

THE EARLDOM AND COUNTY PALATINE OF CHESTER

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FROM the seventeenth century onwards historians have emphasized the special place of the county-palatine of Chester in English history. Outside the march of Wales, which until the reign of Henry VIII remained distinct from England, only Durham and Lancaster could claim a similar status. But the history of both Durham and Lancaster is very different from that of Chester, and in the case of the latter considerably less complicated in character.⁽¹⁾ Raised to the dignity of a county-palatine by Edward III, Lancaster was an "artificial" creation, which could not compare with Chester in antiquity; and the privileges conferred upon its duke were directly modelled upon those already exercised by the earl of Chester in his county-palatine.⁽²⁾ The history of Durham is more closely analogous; but Durham, as an ecclesiastical franchise, never possessed the same political importance as Chester, and no bishop of Durham played so prominent a part in English politics as earls Ranulf II or Ranulf III. It is therefore to Chester that we look in the first place for an understanding of the place of the palatinates in English history; indeed, over and above this, the historian who, from the broader standpoint of comparative history, seeks to understand how and why and at what points the political development of England branched out on different lines from that of the main continental states, where great semi-regal franchises analogous to the English palatinates were the rule rather than the exception, may expect to find a key, or at least a clue, in the history of Chester and the part it plays in English history.⁽³⁾

Before such an assessment can profitably be attempted, a re-examination of the history of the earldom and palatinate of Chester is necessary. We are fortunate in possessing an authoritative history of the palatinate of Durham, written in conformity with modern canons of historical scholarship;⁽⁴⁾ but no similar attempt has yet been made to study the origins and later evolution of the county-palatine of Chester. For all its solid qualities, the great nineteenth-century history of Cheshire by Ormerod follows the

⁽¹⁾ For Lancaster, cf. R. Somerville, below pp. 59-67.

⁽²⁾ "Libertates et iura regalia ad comitem palatinum pertinentia, adeo integre et libere, sicut comes Cestriae infra eundem comitatum Cestriae dinoscitur pertinere"; W. Hardy, *The Charters of the Duchy of Lancaster* (1845), p. 10.

⁽³⁾ Cf. H. Mitteis, *Der Staat des hohen Mittelalters* (2nd ed., 1944), pp. 239, 278, 451, 496; M. Bloch, *La Société féodale*, Vol. II (1940), p. 228.

⁽⁴⁾ G. T. Lapsley, *The County Palatine of Durham* (1900).

model of the standard county histories, with emphasis almost exclusively upon family history, genealogy and manorial descent; it is scarcely adequate for the purposes of the modern historian, whose approach to and interest in Cheshire history is no longer the same as his.⁽¹⁾ In particular, the history of the palatinate and its institutions, which provide the setting for the manorial history of the county, and to which most of the older Cheshire families owed their place in society, was evidently in Ormerod's eyes a matter of subordinate interest; in so far as he was specifically concerned with the palatinate, its organisation and institutions, he was content to remain within the framework provided by Sir Peter Leicester in the seventeenth century, and Sir Peter Leicester himself followed the authority of writers such as Selden and Coke.⁽²⁾ One or two generations earlier, a theory of "the rights and jurisdiction of the county-palatine of Chester" had been formulated, in the course of disputes with the city of Chester and the Council of Wales, by persons interested in the maintenance of the authority of the county-palatine and its courts, and who therefore tended to exaggerate and to distort the historical facts.⁽³⁾ So long as the palatine institutions remained in existence—that is to say, down into the early years of the nineteenth century—these practical interests, very different in character from those of modern historical scholarship, coloured at least the assumptions, if not the formulations, of the historians of Chester; and it was not until after the foundation of the Chetham Society in 1843 and of the Record Society of Lancashire and Cheshire in 1878 that the foundations were laid for a more objective and critical approach.

It has recently been maintained that the time for "a modern history" of the county-palatine of Chester has not yet arrived; that it "can only adequately be attacked, as a whole, when much unpublished material," still hidden away in local muniment-rooms and record offices, "has been made accessible for research."⁽⁴⁾ This estimate, it seems to me, is unduly pessimistic. It may perhaps be true that a definitive account of the formative period in the history of the palatinate, from the Norman Conquest to 1237, must await the publication of a critical edition of the charters of the Anglo-Norman earls, which are the primary and only surviving "official" source for Cheshire history before the thirteenth century. But even for this early period the work of local historians, such as James Tait and John Brownbill, R. B. Stewart-Brown and W. Fergusson Irvine, has in the last fifty years cast new light on much which was obscure; while for later periods the publication of the administrative records of the palatinate has provided a firm foundation of factual knowledge which an older generation of scholars did

⁽¹⁾ Cf. the comments of H. J. Hewitt, *Mediaeval Cheshire*, Chetham Society, New Series, Vol. LXXXVIII (1929), pp. v, xviii; Ormerod's work, he says, is "arranged on principles which make the attainment of a general view of the county at any given date impossible."

⁽²⁾ P. Leicester, *Historical Antiquities* (1673).

⁽³⁾ Ed. by J. B. Yates, *Chetham Miscellanies*, Vol. II (1856).

⁽⁴⁾ R. Stewart-Brown, *Record Society of Lancashire and Cheshire*, Vol. XCII (1938), p. ix.

not possess. At the same time, recent study of English history, at the period when the county-palatine of Chester was in process of formation, has altered very considerably the framework in which Cheshire history is set. Thanks largely to the life-work of Sir Frank Stenton, we have to-day a clearer perception of the character and working of English feudal society than was possible even a generation ago; and against this background the history of Cheshire takes on a new complexion. In these circumstances even a provisional statement of the present state of knowledge may serve a useful purpose; and so I am venturing to sketch out in some sort of perspective the main phases in the history of the palatinate. The account I give makes no claim to originality, and the detail needs filling out at many points; it is simply a garnering of the harvest of others. But precisely because much of the best and most illuminating work is scattered in learned publications, and because often it deals only with separate points or particular phases, it may be convenient to have it linked together in one continuous narrative and set against the background of English history, of which it was never more than a part.

I.

Cheshire, as we know it, is a product of the Norman Conquest and of the feudal society which grew up in England after the Norman Conquest. The starting-point is therefore quite different from that in Northumbria, where palatine rights may be traced back to the period of Northumbrian independence.⁽¹⁾ Cheshire before the Norman Conquest was simply a part of the Mercian kingdom, and later of the Mercian earldom; and there was no obvious reason, in 1066, on the day on which King Edward was alive and was dead, why it should develop into a distinct unit in English government and in English society.

It is true that, among the lands of Mercia, Cheshire had before the end of the tenth century a place of its own; already in 980 the Anglo-Saxon chronicle makes mention of it as a separate territorial district,⁽²⁾ and as such it appears again early in the eleventh century in the document known as the "county hidage".⁽³⁾ But it is equally true that this new unit was part of an artificial division of Mercia into a series of convenient administrative districts, known as "shires", which was carried out as a sequel to the reconquest of the midlands from the Danes in the period between the death of Alfred and the reign of Edgar;⁽⁴⁾ and the theory, sometimes propounded by early writers, of a pre-Conquest earldom of Chester cannot be substantiated.⁽⁵⁾ Administrative convenience, not any homogeneity of race and culture, lies at the foundation of Cheshire

⁽¹⁾ Cf. W. Page, "The Northumbrian Palatinates and Regalities", *Archaeologia*, Vol. LI (1888), pp. 143-55.

⁽²⁾ *Anglo-Saxon Chronicle*, ed. B. Thorpe, Vol. I (1861), p. 234.

⁽³⁾ Cf. F. W. Maitland, *Domesday Book and Beyond* (1921), pp. 456, 458.

⁽⁴⁾ Cf. F. M. Stenton, *Anglo-Saxon England* (1943), pp. 332-3.

⁽⁵⁾ Leicester (ed. Ormerod, *History of Cheshire*, 2nd ed., Vol. I, p. 9) is very circumspect on this point; not so Smith, who in *King's Vale Royal* (*ibid.*, p. 123) states "that Cheshire was a county palatine, as well before the Conquest, as since."

history. Recent investigation⁽¹⁾ has made clear, in contradistinction to earlier views,⁽²⁾ that the population of early Cheshire consisted of Anglo-Saxon, Norse and Danish elements, imposed upon a strong Celtic sub-stratum, which left a clear impression on nomenclature, on social forms and customs, on the legal practices by which primitive societies were guided,⁽³⁾ and, perhaps most lasting of all, upon the pattern of rural settlement.⁽⁴⁾ These distinctive customs were not, of course, without significance in the later history of Cheshire; but the diversity of components, which they reflect, does not bespeak early unity, nor make it easy to entertain the suggestion⁽⁵⁾ that Cheshire as a unit of government may represent one of the primitive areas of tribal settlement known as *regiones* or *provinciae*.⁽⁶⁾ Nor should we suppose that at this early period opposition to the Welsh necessarily acted as a unifying factor, binding together the different elements in the population against incursions from the mountains of Snowdonia. Much has been made of the geographical position of Cheshire, on the confines of England and Wales, as an explanation of the distinctive features in its history; but more than once, in 924 and later, we find the men of Chester in league with the Welsh against the English.⁽⁷⁾ On the eve of the Norman Conquest, an alliance between the houses of Gwynedd and of Mercia led to the cession to Gruffydd ap Llewelyn of the Cheshire lands beyond the Dee;⁽⁸⁾ and after the Conquest it was probably only the energetic intervention of the Conqueror himself in 1070 that prevented the Mercians throwing in their lot with the Welsh in opposition to Norman rule.⁽⁹⁾ It was only after 1070—and then only for a few years—that Cheshire, under predatory Norman earls, became a bulwark of defence and a spearhead of attack in a deliberate anti-Welsh policy. What, in brief, was necessary to weld together the distinct elements from which Cheshire was composed, into a unity, was the leadership and policy of strong personalities, intent on establishing and extending a position of power; and it was this essential directive force, primitive and ruthless, that the Norman earls of the line of Hugh of Avranches provided. For this reason we may say that Chester, as a county and an earldom, is a product of the Norman Conquest.

