get rid of wardships because they were lords (wards) themselves. (custom)

Didn't take away legal powers of king.

6. Heirs shall be married without disparagement,⁴ yet so that before the marriage takes place the nearest in blood to that heir shall have notice.

7. A widow, after the death of her husband, shall forthwith and without difficulty have her marriage portion and inheritance; nor shall she give anything for her dower, or for her marriage portion, or for the inheritance which her husband and she held on the day of the death of that husband; and she may remain in the house of her husband for forty days after his death, within which time her dower shall be assigned to her.

8. No widow shall be compelled to marry, so long as she prefers to live without a husband; provided always that she gives security not to marry without our consent, if she holds of us, or without the consent of the lord of whom she holds, if she holds of another....

11. And if anyone die indebted to the Jews, his wife shall have her dower and pay nothing of that debt; and if any children of the deceased are left under age, necessities shall be provided for them in keeping with the holding of the deceased; and out of the residue the debt shall be paid, reserving, however, service due to feudal lords; in like manner let it be done touching debts due to others than Jews. *money lending done by Jews.*

12. No scutage⁵ nor aid shall be imposed⁶ on our kingdom, unless by common counsel of our kingdom, except for ransoming our person, for making our eldest son a knight, and for once marrying our eldest daughter; and for these there shall not be levied more than a reasonable aid. In like manner it shall be done concerning aids from the city of London.

13. And the city of London shall have all its ancient liberties and free customs, as well by land as by water; furthermore, we decree and grant that all other cities, boroughs, towns, and ports shall have all their liberties and free customs. *Applies to town*

14. And for obtaining the common counsel of the kingdom ament the assessing of an aid, except in the three cases aforesaid, or of a scutage, we will cause to be summoned the archbishops, bishops, abbots, earls, and greater barons, severally by our letters; and we will moreover cause to be summoned generally, through our sheriffs and bailiffs, all others who hold of us in chief, for a fixed date, namely, after the expiry of at least forty days, and at a fixed place; and in all letters of such summons we will specify the reason of the summons. And when the

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- 4 - For example, not married to someone below their station in life or to an enemy.
 - 5 - Scutage: "a payment of money from a vassal in lieu of military service."
 - 6 - The phrase "common counsel of our kingdom," which meant then that no unusual feudal dues could be levied without the consent of the vassals, was later given the broader interpretation of "no taxation without representation."

Things were read into this during 1700's.

summons has thus been made, the business shall proceed on the day appointed, according to the counsel of such as are present, although not all who were summoned have come.⁷

15. We will not for the future grant to any one licence to take an aid from his own free tenants, except to ransom his body, to make his eldest son a knight, and once to marry his eldest daughter; and on each of these occasions there shall be levied only a reasonable aid. *emergencies which require*

16. No one shall be distrained for performance of cash.⁸ greater service for a knight's fee, or for any other free tenement, than is due therefrom.

17. Common pleas shall not follow our court, but shall be held in some fixed place....⁸

20. A freeman shall not be amerced [fined] for a slight offence, except in accordance with the degree of the offence; and for a grave offence he shall be amerced in accordance with the gravity of the offence, yet saving always his "contentment"; and a merchant in the same way, saving his "merchandise"; and a villein shall be amerced in the same way, saving his "waynage" -- if they have fallen into our mercy: and none of the aforesaid ameracements shall be imposed except by the oath of honest men of the neighbourhood.⁹

21. Earls and barons shall not be amerced except through their peers [equals], and only in accordance with the degree of the offence.... *fined to the gravity of the offense by peers.*

23. No village or individual shall be compelled to make bridges at river banks, except those who from of old were legally bound to do so....

25. All counties, hundreds, wapentakes, and trithings, except our demesne manors,¹¹ shall remain at the old rents, and without any additional payment.¹⁰

26. If any one holding of us a lay fief shall die, and our sheriff or bailiff shall exhibit our letters patent of summons for a debt which the deceased owed to us, it shall be lawful for our sheriff or bailiff to attach and catalogue chattels of the deceased, found upon the lay fief, to the value of that debt, at the sight of law-worthy men,

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- 7 - Note that as yet the towns were not represented in this the forerunner of parliament. This was still purely a feudal body and the feudal lords were looking out primarily for themselves. Note too that attendance at the council was regarded as burdensome.
 - 8 - John had been wont to bring cases from the lower courts in the area where an alleged crime had been committed to his own court, where he would sell "justice," thus depriving the lords' courts of income and greatly inconveniencing the litigants.
 - 9 - The purpose of this section was to forbid fines so heavy as to deprive a man of his livelihood. A villein was a peasant. The feudal lords wanted to insure his being able to work for them productively.
 - 10 - All local government bodies.
 - 11 - Demesne manors were personal estates of the king.