The history of the earldom dates from 1071, five years after the Norman invasion. Its creation, unlike that of Kent or Hereford, does not belong to the first phase of the Conquest, and we may

⁽¹⁾ Cf. particularly F. T. Wainwright, *TRANSACTIONS*, Vol. XCIV (1943), pp. 3–55.

⁽²⁾ J. Tait, *The Domesday Survey of Cheshire*, Chetham Society, New Series, Vol. LXXV (1916), p. 9, still held that "an extensive Danish influence has never been suspected in the case of Cheshire."

⁽³⁾ Cf. R. Stewart-Brown, "Thwert-ut-nay" and the custom of "Thwertnic" in Cheshire" *English Historical Review*, Vol. XL (1928).

⁽⁴⁾ Cf. D. Sylvester, *TRANSACTIONS*, Vol. CI (1950), pp. 1–33.

⁽⁵⁾ Tentatively put forward by Lapsley, *Law Quarterly Review*, Vol. LI (1935), p. 320, n. 59.

⁽⁶⁾ On these settlement areas cf. Stenton, *op. cit.*, pp. 290 seq. As Stenton suggests (p. 292), it is more likely that the earlier region divided what was later to be Cheshire, and linked southern Cheshire with northern Staffordshire as the seat of "a people called *Westerne*."

⁽⁷⁾ Cf. Stenton, *op. cit.*, p. 335; J. E. Lloyd, *A History of Wales* (3rd ed., 1939), p. 335.

⁽⁸⁾ Stenton, *op. cit.*, p. 364–6; contrary to Stenton, who places the cession in 1056, Tait, *op. cit.*, p. 25, attributes it to 1046; Lloyd, *op. cit.*, p. 366, suggests 1055. On the marriage alliance between Gruffydd and Aelfgar of Mercia, by which "the confederate neighbours were fortified against all attack", cf. Lloyd, *op. cit.*, p. 369.

⁽⁹⁾ Cf. Lloyd, *op. cit.*, pp. 374–5; Stenton, *op. cit.*, p. 595.

say with a good deal of confidence that it was no part of William I's "original plan for the government of England".⁽¹⁾ Its origin was bound up, on the contrary, with the great Mercian rebellion of 1069, and the serious threat, which it conjured up, of joint Anglo-Welsh resistance to the invader, through which the Conqueror was forced to a drastic revision of his plans. The results were twofold: first, the notorious harrying of the north, in which Cheshire and neighbouring territories were scarcely less ruthlessly devastated than Yorkshire;⁽²⁾ and secondly, the partition of the lands of Edwin of Mercia. At Shrewsbury an earldom was set up under Roger of Montgomery; while simultaneously the security of Chester was entrusted to a great Flemish lord, Gherbod, the advocate of St. Bertin.⁽³⁾ But Gherbod, like others of the Conqueror's following,⁽⁴⁾ was apparently little pleased with his rugged northern fief and its impoverished inhabitants, and withdrew to the continent, probably without having ever taken effective command.⁽⁵⁾ In this emergency the Conqueror summoned from Normandy his nephew Hugh,⁽⁶⁾ the son of Richard, viscount of the Avranchin, a coarse and worldly man but pugnacious and energetic, and made him earl of Chester.⁽⁷⁾

The lands and possessions of Hugh of Avranches, as recorded fifteen years later in the Domesday inquest, shew that he quickly climbed into the first rank in Anglo-Norman society; but there is no evidence to shew that his position as earl of Chester was different from, or superior to, that of the great feudal lords in other parts of England. Local historians have, with few exceptions,⁽⁸⁾ been too ready to suppose that the earl of Chester held from the beginning a unique place among the feudatories of Anglo-Norman England; accepting and repeating the old tradition that William the Conqueror gave Chester to earl Hugh to hold as freely by his sword as the king held England by his crown, they have argued that the county-palatine, the deliberate creation of the Conqueror himself, was in existence from 1071. But this statement rests on the sole authority of the sixteenth-century antiquary, William Camden, and has no contemporary evidence to support it.⁽⁹⁾ Moreover, it is by no

⁽¹⁾ Cf. Stenton, *op. cit.*, pp. 614-617.

⁽²⁾ Cf. Tait, *op. cit.*, p. 7.

⁽³⁾ Various dates have been assigned; I accept those (1070 and 1071) given in the *Handbook of British Chronology* (1939), pp. 299, 330.

⁽⁴⁾ Cf. W. Farrer, *Lancashire Pipe Rolls and early Lancashire Charters* (1902), p. xiv, and Stenton, *op. cit.*, p. 606.

⁽⁵⁾ He was not subsequently reckoned in the series of earls; cf. Tait, *The Charters of the abbey of St. Werburgh, Chester*, Vol. I (Chetham Soc., New Series, Vol. LXXIX, 1920), p. iii, n. 8.

⁽⁶⁾ That Hugh was one of the original "companions" of the Conqueror in 1066, is unlikely; cf. D. C. Douglas, *History*, Vol. XXVIII (1943), p. 146.

⁽⁷⁾ For the characteristics of earl Hugh, cf. Orderici Vitalis, *Hist. eccl. libri tredecim* (ed. A. Le Prévost, 1838-55), Vol. II, p. 219, and Vol. III, p. 4.

⁽⁸⁾ Notably Stewart-Brown; cf. Chetham Society, New Series, Vol. LXXXIV (1925), p. xlv. To write "palatinate" in quotation-marks, as has recently become fashionable (e.g. N. D. Hurnard, *Engl. Hist. Review*, Vol. LXIV, p. 314), simply begs the question and obscures the problem.

⁽⁹⁾ Camden, *Britannia* (4th ed., 1594), p. 470: "Guilielmus primus Hugonem cognomine Lupum vicecomitis Abrincensis in Normannia filium primum haereditarium et palatinum Cestriae comitem creavit, totumque hunc comitatum tenendum sibi et haeredibus ita libere ad gladium sicut ipse rex tenebat Angliam ad coronam. dedit." Camden continues: "haec enim sunt verba donationis." The same phrases occur (in English) in a supplication to Henry VI, presented in 1450 (Ormerod, *op. cit.*, Vol. I, p. 126); and there can, I think, be little doubt that this supplication constitutes the source of Camden's statement. But if a charter of such importance had really been in existence as late as 1450, it is scarcely credible that it should have failed to survive at least in the form of a confirmation or copy.

means easy to discover what the criterion of a palatinate at this early date is supposed to have been. Coke's classical definition refers solely to powers and prerogatives all of which were later in origin.⁽¹⁾ If it is defined as an independent principality "within which the King's writ did not run",⁽²⁾ then we must observe that even Bracton in the thirteenth century could speak of a county where the King's writ did not run, without attributing to it the special status of a palatinate.⁽³⁾ It has been described more broadly as a compact territory "practically exempt from state interference, as far as internal affairs were concerned";⁽⁴⁾ but in this case it cannot be overlooked that control of the church was never surrendered into the earl's hands;⁽⁵⁾ from the beginning the King retained power over the bishopric of Chester and actually installed his own chaplain, Robert of Limesey, in the see in 1085.⁽⁶⁾ Other historians, perhaps a majority, have sought an explanation of the creation of the palatinate in the geographical position of Chester; "the enormous powers vested in the earl", they hold, were granted in order to equip him "to carry on an active crusade against the Welsh".⁽⁷⁾ Against this argument, however, it must be pointed out that Robert of Rhuddlan, who was the leading figure in the conquest of North Wales until his death in 1088, held his Welsh conquests beyond the river Clwyd, not of the earl, but of the king in chief.⁽⁸⁾

These facts seem to imply clear and evidently deliberate restrictions upon the earl's sphere of power, which militate against the view that he had been given "almost unlimited freedom of action", or that the earldom was an "independent principality of the continental type".⁽⁹⁾ It is true, in general terms, that the Conqueror, with a newly won territory to hold, which was under recurrent threat of invasion, had every reason to place wide emergency powers and ample resources in the hands of the lieutenants who guarded his frontiers. But such positions were not so exceptional as was once thought.⁽¹⁰⁾ They are found not merely on the Welsh border and in the north, but also in East Anglia and along the coastline of southern England from Kent and Sussex through Hampshire and the Isle of Wight to Cornwall; and it is neither proved nor probable that the earl of Chester held a position different in essentials from that of the other commanders set up by the Conqueror

⁽¹⁾ *The Fourth Part of the Institutes* (ed. 1797), p. 204.

⁽²⁾ W. S. Holdsworth, *A History of English Law*, Vol. I (5th ed., 1931), p. 109.

⁽³⁾ Cf. Lapsley, *County-Palatine of Durham*, p. 10, citing Bracton, *De legibus* f. 272b (ed. Woodbine, 1940, Vol. III, p. 296).

⁽⁴⁾ A. B. White, *The Making of the English Constitution* (2nd ed., 1925), p. 107.

⁽⁵⁾ Tait, *Domesday Survey*, p. 26.—Perhaps no less significant, as a restriction in internal affairs, is the fact that the earl is not known, even during the anarchy of Stephen's reign, to have issued his own coinage.

⁽⁶⁾ H. W. C. Davies, *Regesta regum Anglo-Normannorum* (1913), p. xx.

⁽⁷⁾ Hewitt, *op. cit.*, p. 2; Lloyd, *op. cit.*, p. 381.

⁽⁸⁾ Tait, *Domesday Survey*, p. 242; cf. *ibid.*, pp. 23-4, 45-7, and Lloyd, *op. cit.*, p. 387.

⁽⁹⁾ A. L. Poole, *From Domesday Book to Magna Carta* (1951), p. 285; Holdsworth, *op. cit.*, Vol. I, pp. 109, 118; cf. C. A. J. Skeel, *The Council in the Marches of Wales* (1904), pp. 3, 6.

⁽¹⁰⁾ Cf. Stenton, *Anglo-Saxon England*, pp. 591, 602; id., *The First Century of English Feudalism* (1932), p. 226; J. E. A. Jolliffe, *The Constitutional History of Medieval England* (1937), pp. 180-181; W. A. Morris, *The Constitutional History of England to 1216* (1930), pp. 146-7; W. J. Corbett, *Cambridge Medieval History*, Vol. V (1929), p. 503.

at strategic points on the frontiers of his kingdom. There is little, if anything, in the early organisation of Cheshire that cannot be paralleled in other parts of England. "Private" or "baronial" sheriffs and justices, nominated by and responsible, as in Cheshire, to the earl, were by no means exceptional, and survived even into the thirteenth century;⁽¹⁾ and although "there was not a single acre of royal demesne in the whole of Cheshire", the same holds true of Shropshire and Herefordshire.⁽²⁾ The most we can safely say of the earls of Chester is that they "stood apart from most of their contemporaries in power, though not in rank";⁽³⁾ and even this cautious statement we might do well to modify, stating not that they "stood apart" but rather that they gradually drew apart. If we examine the position carefully, we shall, I think, see that what was unique, and decisive for the future, was not a superior status conferred upon them from the beginning, but rather the shrewd political sense, which brought earl Hugh and his successors in on the winning side on practically every occasion of rebellion and civil strife down to the rebellion of 1173.⁽⁴⁾ Whether through loyalty or through calculation, Hugh I sided with William Rufus against Robert Curthose, just as later Ranulf II prudently threw in his lot with Henry of Anjou against king Stephen; and the result was that, whereas the Montgomeries, the fitzOsborns, the Mowbrays, and others whose position had in no wise been inferior to that of Hugh of Avranches, forfeited their lands and status, and the territories they had ruled were brought, one by one, more closely within the network of royal government, the earls of Chester retained the position which had been theirs since 1071, and stood out all the more prominently as the leading families of the Conquest disappeared from the scene and were replaced by "new men" who had won their spurs, as sheriffs or justices, in the royal service.⁽⁵⁾ Even so, there was a long way to go before the position of the earls of Chester became one that deserves the appellation "palatine". It would certainly "be inaccurate to describe their administrative system as a reproduction of that which served the king";⁽⁶⁾ it would even be difficult, in the first century of its existence, to find anything to differentiate the organisation and administration of the honour of Chester from that of the other great feudal magnates of the period; and I have yet to see a charter or writ issued in the name of the earl of Chester, down to the time of Ranulf III, which is distinct in character or formulation, or in the rights and powers to which it lays claim, from those issued by Warennes or Clares, Redvers or Mandevilles, for whom no claim to "palatine" powers has ever been made.

⁽¹⁾ Stenton, *First Century*, pp. 66-68, 87; cf. F. M. Powicke, *King Henry III and the Lord Edward* (1947), p. 52, and N. Denholm-Young, *Seigniorial Administration in England* (1937), pp. 46-48, 100.

⁽²⁾ Tait, *Domesday Survey*, p. 30. Similarly, all three earls held the county-towns of their shires; Stenton, *First Century*, p. 228.

⁽³⁾ Stenton, *op. cit.*, p. 65.

⁽⁴⁾ *Cambr. Med. Hist.*, Vol. V, pp. 521-2, 551; Lloyd, *op. cit.*, p. 390.

⁽⁵⁾ Cf. Stenton, "The changing Feudalism of the Middle Ages", *History*, Vol. XIX (1935), pp. 292, 294.

⁽⁶⁾ Stenton, *First Century*, p. 66.

It is also necessary to consider the fact that the possessions, interests and political calculations of the earls extended far beyond the bounds of Cheshire. The chronicler of Stephen's reign reminds us that earl Ranulf II held at one time beneath his sway about a third of the whole realm of England,⁽¹⁾ and we may recall as well the remark of the royal official, appointed after the earldom came into the hands of the king, with the task of surveying the rights and fees appurtenant to the honour: "I have heard," he said, "that the earl held fiefs in every county of England, except in Shropshire and in two other counties, the names of which I do not know."⁽²⁾ Charters still extant in original refer to possessions not merely in Lincolnshire and eastern England, but in places as far distant as Salisbury and Chipping Campden in Gloucestershire.⁽³⁾ Throughout the twelfth century, moreover, the earls had major interests on the continent, and spent a great deal of time in Normandy, where their interests spanned the western half of the duchy from Trevières in the north, through St. Sever and Vire, to St. James de Beuvron on the confines of Brittany.⁽⁴⁾ Nor should we forget that earl Ranulf III was duke of Brittany and earl of Richmond in the right of his wife, Constance, from 1188 to 1199; while the last of the Anglo-Norman earls, John the Scot, the nephew of the Scottish king, William the Lion, had rights and possessions in the Garioch, which necessitated his absence in Scotland.⁽⁵⁾ But even if we confine our attention to England, it is far from clear that Cheshire held the first place in the earl's calculations. Contrary to a widespread belief, the county in the middle ages was sparsely populated, poor and unproductive;⁽⁶⁾ compared with the outlying fiefs, the lands "beyond the Lyme", as they were later called,⁽⁷⁾ it was, as a source of wealth and power, by no means the most valuable part of the earl's extensive territorial possessions. At the time of the Domesday survey, when the income from all the manors in Cheshire amounted to little more than £200 a year,⁽⁸⁾ the other English lands of the earl were bringing him in an annual income of over £700; from which it has been concluded that earl Hugh I "did not derive his undoubted importance and power in England so much from his Cheshire estates, as from other far better stocked manors"

⁽¹⁾ *Chronicles of the Reigns of Stephen, Henry II and Richard I*, Vol. III (ed. R. Howlett), p. 117.

⁽²⁾ W. W. Shirley, *Royal and other Historical Letters illustrative of the reign of Henry III*, Vol. II (1866), p. 43. W. Farrer, *Honors and Knights' Fees*, Vol. II (1924), describes 138 distinct fees held of the honour of Chester, exclusive of Cheshire itself and of Yorkshire. For Yorkshire cf. Farrer, *Early Yorkshire Charters*, Vol. II (1915), pp. 193-255.

⁽³⁾ Cf. Hist. MSS. Commission, *Various Collections*, Vol. I (1901), pp. 370-371; *Reports of the Deputy Keeper*, Vol. XXXV (1874), app. 7.

⁽⁴⁾ They also held lands in the Channel Islands; cf. *The Chronicle of Robert of Torigni* (ed. R. Howlett, Rolls Series, 1889), p. 335, no. 18. Little, however, seems to be known of these possessions.

⁽⁵⁾ *Chartulary of the Abbey of Lindores* (ed. J. Dowden, 1903), no. 19, dated at Berwick-on-Tweed; cf. also nos. 17, 18, 20, 21.

⁽⁶⁾ Hewitt, *op. cit.*, p. 6.

⁽⁷⁾ Cf. Tait, *Mediaeval Manchester and the Beginnings of Lancashire* (1904), p. 12, n. 2, and *Record Soc. of Lancs. and Cheshire*, Vol. LXIV (1912), p. 29. See below, Appendix II, reproduced from the Beaumont papers at Warrington by kind permission of the Borough Librarian, Mr. G. A. Carter.

⁽⁸⁾ £211.13.11, according to Tait, *Domesday Survey*, p. 8; the devastation of Cheshire must, of course, be taken into account, but even in 1066 the value was only £297.4.1.

which the Conqueror had allotted to him.⁽¹⁾ And the conclusion is no different if we examine the earl's military resources; for here again we find the holders of fiefs beyond the Lyme to the fore, providing the earl with practically two-thirds of his military service, whereas Chester itself could muster no more than eighty knights.⁽²⁾ Such "limited forces", it has rightly been said, "were not more than adequate for defence";⁽³⁾ and it is therefore not surprising if we find the earls cultivating their resources outside the county. Of this there is perhaps no more impressive example than the long series of charters and indentures by which, about the year 1225 or 1226, earl Ranulf III secured control over the West and North Fens of Bolingbroke, for the purpose of draining and ditching the same.⁽⁴⁾ This is a piece of large-scale reclamation, arguing a bold economic policy, which has no parallel in contemporary Cheshire. Lincolnshire is, indeed, always to the fore in the earls' calculations, at any rate from the time of Ranulf Gernons, and more particularly after the succession to the Roumara inheritance in 1198. The dating-clauses of the earls' charters shew them almost as frequently resident in their Lincolnshire manors as at Chester; and in the witness lists they are seen surrounded by non-Cheshire tenants who throng their household.⁽⁵⁾ The most famous justiciar of Chester, Philip of Orreby, was a Lincolnshire man.⁽⁶⁾ Similarly the monastic houses with which the earls were intimately connected spread far into the midlands and the eastern counties, though the senior family foundation was at St. Sever in Normandy, in which country the earl also had intimate connections with the bishoprics of Avranches and Bayeux and the abbey of Mont St. Michel.⁽⁷⁾ If earl Ranulf Blundeville's favourite foundation was Dieulacres on the Cheshire-Staffordshire border, to which he bequeathed his heart for interment, wherever his body might be buried,⁽⁸⁾ others of his family were more closely associated with Spalding and Minting in Lincolnshire, with Trentham in Staffordshire, with Repton in Derbyshire or with Coventry.⁽⁹⁾ The rich stream of

⁽¹⁾ Corbett, *Cambr. Med. Hist.*, Vol. V, p. 507.