*Magna Carta deals with the welfare of the feudal lords (upper 5%)
had to take arms to enforce laws.*

provided always that nothing whatever be thence removed until the debt which is evident shall be fully paid to us; and the residue shall be left to the executors to fulfil the will of the deceased; and if there be nothing due from him to us, all chattels shall go to the deceased, saving to his wife and children their reasonable shares.

27. If any freeman shall die intestate, his chattels shall be distributed by the hands of his nearest kinsfolk and friends, under supervision of the church, saving to everyone the debts which the deceased owed to him.

28. No constable or other bailiff of ours shall take corn or other provisions from anyone without immediately tendering money therefor, unless he can have postponement thereof by permission of the seller.

29. No constable shall compel any knight to give money in lieu of castle-guard, when he is willing to perform it in his own person, or if he himself cannot do it from any reasonable cause then by another responsible man. Further, if we had led or sent him upon military service, he shall be relieved from guard in proportion to the time during which he has been on service because of us.

30. No sheriff or bailiff of ours, or other person, shall take the horses or carts of any freeman for transport duty, against the will of the said freeman.

31. Neither we nor our bailiffs shall take, for our castles or for any other work of ours, wood which is not ours, against the will of the owner of that wood....

35. Let there be one measure of wine throughout our whole realm; and one measure of ale; and one measure of corn, to wit, "the London quarter"; and one width of cloth whether dyed, or russet, or "halberget," to wit, two ells within the selvedges; of weights also let it be as of measures....¹²

37. ...We will not by reason of any small serjeanty [a type of fief] which anyone may hold of us by the service of rendering to us knives, arrows, or the like, have wardship of his heir or of the land which he holds of another lord by knight's service.

38. No bailiff for the future shall, upon his own unsupported complaint, put anyone to his "law," without credible witnesses brought for this purpose.¹³

39. No freeman shall be taken or [and] imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or [and] by the law of the land.¹⁴

40. To no one will we sell, to no one will we refuse or delay, right or justice.

12 - Articles 13, 35, 41 and 42 are among the few which provide benefits directly for the towns.

13 - No one was to be forced to undergo trial (for example, by combat) unless there was enough evidence to create a presumption of guilt.

14 - Later interpreted to guarantee the right of trial by jury. See section 20.

Lord owed vassal justice, vassal owed lord counsel

41. All merchants shall have safe and secure exit from England, and entry to England, with the right to tarry there and to move about as well by land as by water, for buying and selling by the ancient and right customs, quit from all evil tolls, except in time of war such merchants as are of the land at war with us. And if such are found in our land at the beginning of the war, they shall be detained, without injury to their bodies or goods, until information be received by us, or by our chief justiciar, how the merchants of our land found in the land at war with us are treated; and if our men are safe there, the others shall be safe in our land.

42. It shall be lawful in the future for anyone excepting always those imprisoned or outlawed in accordance with the law of the kingdom, and natives of any country at war with us, and merchants, who shall be treated as is above provided, to leave our kingdom and to return, safe and secure by land and water, except for a short period in time of war, on grounds of public policy -- reserving always the allegiance due to us....

45. We will appoint as justices, constables, sheriffs, or bailiffs only such as know the law of the realm and mean to observe it well.

46. All barons who have founded abbeys, concerning which they hold charters from the kings of England, or of which they have long-continued possession, shall have the wardship of them, when vacant, as they ought to have.

47. All forests that have been made such in our time shall forthwith be disafforested; and a similar course shall be followed with regard to river-banks that have been placed "in defence" by us in our time.¹⁵

48. All evil customs connected with forests and warrens, foresters and wardeners, sheriffs and their officers, river-banks and their wardens shall immediately be inquired into in each county by twelve sworn knights of the same county chosen by the honest men of the same county, and shall, within forty days of the said inquest, be utterly abolished, so as never to be restored, provided always that we previously have intimation thereof, or our justiciar, if we should not be in England.¹⁶

49. We will immediately restore all hostages and charters delivered to us by Englishmen, as sureties of the peace or of faithful service.

50. We will entirely remove from their bailiwicks, the relations of Gerard of Athee so that in future they shall have no bailiwick in England; namely, Engelard of Cigogne, Peter, Guy, and Andrew of Chanceaux, Guy of Cigogne, Geoffrey of Martigny with his brothers, Philip Mark with his brothers and his nephew Geoffrey, and the whole brood of the same.¹⁷

15 - Lovers of hunting, the English kings seized land for game preserves, subject to special and harsh forest laws.