⁽²⁾ Tait, *Engl. Hist. Review*, Vol. LVII (1942), p. 442; Farrer, *Honors and Knights' Fees*, Vol. II, p. 8.

⁽³⁾ Tait, *op. cit.*, p. 458.

⁽⁴⁾ *Public Record Office*, D.L. 25/2422-3; D.L. 27/270-272; D.L. 41/2/20. These charters are transcribed, with others of similar content in the *Coucher Book of the Duchy of Lancaster*, Vol. II (D.L. 42/2), ff. 261-263v; cf. also ff. 243v, 246, 254, 274, 283v, 285, and W. Boyd and W. O. Massingberd, *Lincolnshire Records. Abstracts of Final Concords* (1896), pp. 190-1 (no. 112). I hope to have an opportunity to deal in greater detail with this phase of Ranulf Blundeville's policy on some later occasion; meanwhile cf. H. C. Darby, *The Medieval Fenland* (1940).

⁽⁵⁾ See, for example, Stenton, *Documents illustrative of the Social and Economic History of the Danelaw* (1920), pp. 362-3.

⁽⁶⁾ Cf. Cheshire Sheaf, 3rd Series, Vol. XXXV (1940), p. 39; Farrer, *Honors and Knights' Fees*, Vol. II, pp. 99-100.

⁽⁷⁾ Cf. T. Stapleton, *Magni Rotuli Scaccarii Normanniae* (2 vols., 1840-44), particularly Vol. II, pp. ccxlv-cxlv on Bayeux; see also H. Navel, "L'enquête de 1133 sur les fiefs de l'évêché de Bayeux," *Bulletin de la Société des Antiquaires de Normandie*, Vol. XLII (1934), pp. 5-80, and *Cartulaire du Mont St. Michel* (Bibl. Avranches MS. 210), ff. 132-133v.

⁽⁸⁾ Ormerod, *Hist. of Cheshire*, Vol. I, p. 40; cf. the Dieulacres cartulary, *Collections for the History of Staffordshire*, New Series, Vol. IX.

⁽⁹⁾ Cf. for Spalding and Minting, the Spalding cartulary (British Museum, Add. MSS. 5844, 35296) and *Cal. Charter Rolls*, Vol. IV, p. 378; for Trentham the cartulary edited by F. Parker, *Collections for the History of Staffordshire*, Vol. XI (1890); for Repton (and Calk), I. H. Jeayes, *Derbyshire Charters* (1906); for Coventry, the chartulary (P.R.O., E. 164/21) and *Cal. Ch. Rolls*, Vol. V, pp. 101-104.

donations to St. Werburgh's abbey dried up early;⁽¹⁾ and when earl Ranulf II lay ill, and felt that the time had come to make amends to the church for the ills he had inflicted on it, it was between the brethren of Minting and Trentham and the nuns of Chester that he divided equally the tithes he still had left to give.⁽²⁾

If we examine the political activity of the earls, we see the same tendency to turn away from narrow concentration on Chester to a wider and more profitable field of activity. Sir John Lloyd wrote of "the growing tendency" of the dynasty "to find the satisfaction of their ambition elsewhere than on the Welsh border";⁽³⁾ and this sentence may be taken as a key to their policy. Aggression at Welsh expense and the defence and strengthening of Chester as a bulwark against Welsh invasion did not play so predominant a part in their calculations as is often assumed. As we have already seen, leadership in the original attack on North Wales was entrusted not so much to earl Hugh as to Robert of Rhuddlan; and it was only for a short period after Robert's death in 1088, that the earl stepped into the place he had left vacant and was actually invested with North Wales by William Rufus, who thus reversed the policy of his father.⁽⁴⁾ But this phase, when Chester, as the base of campaign against Wales, was the predominant concern, only lasted until earl Hugh's death in 1101; it was checked and then halted by the reverses suffered by earl Hugh himself in 1094 and 1098, by the succession of a minor, who could not provide military leadership, and by the early death of earl Richard in the White Ship in 1120; and with the accession after this setback of the junior line of the viscounts of Bayeux the aggressiveness of the first conquering generation petered out. The failure of Henry I's expeditions in 1114 and 1121 to make any lasting impression on the stronghold of Snowdonia dispelled the early dreams of easy conquest; and thenceforward a new attitude to Wales is evident.⁽⁵⁾

Of earl Ranulf II, who succeeded in 1129, Round long ago wrote that "the real springs of his policy" are to be found, not in Chester, but "in Carlisle and Lincoln", and, we might perhaps add, in Warwick and Coventry;⁽⁶⁾ indeed it might scarcely be exaggerated to hold that his actions, if they were dictated by more than expediency and opportunity, were intended not to secure and build up for himself an independent position as "earl-palatine" of Cheshire, but to reconstitute to his own advantage the ancient kingdom of Mercia. Conquest at Welsh expense scarcely enters into the picture. On the contrary; to further his English ambitions, he was prepared to enlist support from Wales, appearing at the

⁽¹⁾ Tait's *Chartulary* shews very little, save confirmations, after the middle of the twelfth century; cf. *ibid.*, Vol. I, pp. xxv-xxviii.

⁽²⁾ *B.M., Add. MS. 5844*, f. 227, and *Add. MS. 35296*, f. 410v. It is possible that Tait, *Chartulary*, no. 349, was granted at the same time.

⁽³⁾ *History of Wales*, p. 570.

⁽⁴⁾ *Ibid.*, pp. 391-2.

⁽⁵⁾ *Ibid.*, pp. 403, 408-10, 463, 465.

⁽⁶⁾ J. H. Round, "King Stephen and the earl of Chester", *Engl. Hist. Review*, Vol. X (1895), p. 87; cf. H. A. Cronne, "Ranulf de Gernons, earl of Chester", *Trans. Royal Hist. Soc.*, 4th Series, Vol. II (1937), pp. 103-134; Stenton, *First Century*, pp. 240 seq.; Poole, *op. cit.*, 141-160.

battle of Lincoln in 1141 with "a great host of Welshmen" in his following; he had already begun the policy of marriage-alliances with leading Welsh dynasties, betrothing his niece to Cadwaladr, son of Gruffydd ap Cynan; and so far as an active policy in Wales was concerned, he was content if he could hold a balance between the contending Welsh princes, sending troops to aid Powys against Gwynedd, and supporting Cadwaladr against his brother, Owain.⁽¹⁾ Not only was there no question any longer of expansion at Welsh expense, but the earl even acquiesced in the loss of the traditional border strongholds of Mold and Rhuddlan and of the cantred of Tegeingl;⁽²⁾ and nothing perhaps better characterizes the new situation than the fact that, when king Henry II temporarily regained possession of the cantred in 1157, Rhuddlan ceased to be dependent upon the earldom of Chester, and was henceforward a royal fortress.⁽³⁾ The reign of Henry II sees, in fact, almost a reversal of the traditional roles. Instead of Chester being an English bastion against Wales, Wales was used by Henry to counter-balance the power of the earl of Chester. David, the son of Owain Gwynedd, who ruled North Wales from his castle of Rhuddlan, relied on his alliance with the English king; Rhys ap Gruffydd, the leading figure in Wales after Owain's death in 1170, was Henry's "trusty friend and supporter"; and when in 1173 the earl of Chester rose in rebellion, in what contemporaries called "the war of earl Hugh",⁽⁴⁾ both the Welsh princes gave active support to the king, and helped to defeat the revolt.⁽⁵⁾

With the accession of Ranulf Blundeville, earl Hugh's son, the situation again changed, and after some early vacillations Chester and Wales drew together against the crown. In the early years after his majority, from the time of his marriage to Constance of Brittany in 1188 down to the loss of Normandy in 1204, earl Ranulf seems to have been engrossed above all else with the administration of his continental dominions; and the troubles of John's reign found him and the new Welsh ruler, Llewelyn ap Iorwerth, on opposite sides. But peace between the two was made in 1218 and soon developed into a firm and lasting alliance—cemented in 1222 by the marriage between Ranulf's nephew and heir, John the Scot, and Llewelyn's daughter, Helen—which outlasted Ranulf's lifetime.⁽⁶⁾ Earl Ranulf, it has been said, "had a fellow-feeling for a great territorial lord whose franchises were threatened by the activity of the central government, and his warm support of Llewelyn relieved the prince from all fear of hostilities along the Cheshire border."⁽⁷⁾ On the other hand, the understanding with Llewelyn was no less important as a safeguard for Ranulf's own position,

⁽¹⁾ Lloyd, *op. cit.*, pp. 489, 491, 494.

⁽²⁾ *Ibid.*, pp. 456, 480, 492, 494.

⁽³⁾ *Ibid.*, p. 500; Rhuddlan was, however, lost again in 1167 (*ibid.*, p. 520).

⁽⁴⁾ Poole, *op. cit.*, p. 338.

⁽⁵⁾ Lloyd, *op. cit.*, pp. 540-4, 551, 565.

⁽⁶⁾ *Ibid.*, pp. 654, 657, 661, 677. The marriage agreement of 1222 is printed, very inaccurately, in Ormerod, *op. cit.*, Vol. I, p. 43; improvements in the text are noted by E. Owen, *Catalogue of the Manuscripts relating to Wales* (1900-1908), pp. 357, 526.—Lloyd, *op. cit.*, p. 696, describes Chester under Earl John as "an outpost of the Welsh power".

⁽⁷⁾ *Ibid.*, p. 657.

and enabled him to play a part in English politics scarcely less ambitious than that of his predecessor, Ranulf Gernons. Under John he was one of the men of whom the king said that, without his counsel, he would do nothing; after John's death he might, had he so wished, have been regent of England. In any event he exercised a decisive voice, or at least an effective veto, throughout the minority of Henry III; and although his power decreased in consequence of the events of 1223, when he was forced to surrender the castles of Shrewsbury, Bridgnorth and Lancaster, he remained to the end the most formidable leader of the baronage, still prepared up to the year of his death to defy the king.⁽¹⁾ But the source of his strength lay not in Chester, but in the immense territorial power he had built up, like Ranulf Gernons before him, across the length and breadth of central England. In 1215 he had received from John the honour of Leicester, no doubt to hold against the insurgent barons, and this he retained until 1231; in 1216 the honour of Lancaster passed to him as recompense for his faithful services to the king; and in the following year he was created earl of Lincoln.⁽²⁾ In short, as Sir Maurice Powicke has written, he "was not satisfied to depend upon his palatinate", but added office to office and lordship to lordship, reaching out southwards into Staffordshire and Leicestershire and eastwards to the Lincoln coast.⁽³⁾ Commander-in-chief in the French campaign of 1231, a Christian warrior who had led a contingent at the siege of Damietta, one of the few English noblemen of quality whose exploits were sung by the poet, Ranulf III impressed contemporaries and posterity not because he ruled a "palatinate" in Chester, but as a man of affairs, a statesman, a crusader and a stalwart soldier.⁽⁴⁾

II

Against this background it is easier to place in perspective the early history of Cheshire. It was not, as so often alleged, an *imperium in imperio*,⁽⁵⁾ but a part of a greater unit, the "honour" of Chester, which stretched into twenty or more counties of England and across the Channel into Normandy; and it was this greater unit that gave the earl his standing in the counsels of the realm. Down to the middle of the twelfth century the rights he possessed were, taken as a whole, little different in character from those of the other earls. Only slowly, after that, he drew away from the body of his peers; but this was not so much the result of the pursuit of superior status, as a consequence of the extension of the king's

⁽¹⁾ For earl Ranulf's position at the end of John's reign and later, cf. Powicke, *Henry III*, pp. 2, 4, 56-7, 59-61, 64-65, 72; for a good account of the events of 1223, cf. Jolliffe, *op. cit.*, pp. 267-9.

⁽²⁾ *Rot. Litterarum Patentium*, Vol. I (ed. T. D. Hardy, 1835), p. 176; cf. Powicke, *op. cit.*, pp. 50, 203; L. W. Vernon Harcourt, *His Grace the Steward* (1907), pp. 76, 104.

⁽³⁾ *Op. cit.*, p. 50.

⁽⁴⁾ The geste of "Randolf, erl of Chestre" is mentioned in *Piers Plowman's Vision*, ed. W. W. Skeat, Vol. I (1886), p. 167, but, despite J. H. Round's claim in *Peerage and Pedigree*, Vol. II (1910), pp. 301-6, is now lost; cf. *Cambr. Hist. of Engl. Literature*, Vol. II (1908), p. 399. For earl Ranulf at Damietta, cf. Matth. Paris, *Chronica majora*, Vol. III, ed. Luard (1876), pp. 40, 49, 56.

⁽⁵⁾ R. Stewart Brown, *Rec. Soc. Lancs. and Cheshire*, Vol. XCII (1938), p. xiv.

justice over feudal society under Henry II, through which the great franchises, to the development of which the reign of Stephen had given new impetus, were gradually "brought into harmony with the vigorous central government", and ceased to be "autonomous".⁽¹⁾ However much the work of Henry II may be reinterpreted,⁽²⁾ Maitland's judgement on the cardinal significance of his "reconstruction of criminal justice", reducing the immunist's power and leaving him "with nothing better than an unintelligible list of obsolete words", retains its validity.⁽³⁾ From Henry II's time onwards honour after honour disintegrated, and all that remained were "shadowy collections of feudal superiorities".⁽⁴⁾ But the few that "contrived to weather the storm" adapted themselves, almost of necessity, to the new situation, changing their character and feeding "upon the new processes of government";⁽⁵⁾ for against a monarchy conscious of new powers and striding ahead, to mark time was to go under. It was in these circumstances, in Chester as in Durham, that what was later called the "palatinate" came into being.⁽⁶⁾ "As the supremacy of the crown was defined and asserted", so the earl applied to himself "the new principles of sovereignty", until eventually his rights might be defined as a regality equivalent to, but under, that of the king.⁽⁷⁾ Thus the counterpart to Henry II's new emphasis on the exclusive pleas of the crown was the assertion of the earl's exclusive right to his pleas of the sword; they first occur by name in Ranulf III's great charter of liberties of 1215 or 1216,⁽⁸⁾ and it is a striking fact that they are never mentioned—as assuredly they would have been, had they already existed—in the extant body of earlier charters.⁽⁹⁾ In the same way the development of the royal procedure by writ was paralleled in Cheshire; and we have reliable evidence that earl Ranulf Blundeville provided a register of original writs for use in his county court.⁽¹⁰⁾ Nor is it far-fetched to suggest that the famous *Domesday Roll of Cheshire*, which appears to reach back to the last decade of the twelfth

⁽¹⁾ Lapsley, *County-Palatine of Durham*, p. 27; Stenton, *First Century*, p. 51.

⁽²⁾ Stenton, *op. cit.*, pp. 51, 101, insists that "Henry II never made any direct attack on the great baronial franchises", and that "it was not by any direct challenge, but by insisting on their right of supervision that the Angevin kings reduced the higher judicial powers of the baronage". So much is indubitable; the further attempt by N. Hurnard, *Engl. Hist. Review*, Vol. LXIV (1949), pp. 289–323, 433–460, to shew that he made no attempt to limit franchises at all, rests upon a one-sided analysis of the evidence, and is unacceptable.

⁽³⁾ *Domesday Book and Beyond*, p. 283; cf. Pollock and Maitland, *Hist. of Engl. Law*, Vol. I (2nd ed., 1898), pp. 576–7.

⁽⁴⁾ *History*, Vol. VIII (1924), p. 295; cf. Stenton, *op. cit.*, p. 49.

⁽⁵⁾ Powicke, *Henry III*, p. 50.

⁽⁶⁾ Lapsley, *op. cit.*, pp. 27, 163; cf. Holdsworth, *op. cit.*, Vol. I, p. 110.

⁽⁷⁾ I adopt here the phrases used by Lapsley (*op. cit.*, pp. 75–6) about Durham.

⁽⁸⁾ Tait, *Chartulary*, Vol. I, pp. 102–3.

⁽⁹⁾ The earliest reference in the charters appears to be the well-known charter to John of Arderne (Ormerod, *op. cit.*, Vol. II, p. 754), which may provisionally be dated c. 1210–17, probably nearer the latter date. Even later, mention of the pleas of the sword is exceptional; examples are Ranulf III's charter to William de Vernon (*Chetham Soc.*, New Series, Vol. LXXXIV, pp. 229–30), and earl John's charter to Hugh Fitton (Ormerod, *op. cit.*, Vol. II, p. 238). Stewart-Brown's statement (*Rec. Soc. Lancs. and Cheshire*, Vol. XCII, p. xiv) that they were mentioned in *Domesday*, is erroneous; what *Domesday* refers to is "the earl's pleas in the county and hundred" (Tait, *Domesday Survey*, p. 84).

⁽¹⁰⁾ *Abbreviatio Placitorum* (1811), pp. 268–9; Pollock and Maitland, *Hist. of Engl. Law*, Vol. I, p. 551; *Calendar of County Court Rolls of Chester*, ed. R. Stewart-Brown, Chetham Soc., New Series, Vol. LXXXIV (1925), pp. xviii, xxxvii; cf. also Ranulf III's letter to his justiciar, stating that "a certain *turata* by my writ *mort d'ancestor* was taken in my county of Chester"; *Cheshire Sheaf*, 3rd series, Vol. XX, p. 9, no. 16.

century,⁽¹⁾ may probably have been directly inspired by the new practice of the king's courts, after 1195, of preserving a record of fines and concords made before the king's justices.⁽²⁾ The rapid development in the status of the justiciar in the time of Philip of Orreby, as a result of which he became the chief officer in the palatinate, reflects the development of the *Curia Regis* under Richard and John,⁽³⁾ while simultaneously the earl's clerical arrangements took on a new degree of orderliness and method, which justifies our describing them as a "chancery".⁽⁴⁾ Finally—though this remains the most obscure and difficult aspect of all—it seems probable that the administrative changes under earl Ranulf III included the transformation of "the earl's *camera* into an exchequer within the castle of Chester";⁽⁵⁾ at all events there are definite signs in this period of an advance in the earl's powers of taxation.⁽⁶⁾

The development of the earl's "regalities" must, therefore, be attributed to earl Ranulf Blundeville, and falls in the second rather than the first half of his long tenure of the earldom. He did not, of course, build without foundations. First of all, there was the fiscal independence of the county, symbolized by the fact that no entry for Cheshire appears on the Pipe Rolls, save when the earl was a minor in the king's wardship; this reaches back to the reign of Henry I, and even then was highly exceptional.⁽⁷⁾ Secondly, it seems likely that militarily also the county was in a special position from no later a date; for although there is no definite evidence earlier than the charter of liberties of 1215/16 that the Cheshire barons were free from the obligation to serve outside their county,⁽⁸⁾ the exceptional position of Cheshire in this respect is demonstrated

⁽¹⁾ Cf. R. Stewart-Brown, "The Domesday Roll of Chester", *Engl. Hist. Review*, Vol. XXXVII (1922), pp. 481–500, and the detailed analysis in *Ches. Sheaf*, 3rd series, Vol. XX (1923). Stewart-Brown (p. 496) places the earliest extant entry in the years 1194–1208, on account of the mention of Ranulf Mainwaring as justiciar; but it now seems certain that Mainwaring was superseded as justiciar by Orreby at an earlier date than 1208, probably 1202–4; cf. *Ches. Sheaf*, 3rd Series, Vol. XXXV (1940), pp. 39–40.