16 - From this type of inquest the grand jury arose.

17 - Unpopular royal officials.

*accepted system of doing something - constitution written as a mirror
not under man but under God & the law } opposite. you find law
what places the prince, is the force of law } it.*

51. As soon as peace is restored, we will banish from the kingdom all foreign-born knights, cross-bowmen, serjeants, and mercenary soldiers, who have come with horses and arms to the kingdom's hurt.

52. If anyone has been dispossessed or removed by us, without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five-and-twenty barons of whom mention is made below in the clause for securing the peace.¹⁸ Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseised or removed, by our father, King Henry, or by our brother, King Richard, and which we retain in our hand or which are possessed by others, to whom we are bound to warrant them we shall have respite until the usual term of crusaders; excepting those things about which a plea has been raised, or an inquest made by our order, before our taking of the cross;¹⁹ but as soon as we return from our expedition or if perchance we desist from the expedition we will immediately grant full justice therein....

54. No one shall be arrested or imprisoned upon the appeal of a woman, for the death of any other than her husband.

55. All fines made with us unjustly and against the law of the land, and all amercements imposed unjustly and against the law of the land, shall be entirely remitted, or else it shall be done concerning them according to the decision of the five-and-twenty barons of whom mention is made below in the clause for securing the peace, or according to the judgment of the majority of the same, along with the aforesaid Stephen, archbishop of Canterbury, if he can be present, and such others as he may wish to bring with him for this purpose, and if he cannot be present the business shall nevertheless proceed without him, provided always that if any one or more of the aforesaid five-and-twenty barons are in a similar suit, they shall be removed as far as concerns this particular judgment, others being substituted in their places after having been selected by the rest of the same five-and-twenty for this purpose only, and after having been sworn....

60. Moreover, all these aforesaid customs and liberties, the observance of which we have granted in our kingdom as far as pertains to us towards our men, shall be observed by all of our kingdom, as well clergy as laymen, as far as pertains to them towards their men.²⁰

18 - See sections 55 and 61. The watchdog Committee of Twenty-Five was an experiment that failed.

19 - "Taking the cross" meant pledging to go on a crusade. John took the cross but, characteristically, never went to the Holy Land.

20 - The tenants-in-chief promised to respect the rights of their own vassals, and so on down the line.

18 - one of items which tried to check the power of King John.

efforts of the feudal lords to get a restatement of customs and feudal contract.

61. Since, moreover, for God and the amendment of our kingdom and for the better allaying of the quarrel that has arisen between us and our barons, we have granted all these concessions, desirous that they should enjoy them in complete and firm endurance for ever, we give and grant to them the underwritten security, namely, that the barons choose five-and-twenty barons of the kingdom, whomsoever they will, who shall be bound with all their might, to observe and hold, and cause to be observed, the peace and liberties we have granted and confirmed to them by this our present Charter, so that if we, or our justiciar, or our bailiffs or any one of our officers, shall in anything be at fault towards any one, or shall have broken any one of the articles of the peace or of this security, and the offence be notified to four barons of the aforesaid five-and-twenty, the said four barons shall repair to us or our justiciars, if we are out of the realm, and, laying the transgression before us, petition to have that transgression redressed without delay. And if we shall not have corrected the transgression, or, in the event of our being out of the realm, if our justiciar²¹ shall not have corrected it within forty days, reckoning from the time it has been intimated to us or to our justiciar, if we should be out of the realm, the four barons aforesaid shall refer that matter to the rest of the five-and-twenty barons, and those five-and-twenty barons shall, together with the community of the whole land, distrain and distress us in all possible ways, namely, by seizing our castles, lands, possessions, and in any other way they can, until redress has been obtained as they deem fit, saving harmless our own person, and the persons of our queen and the children; and when redress has been obtained, they shall resume their old relations toward us. And let whoever in the country desires it, swear to obey the orders of the said five-and-twenty barons for the execution of all the aforesaid matters, and along with them, to molest us to the utmost of his power; and we publicly and freely grant leave to every one who wishes to swear, and we shall never forbid any one to swear. All those, moreover, in the land who of themselves and of their own accord are unwilling to swear to the twenty-five to help them in constraining and molesting us, we shall by our command compel the same to swear to the effect foresaid. And if any one of the five-and-twenty barons shall have died or departed from the land, or be incapacitated in any other manner which would prevent the foresaid provisions being carried out, those of the said twenty-five barons who are left shall choose another in his place according to their own judgment, and he shall be sworn in the same way as the others. Further, in all matters, the execution of which is intrusted to these twenty-five barons, if