⁽²⁾ Cf. Pollock and Maitland, *op. cit.*, Vol. II, p. 97.—The earliest existing original fine (1228) enrolled on the Domesday Roll is printed below, Appendix I, from the original deeds at Tabley House, by permission of Col. J. Leicester-Warren. This document disposes of Lapsley's assertion (*Law Quarterly Review*, Vol. LI, 1935, p. 322) that "the earliest suggestion that the Chester court was of record refers to a case decided in 1265."

⁽³⁾ As Tait observes (*Chartulary*, Vol. I, p. xlv), "there is no evidence that he occupied so important a position in the twelfth century"; cf. Stewart-Brown, *Chester C.C. Rolls*, p. xxi, and *Cheshire in the Pipe Rolls*, Rec. Soc. Lancs. and Cheshire, Vol. XCII (1938), p. xv.

⁽⁴⁾ Cf. Tait, *Chartulary*, Vol. I, p. xlviii; material on this subject is assembled in an unpublished Liverpool dissertation by A. P. Duggan, *The Chancery of the Earls of Chester* (1951). There is no contemporary evidence for the use of the word "chancery"; and although the title "chancellor" appears fairly frequently unofficially (e.g. *Chester C.C. Rolls*, p. 59), the evidence for its use as an official title requires further investigation.

⁽⁵⁾ Cf. Stewart-Brown, "The Exchequer of Chester", *Engl. Hist. Rev.*, Vol. LVII (1942), p. 291; but it must be admitted that, in default of evidence, this article leaves the early history of the financial organisation very obscure. How far the creation of the exchequer was the work of Stephen de Segrave during and after 1237, remains uncertain; but his reforms evidently brought about decisive changes; cf. *Ches. Pipe Rolls*, pp. 30–31. The actual use of the term *scaccarium Cestrie* does not appear to be established before 1257; cf. Tait, *Chartulary*, Vol. II, p. 479.

⁽⁶⁾ Thus the levy of a "talagium pedale", noted under the year 1225 in the *Annales Cestrienses* ed. R. C. Christie, Rec. Soc. Lancs. and Cheshire, Vol. XIV (1886), p. 52; cf. also Higden, *Polychronicon*, Vol. VIII, p. 198, and Knighton, *Chronicon*, Vol. I, p. 210. Noteworthy also is what appears to be the earliest mention of the "mize" of Cheshire ("quieti de . . . misionibus seu posicionibus") in a Dieulacres charter (*Cal. Charter Rolls*, Vol. IV, p. 154), dating from c. 1217.

⁽⁷⁾ Cf. *Ches. Pipe Rolls*, pp. 3, 19; cf. *Chester C.C. Rolls*, p. xxi. It is remarkable that Cheshire is not accounted for on the pipe-roll in the years 1174–77, when earl Hugh was deprived of his earldom after the rebellion of 1173.

⁽⁸⁾ Tait, *Chartulary*, Vol. I, p. 105 (§ 14).

by the fact that it was excluded from the inquest of knights of 1166 and later from the inquest of service of 1212.⁽¹⁾ These were prerogatives of major importance; but down to the close of the twelfth century they remained separate disconnected rights, not yet co-ordinated with other privileges in such a way as to confer upon their holder a special status. It was earl Ranulf III who, by developing other attributes, particularly the "pleas of the sword",⁽²⁾ and combining them with his existing rights, brought about the decisive change; and it is no accident that the first clear account we have of the special status of Cheshire dates from his tenure of the earldom. For Lucian the monk, writing about 1195,⁽³⁾ Chester was a province bounded in the east by the forest of Lyme, with privileges which distinguished it from the rest of England; through the indulgence of the king and the eminence of its earls, it attends (he says) rather to the sword of its prince than to the royal crown, and even the most important affairs are freely discussed and settled within its borders.⁽⁴⁾ How true this was, events in the troubled times at the close of John's reign were to show: the fact that, when in 1215 the English baronage extorted from John the Great Charter, Cheshire was left to secure a separate charter of liberties from its earl, is the best evidence of its exceptional status and independence at this time.⁽⁵⁾

The sentences of Lucian the monk well characterize the position of Chester under Ranulf III, a prince whose will was law,⁽⁶⁾ who was strong enough to drive out an abbot of Chester appointed by the king and to install his own nominee,⁽⁷⁾ and who later refused to admit the papal tax-collectors to his lands.⁽⁸⁾ But even Lucian, though we may well think that what he is describing has all the marks of a palatinate, does not use the term "palatinate" for the Cheshire of his day.⁽⁹⁾ When the word finally appears, in a well-known passage in Bracton's note-book,⁽¹⁰⁾ it is a figure of speech, derived

⁽¹⁾ Cf. Tait, "Knight-Service in Cheshire," *Engl. Hist. Rev.*, Vol. LVII (1942), pp. 440, 458.

⁽²⁾ Perhaps by analogy with the practice he knew on his Norman and Breton fiefs; cf. J. Goebel, *Felony and Misdemeanor*, Vol. I (1937), pp. 333-5, and (for Brittany) Powicke *op. cit.*, p. 177.

⁽³⁾ *Liber Luciani de laude Cestrie*, ed. M. V. Taylor, *Rec. Soc. Lancs. and Cheshire*, Vol. LXIV (1912), pp. 9, 77.

⁽⁴⁾ "Illud eciam intuendum, qualiter Cestrie provincia, Lime nemoris limite lateraliter clausa, quadam a ceteris Anglis privilegii distinctione sit libera, et per indulgentias regum atque excellentias comitum magis in cetu populi gladium principis quam coronam regni consuevit attendere et in suis finibus etiam maximas negotiorum discussiones licenter ac liberius explicare" (*ibid.*, p. 65). For the forest of Lyme as boundary, cf. below Appendix II.

⁽⁵⁾ As Tait rightly emphasized in his commentary on the charter (*Chartulary*, Vol. I, p. 108).

⁽⁶⁾ "Idem Randulfus comes tempore suo ita potens fuit in Cestersira, quia princeps fuit . . . et precepta facere potuit ut dominus" (*Engl. Hist. Rev.*, Vol. XXXVII, p. 497). The analogy with the continental *dominus terrae* (i.e. the territorial prince) requires no emphasis.

⁽⁷⁾ *Record Society of Lancashire and Cheshire*, Vol. LXIV (1912), pp. 94, 96.

⁽⁸⁾ Matthew Paris, *Chronica majora*, Vol. III, ed. H. R. Luard (1876), p. 189.

⁽⁹⁾ Higden, *Polychron.*, Vol. VIII, p. 210, writing of Ranulf III, says "terra sua regali gaudebat prerogativa"; but his evidence is, of course, too late to be probative.

⁽¹⁰⁾ *Bracton's Note Book* (ed. F. W. Maitland, 1887), *plac.* 127, 1273; cf. *plac.* 1213. Cf. among many, the commentary by Stewart-Brown, *Engl. Hist. Review*, Vol. XXXV (1920), p. 41. Bracton defines a palatinate, without specific reference to Chester, *De legibus*, f. 122b (ed. Woodbine, Vol. II, p. 346). The equally well-known passage in Matthew Paris, *Chron. Majora*, Vol. III, pp. 337-8, seems to me to have a somewhat different connotation. According to Paris, the earl of Chester is count of the king's palace (*comes palatii*), from which it does not necessarily follow that the county of Chester is a palatinate. It is, of course, possible that the title, once it became attached to the earl, was then transferred to his earldom; but there is no evidence of this, and the claim made on behalf of Ranulf by Paris is in any case of doubtful validity, since it was the right, if of anyone, of the earl of Leicester, and can only temporarily have been acquired by earl Ranulf while the honour of Leicester was in his hands. Cf. Vernon Harcourt, *His Grace the Steward* pp. 72, 76, 84.

from continental analogy,⁽¹⁾ a useful descriptive term by which to single out the prince who, in spite of royal attempts to assert a monopoly, still retained the supreme power of justice in "life and limb";⁽²⁾ and it would be rash to assume that even then, after the death of earl Ranulf Blundeville, it was used as an official designation. It is only later that this takes place. The first recorded instance of its use in official records dates apparently from 1297, four years later than its first official appearance in connexion with Durham.⁽³⁾ That it comes hard on the heels of the statute of *Quo Warranto* of 1290, is hardly accidental; under the pressure of the Edwardian lawyers, attacking and reducing franchises with an unswerving logic that went, perhaps, beyond the king's intention, franchise-holders were forced to redefine and reformulate their rights and privileges and put them on a broad foundation.⁽⁴⁾ The result was the emergence of the theory of the county-palatine and its application to Chester. Nevertheless the term remained exceptional; neither the word "palatinate" nor the theory of the county-palatine became "at all common in England until the fifteenth century."⁽⁵⁾

We shall thus, I believe, do well to avoid the term "palatinate" in speaking and writing of the Anglo-Norman earldom of Chester between 1071 and 1237. The strength and importance of the great independent earls rested not upon a palatine position or upon a special status, but on the extensive lands of their honour, and the political influence it gave them. The idea of a palatinate of Chester comes later; it belongs, as a distinctive appellation, to the period when the county had passed into the hands of the king and became "permanently appurtenant to his crown".⁽⁶⁾ Even so, it denotes less an increase in importance than a change in legal status. On the other hand, the annexation of the earldom by the crown opens a new phase in the history of Cheshire, and brings about the crystallisation and definition of many of the distinctive features which had begun to be apparent in the days of earl Ranulf Blundeville.

III

In view of the decisive part which earl Ranulf had played in political events in 1227 and 1232, it is not surprising that, when the oppor-

⁽¹⁾ For the analogies, cf. Lapsley, *Durham*, 3-11, and Pollock and Maitland, *Hist. of Engl. Law*, Vol. I, p. 182.