21 - The justiciar was a royal official who acted as viceroy when the king was absent from England.

perchance these twenty-five are present and disagree about anything, or if some of them, after being summoned, are unwilling or unable to be present, that which the majority of those present ordain or command shall be held as fixed and established, exactly as if the whole twenty-five had concurred in this; and the said twenty-five shall swear that they will faithfully observe all that is aforesaid, and cause it to be observed with all their might. And we shall procure nothing from any one, directly or indirectly, whereby any part of these concessions and liberties might be revoked or diminished; and if any such thing has been procured, let it be void and null, and we shall never use it personally or by another.

62. And all the ill-will, hatreds, and bitterness that have arisen between us and our men, clergy and lay, from the date of the quarrel, we have completely remitted and pardoned to every one. Moreover, all trespasses occasioned by the said quarrel, from Easter in the sixteenth year of our reign till the restoration of peace, we have fully remitted to all, both clergy and laymen, and completely forgiven, as far as pertains to us. And, on this head, we have caused to be made for them letters testimonial patent of the lord Stephen, archbishop of Canterbury, of the lord Henry, archbishop of Dublin, of the bishops aforesaid, and of Master Pandulf as touching this security and the concessions aforesaid.

63. Wherefore it is our will, and we firmly enjoin, that the English Church be free, and that the men in our kingdom have and hold all the aforesaid liberties, rights, and concessions, well and peaceably, freely and quietly, fully and wholly, for themselves and their heirs, of us and our heirs, in all respects and in all places for ever, as is aforesaid. An oath, moreover, has been taken, as well on our part as on the part of the barons, that all these conditions aforesaid shall be kept in good faith and without evil intent. Given under our hand -- the above-named and many others being witnesses -- in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June, in the seventeenth year of our reign.

It should be emphasized that the feudal system embraced only a small proportion of the population: the lords and vassals. Feudalism had been created to provide "the necessary minimum of political and military cooperation while imposing the least possible restraint on the individual knight." To injure the property or person of one's lord or fellow-vassal was generally recognized as a breach of the upper-class code of conduct, but injury to the vassal of another lord, let alone some boor of a peasant, was quite another matter. That even wives existed only on the periphery of the system is illustrated by the Church's efforts to limit the size of the stick with which a husband could beat his wife. Throughout her life a woman was in the custody of some male: her father, then her husband, and, in the event of widowhood, her lord. Nevertheless it would be wrong to

underestimate the extra-legal influence of women. A wife shared in her husband's noble status and carried the heavy burden of estate management in his frequent absences.

Feudal lawlessness, and even brutality, are apt to give a misleading picture of medieval religious faith. Acceptance of the teachings of Mother Church was virtually universal. Every castle had its chaplain and made some provision for worship. Rare indeed was the baronial family without its favorite church or monastery where the ancestral tombs were surrounded by evidences of numerous benefactions. The medieval noble might sin with enthusiasm, and even imagination, but penance almost inevitably followed, frequently in a dramatic form.

Until well into the twelfth century, to "live like a lord" was far from luxurious. The center of feudal life was the castle, built for defense rather than comfort. The first castles were mounds of earth, surrounded by a ditch (moat) and surmounted by a wooden palisade, perhaps with a wooden tower inside. In the eleventh century isolated stone towers were built, with tiny windows for archers and walls up to thirty feet thick. From the twelfth century onward, advances in military architecture produced walls with towers and other elaborations, all in stone. The central building of the early castle (the keep) contained only two rooms. In the great hall the inhabitants ate, the lord held court, and the lesser folk slept at night on the floor or tables. In the chamber, the lord and his lady slept in the only real bed, with their children and personal retainers nearby. Here, private business was transacted. Cold, damp, smoke, and drafts were an inescapable part of castle life. Food and drink were plentiful enough, but lacking in variety. Spices were much sought after to kill the taste of meat that had become tainted. Cloth and clothing were made by the women. Only with the revival of trade in the eleventh and twelfth century were luxuries to appear. Ties with the outside world being few, hospitality was a virtue not unconnected with the need to interrupt the boredom of daily life by hearing what the occasional wandering minstrel, knight errant, pilgrim or cleric had to say.

For members of the feudal class, living a military life that set them apart from the rest of the population, there gradually developed a special code of conduct which was known as chivalry. The relationship of the name with the French word *cheval* (horse) indicated that essentially it was the code of the heavily armed horseman.