⁽²⁾ Bracton, *loc. cit.*: only the King "possit ei vitam concedere vel membra . . . nisi sit aliquis . . . qui regalem habeat potestatem in omnibus, sicut sunt comites paleys, salvo dominio domino regi sicut principi." This connexion with justice in "life and limb" seems to me very significant, and I hope shortly to deal with the whole question in a wider context. On Henry II's "disposition to control the punishment of life and members", cf. meanwhile J. Goebel, *Felony and Misdemeanor*, Vol. I, p. 332.

⁽³⁾ M. Tout, "Comitatus Pallacii", *Engl. Hist. Rev.*, Vol. XXXV (1920), pp. 418-9; cf. Lapsley, *Durham*, p. 28.

⁽⁴⁾ On the *quo warranto* proceedings of Edward I and their effects, cf. H. M. Cam, *Liberties and Communities in Medieval England* (1943), pp. 173-182; T. F. T. Plucknett, *Legislation of Edward I* (1949), pp. 35-49; G. T. Lapsley, *Crown, Community and Parliament in the Later Middle Ages* (1951), pp. 35-62.

⁽⁵⁾ M. Tout, *op. cit.*, p. 419; cf. Lapsley, *Durham*, p. 258, who shews that "it was precisely in the fifteenth century that the law with regard to the palatinate began to crystallize".

⁽⁶⁾ *Engl. Hist. Review*, Vol. XXXV (1920), p. 52.

tunity came in 1237, Henry III decided to annex the earldom of Chester to the crown.

The complicated story of the devices by which, in negotiations which went on until 1241, Cheshire was brought under royal control, has been told in exemplary fashion by Stewart-Brown.⁽¹⁾ The main result, seen from the point of view of English history, is clear enough: "with its passage to the crown the strongest bulwark of an independent baronage was destroyed".⁽²⁾ Furthermore, the establishment of royal control in Cheshire marked a turning point in Anglo-Welsh relations; "its union with the crown made possible Edward I's conquest" of Wales.⁽³⁾ After 1098, as we have seen, the Anglo-Norman earls had made no sustained effort to recover Welsh lands lost after the death of Robert of Rhuddlan, and had later formed close ties with North Wales;⁽⁴⁾ and it was left to Edward I, advancing from his base in Cheshire, to subdue Wales and to bring the new county of Flint under the effective control of the palatine government in Chester.⁽⁵⁾ But the annexation was no less important a turning-point in the history of Cheshire itself. First of all, we may say with much certainty that it saved the earldom from the dissolution which was the fate of other honours which had their origin in the Norman period. The Norman estates had been lost since the French occupation of Normandy in 1204;⁽⁶⁾ the English estates had been dispersed among coheireses after Ranulf III's death in 1232;⁽⁷⁾ had the crown not intervened after the death of earl John in 1237, there can be small doubt that the process of partition would have gone still further.⁽⁸⁾ If Cheshire survived as a unity, and was subsequently transformed into a palatinate and held together by a palatine administration, it was because the crown in its own interests decided that it should survive. Secondly, it was in substance to the crown that Cheshire owed the palatine administration which survived, in part, into the nineteenth century.⁽⁹⁾ If "in 1237 the royal officials sent into Cheshire seem to have taken over the local organisation . . . much as it stood",⁽¹⁰⁾ it was subsequently reorganised, expanded, brought into line with royal practice and, where necessary, reformed, largely under officials trained in and transferred from the central government at Westminster, in order to equip it to cope with the exigencies of Edward I's Welsh wars and with the building and fortification of

⁽¹⁾ "The End of the Norman Earldom of Chester", *Engl. Hist. Review*, Vol. XXXV (1920), pp. 26-54.

⁽²⁾ Powicke, *Henry III*, p. 142.

⁽³⁾ Tait, *Engl. Hist. Rev.*, Vol. LVII (1942), p. 458.

⁽⁴⁾ Characteristically, Lucian (p. 65) says of the inhabitants of Cheshire that they were "Britonibus ex uno latere confines, et per longam transfusionem morum maxima parte consimiles." A study of Welsh nomenclature in the early Cheshire charters would be repaying; cf. Hewitt, *Mediaeval Cheshire*, p. 150, n. 6.

⁽⁵⁾ For Flint and the Welsh shires, cf. T. F. Tout, *Collected Papers*, Vol. II (1932), pp. 1-44.

⁽⁶⁾ Powicke, *The Loss of Normandy* (1913), p. 491.

⁽⁷⁾ Farrer, *Honors and Knights' Fees*, Vol. II, pp. 9-11.

⁽⁸⁾ It was actually adjudged in 1238 that the county should be divided among the heirs at law; *Bracton's Note Book*, plac. 1273.

⁽⁹⁾ The history of the courts and administration from 1237 to 1830 is summarized by Holdsworth, *Hist. of Engl. Law*, Vol. I, pp. 117-132.

⁽¹⁰⁾ Stewart-Brown, *Engl. Hist. Rev.*, Vol. LVII, p. 292.

castles.⁽¹⁾ When, in 1301, Cheshire passed into the hands of Edward of Carnarvon, prince of Wales, the administration consolidated after 1237 was retained; his financial system, reinforced by "all the devices of the royal household", was "both comprehensive and effective".⁽²⁾ But the efficiency of the new broom, the eyres and inquisitions and, above all, the exploitation of the financial resources of the newly acquired county for purposes extraneous to its interests, inevitably produced a reaction. From the beginning the men of Cheshire, evidently alarmed at the prospect of coming under the king's direct control, took refuge in "stubborn conservatism", and the early court-rolls are full of cases in which the county defended "Cheshire law" against innovations and encroachments, "new and unheard of", by the king's officers.⁽³⁾ Thus the third, and perhaps not the least important, result of the royal annexation was to stimulate in Cheshire both a sense of community and a sense of differentiation from the rest of England. The contrast between Cheshire and England reaches further back;⁽⁴⁾ but it is after 1237 that emphasis on Cheshire custom as an inalienable right, different at moot points from the law of England, becomes articulate, providing a popular foundation for the new conception of the county as a palatinate with a distinctive place in English government. Ranulf Blundeville's charter of liberties, frequently confirmed and liberally interpreted, soon came to be treated as a constitutional guarantee; and it is no accident that Edward I, when he was forced in March, 1300, to confirm and amplify Magna Carta, saw fit before the end of the same month to issue a similar confirmation of the liberties granted to his Cheshire subjects by his Cheshire predecessor.⁽⁵⁾

In the fourteenth century the tendencies apparent before the death of Edward I gathered force.⁽⁶⁾ Once the Welsh wars had been concluded and the settlement of North Wales implemented,⁽⁷⁾ the operative reasons for the special position of the county palatine

⁽¹⁾ For Segrave's reforms (1237), cf. *Ch. Pipe Rolls*, pp. 30-31, and for the further re-organisation of the administration in 1301 when the earldom passed to Edward of Carnarvon, *ibid.*, pp. 29, 189, 217. One of the earliest steps was to make an "extent" of the county, *ibid.*, pp. 42, 64. For the introduction of the office of escheator in 1249, cf. *ibid.*, pp. 20, 116, and *Engl. Hist. Rev.*, Vol. LVII, p. 292; presumably also coroners were introduced at this time, *Chester C. C. Rolls*, p. xli. On the check to the development of an independent chancery, and the later absorption of the secretarial functions by the chamberlain, cf. *Tout, Collected Papers*, Vol. II, p. 38. On castle-building, cf. *Ch. Pipe Rolls*, pp. 69, 91, 104, 138, 158, 173.

⁽²⁾ Cf. *Tout, Chapters in the Administrative History of Mediaeval England*, Vol. II (1920), pp. 180-181; cf. also *ibid.*, pp. 169-71, 174, and H. Johnstone, *Edward of Carnarvon, 1284-1307* (1946), pp. 59-60, 68-9; both writers emphasize "the importance of Cheshire in the household economy of Edward of Carnarvon."

⁽³⁾ *Chester C. C. Rolls*, pp. xvi, xxii, xxx, 2, 235; cf. *Engl. Hist. Review*, Vol. XXXIX (1924), pp. 83-86. H. Johnstone, *op. cit.*, p. 58, maintains that "the royal newcomers consistently respected those 'right usages, laws and customs' which had prevailed under their predecessors"; but this view seems to underestimate the rigour of the royal administration.

⁽⁴⁾ It is expressed e.g. in the Magna Carta of Cheshire (Tait, *Chartulary*, Vol. I, p. 105); cf. also Hewitt, *op. cit.*, p. 7.

⁽⁵⁾ Cf. *Cal. Patent Rolls, 1292-1301*, p. 499 (30 March 1300); the growing tendency to view the charter "in a more popular light" was pointed out by Tait, *Chartulary*, Vol. I, p. 108.

⁽⁶⁾ On fourteenth-century Cheshire, cf. H. J. Hewitt, *Mediaeval Cheshire* (1929). This is essentially "an economic and social history of Cheshire in the reigns of the three Edwards", and needs to be supplemented by Mrs. M. Sharp's full account of the administrative system, included in *Tout, Chapters*, Vol. V; cf. also M. Sharp, "The administrative Chancery of the Black Prince before 1362", *Essays presented to T. F. Tout* (1925). The main source is Vol. III of the *Register of the Black Prince* (1932).