The origins of chivalry were purely military. In barbarian tribes the young man who desired to be accepted as a full-fledged member of the tribal army was required to perform various feats to indicate his proficiency with weapons. In some instances he was dealt a heavy blow with a fist on the side of the head to see whether he was strong enough to stand up under punishment. This aspect of chivalry persisted. The aspirant for knighthood served a knight for some years, first as page, then as esquire, carrying messages, cleaning weapons, and learning the practices

of knighthood. At jousts and tournaments the young men would fight each other with blunted weapons, with the winner taking the equipment of the vanquished.

The second aspect of chivalry was religious. The Church frowned on warfare, but what it could not abolish in this sinful world it tried to channel into useful pursuits. Therefore knighthood was given a religious coloration. Since medieval man made great use of ceremonies to teach ideas, special religious rites were celebrated for the young knight. On the night before he entered his new status, he fasted and prayed in the castle chapel, where his armor lay on the high altar. On the day of the ceremony, he would take a ritual bath to cleanse himself of his sins and put on new clothes to symbolize his new life. Then he would kneel before some great lord who would dub him by touching him lightly on the shoulder with a sword. The new knight was supposed to be brave and honorable. He was supposed to fight the heathen and succor the weak. On rare occasions knighthood was granted on the field of battle for bravery.

The third aspect of chivalry, and the last to appear, was the courtly, which originated in Provence in the eleventh century. In this prosperous region of southern France, where Roman survivals and Moslem influence were more prevalent than in the more barbarous north, manners were somewhat less boorish. Here developed the concept, which later spread to the rest of Europe, that it was not enough for a knight to be a grizzled soldier. He must also be gracious and courtly. He should be able to carry on polite conversation. He should be able to sing the songs of brave knights and fair damsels which the troubadours, jongleurs, and other wandering entertainers made popular. The new chivalric poetry had a strong romantic flavor about it, much to the chagrin of the Church. Each knight was supposed to adore and serve some lady fair other than his wife. This love was supposed to give meaning to his life. Here was the beginning of the concept of romantic love, with woman on a pedestal -- albeit, at least in the Middle Ages, a rather shaky one. *development of the cult of the Virgin.*

Thanks to the medieval addiction to ceremony, chivalry developed into an extremely complicated code which survived feudalism. Colleges of heralds were founded to make sure that no unauthorized person bore the coats-of-arms which originally identified their bearers in battle and which later became a sign of gentle birth. When the number of knights became larger, kings created special and exclusive orders of knighthood: the Order of the Garter in England, the Order of the Golden Fleece in the Holy Roman Empire, and the Order of the Holy Spirit in France. Others, like the Knights Templar and the Teutonic Knights, were celibate orders formed to fight the heathen in the Holy Land and eastern Europe respectively.

In the modern world the colorful features of feudal life have made it a suitable background for innumerable movies, plays, and novels. To the unromantic student of the development of

*Romantic love at first was ^{not} considered as marriage.
usually another man's wife.
Church didn't like this Romantic love, set up cult of the Virgin.
Competition to marriage.*

Western Civilization, Feudalism is of importance partly because it was an inescapable part of life for centuries in the medieval period, and partly because of its influence on the modern world. This influence was both negative and positive. As for its negative influence, the shortcomings of feudal ideas and institutions aroused significant countermovements. The history of much of the politics and political theory of early modern Europe was partly conditioned by attempts to overthrow feudalism and replace it with something else. On its positive side, feudalism provided just enough organization and order to enable medieval man to lift himself out of the Dark Ages. Moreover, feudalism proved amazingly productive of political institutions of use to modern man and here is probably its principal significance. It is worth noting that two of the most completely feudalized medieval states -- France and England -- were the two best-governed states in early modern Europe. The feudal contract is one of the roots of modern constitutionalism -- the belief in certain fundamental limitations on the power of the government. Another root is the medieval concept of law as something found, not man-made. Such countries as the United States which remain in the English legal tradition still base law in part on precedent (custom). The modern jury has an ancestor in the feudal vassals who sat in their lord's court to try their peers. This same baronial body was a forerunner of modern representative institutions, most directly the English Parliament. The doctrine of "no taxation without representation" is not far removed from the requirement that a lord consult his vassals before exacting any new financial payment. Modern governmental departments trace their origins back to the butler, chamberlain, marshal, constable, and other officials who assisted the medieval lord in the management of his household and estates. Finally, in the European social system the distinction between lord and commoner has not completely disappeared; something of chivalry still surrounds the word "gentleman"; and the concept of romantic love so pervades modern life that few people in the Western World can envisage human relations without it.