⁽⁷⁾ Cf. W. H. Waters, *The Edwardian Settlement of North Wales* (1935).

ceased, and Cheshire became more and more a subordinate part of the great appanage which was the endowment of the prince of Wales. This was apparent already in the time of Edward of Carnarvon when there was "much interference with the local administration" and, despite a nominal administrative autonomy, a growing tendency to centralization in London;⁽¹⁾ it became still more marked under the Black Prince, the outstanding feature of whose government, apart from its extravagance, was "its centralization at Westminster".⁽²⁾ An aggravating factor was the non-residence of the earl. The Black Prince, in his long tenure of the earldom from 1333 to 1376, only visited Cheshire twice; before him Edward of Windsor, a mere child, created earl on 24 November 1312, only eleven days after his birth, perforce left the administration entirely in the hands of the officials.⁽³⁾ The result was complaints of "negligence and extortion committed by the bailiffs, farmers and ministers of the earl".⁽⁴⁾ The county-palatine, in effect, was now regarded simply as a source of supply, both of men and of revenue, and later—towards the close of Edward III's reign, with the rise of the "new feudalism"⁽⁵⁾—as a source of power. Hence, although it may be true that Cheshire "increased in productivity under the vigilant care" of the Black Prince's ministers,⁽⁶⁾ its increased wealth was drained off to pay for the prince's prodigal expenditure, and ever harsher means, including the abuse of legal procedure, were taken to extract more and more revenue. The fines exacted in 1347, 1353 and 1357 exceeded in magnitude anything Cheshire had ever known;⁽⁷⁾ and the abuse of his powers by the absentee earl aroused deep-seated resentment throughout the county. The outcome was the great rebellion of 1353.⁽⁸⁾ It was not the last time in the course of the century that Cheshire men rose in support of their traditional rights and privileges. An armed insurrection of the "good men and commons" of Cheshire broke out in 1391; and only two years later, in 1393, the county again rebelled against the justiciar, who was accused of plotting to withdraw the Cheshire franchises.⁽⁹⁾

The course of events after the death of Edward I thus showed the disadvantages, rather than the advantages, of the special status of

⁽¹⁾ Tout, *Chapters*, Vol. II, pp. 179–80.

⁽²⁾ P. Shaw, "The Black Prince", *History*, Vol. XXIV (1939), p. 12; cf. Tout, *op. cit.*, Vol. III, pp. 195–6.

⁽³⁾ Shaw, *op. cit.*, p. 10; Tout, *op. cit.*, Vol. IV, p. 69.

⁽⁴⁾ *Cal. Pat. Rolls*, 1317–1321, p. 134; cf. the report of extortion in 1331–2, *Cheshire Sheaf*, 3rd Series, Vol. XXVIII (1933), pp. 54–5, and R. Stewart-Brown, *The Serjeants of the Peace in Mediaeval England and Wales* (1936), p. 9.

⁽⁵⁾ Cf. H. M. Cam, "The Decline and Fall of English Feudalism", *History*, Vol. XXV (1940), pp. 216–233.

⁽⁶⁾ Shaw, *op. cit.*, p. 10.

⁽⁷⁾ Hewitt, *op. cit.*, pp. 16–19; Stewart-Brown, *Chester C.C. Rolls*, pp. xxx–xxxii; cf. W. Ferguson Irvine, *TRANSACTIONS*, Vol. CI (1950), pp. 39–45. Details of the extortions are recorded in *Cheshire Chamberlains' Accounts*, 1301–1360 (*Rec. Soc. Lancs. and Cheshire*, Vol. LIX, 1910).

⁽⁸⁾ Cf. Hewitt, *op. cit.*, pp. 12, 17, 152. It is to be distinguished from the purely peasant movements among the villein tenants of Vale Royal in 1329 and 1336 (*Ledger Book of Vale Royal*, *Rec. Soc. Lancs. and Cheshire*, Vol. LXVIII, 1914, pp. 31–2, 37–42), just as the later risings are to be distinguished from the peasants' revolt in the Wirral in 1381; cf. *Cheshire Sheaf*, 3rd Series, Vol. XII (1915), p. 53, *ibid.*, Vol. XXIII (1926), pp. 68, 77; Hewitt, *op. cit.*, pp. 166–168; R. H. Hilton, "Peasant Movements in England before 1381", *Econ. Hist. Review*, 2nd Series, Vol. II (1949), p. 129.

⁽⁹⁾ Tout, *Chapters*, Vol. III, p. 483.

Chester. The fact that, as a palatinate, Cheshire was still not represented in parliament at Westminster, meant that it escaped the burden of certain taxes voted by parliament;⁽¹⁾ but it also meant that it was left without any adequate constitutional check on the earl's arbitrary power. The other major disadvantage was that it was left with an antiquated administrative system which, by the fourteenth century, was visibly breaking down; and since this system was stubbornly defended as an inherent privilege of the palatinate, it was difficult to put anything more modern and effective in its place. Cheshire participated at best half-heartedly in the fourteenth-century efforts to strengthen local government. Occasional commissions were set up, with negligible results, to deal with disturbances and breaches of the peace;⁽²⁾ but neither the institution of justices of the peace nor that of justices of labourers secured a foothold in the palatinate.⁽³⁾ Meanwhile the hundred courts had become practically inoperative,⁽⁴⁾ and the old system of preserving the peace by the agency of hereditary sergeants was hopelessly out of date.⁽⁵⁾ The result was a growth of disorder, which evidently reached startling proportions by comparison with the rest of the kingdom, and which was accentuated and fostered by the growth of civil strife and political conflicts in the latter years of Edward III and under Richard II.⁽⁶⁾

Cheshire had long been notable for its soldiery. The system of "avowries", probably intended originally as a means first and foremost of colonizing a sparsely-populated land, created "a useful military reserve" composed in part at least of hardened criminals;⁽⁷⁾ and it is well known that the palatinate contributed contingents out of all proportion to its size and manpower to the Welsh, Scottish and Flemish campaigns of Edward I and later to the wars of Edward III.⁽⁸⁾ Cheshire men, such as Sir Robert Knolles, have a distinguished place in the chronicles of Froissart; and it is perhaps not surprising that what appears to be the earliest surviving original indenture for military service is preserved to-day in a Cheshire muniment-room.⁽⁹⁾ But the indenture for military service was one thing when used to recruit troops for foreign war, and another when it was used to build up a military following of liveried retainers, with which to overawe the law-courts, intimidate juries and lay

⁽¹⁾ *Cal. Fine Rolls, 1369-1377* (1924), p. 124; cf. Hewitt, *op. cit.*, p. 7.

⁽²⁾ Stewart-Brown, *Sergeants of the Peace*, pp. 25-32, 106.

⁽³⁾ *Ibid.*, pp. xi, 1, 25, 32.

⁽⁴⁾ *Ibid.*, p. 24; cf. also Stewart-Brown, *The Wapentake of Wirral* (1914), pp. 37, 62.

⁽⁵⁾ Stewart-Brown, *Sergeants*, p. 25.

⁽⁶⁾ "Every parliament roll in these years is filled with petitions for the protection of the border lands from Cheshire inroads;" Tout, *Chapters*, p. 483; cf. also Hewitt, *Mediaeval Cheshire*, p. 155.

⁽⁷⁾ Cf. Stewart-Brown, "The Avowries of Cheshire", *Engl. Hist. Rev.*, Vol. XXIX (1914), pp. 41-45. It is, however, doubtful whether Stewart-Brown is correct in seeking a Welsh origin for the institution, and he perhaps lays undue emphasis on its military character; numerous continental parallels suggest that internal colonization probably played a major part in this development.

⁽⁸⁾ Cf. the summary in Hewitt, *op. cit.*, pp. 157-160; for the Scottish campaign of 1337, which he ignores, cf. Tout, *Chapters*, Vol. IV, p. 101. See also Hewitt's far from complete "List of Cheshire men who served in France during the reign of Edward III" (pp. 180-182), and the lists in *Cheshire Sheaf*, 3rd Series, Vol. XVIII (1921), pp. 33-4.

⁽⁹⁾ Cf. below Appendix III, reproduced from the Crewe Muniments at Crewe, through the kindness of Col. F. L. F. Deneyes.

hands on the machinery of government. When, from about 1376, the country broke up into bitterly opposed factions, and in 1387 the aristocratic opposition, buttressed by the forces of the "new feudalism", took up arms against the king, it was inevitable that Cheshire, precisely because of its special position as a palatinate and the opportunities which this position offered, should be drawn deep into the vortex. In view of the "rapidly narrowing gap between the financial resources of the crown and those of its greater subjects"⁽¹⁾—the house of Lancaster to the fore—the resources of the palatinate came to play a central part in Richard II's calculations; while the king, if he "was not to be at the mercy of the private armies which his magnates had developed in the French wars", soon realized that "he must raise an army himself".⁽²⁾ Here again Cheshire provided the readiest source of supply; and so the palatinate became "the inner citadel, as it were, of Richard's kingdom".⁽³⁾ In 1397, the king, perhaps to set it incontestably above the duchy of Lancaster, raised the palatinate to the rank of a principality; and the famous Cheshire bodyguard, recruited and built up by Sir John Stanley of Hooton,⁽⁴⁾ the ancestor of the Stanleys of Lathom and Knowsley, provided the backbone of Richard's government.⁽⁵⁾

The revolution of 1399 destroyed Richard II's personal government; but it brought no fundamental change in the position of Cheshire. At the battle of Shrewsbury in 1403 the remnant of the Cheshire bodyguard, fighting unsuccessfully against the Lancastrian usurper, was cut to pieces. Even earlier Henry IV had abolished the newly-created principality. But the conditions of the age militated against any serious attempt to use the opportunity, which the revolution of 1399 presented, to reduce Cheshire to uniformity with the rest of the kingdom, and its palatine privileges were left untouched. There are obvious reasons for this. First was the great revival of Welsh independence under Owen Glendower, which for a time restored to the palatinate something of its former purpose and justification. Secondly, Chester was too useful a source of military power to the contending factions in the fifteenth century to be lightly discarded; throughout the Wars of the Roses, from Blore Heath to Bosworth, Cheshire contingents were in the van, Cheshire archers in the thick of the fighting. But thirdly and above all else, fifteenth-century conditions favoured an extension, rather than a diminution, of palatine rights, and it was then, as we have seen, that the legal theory of the palatinates began to

⁽¹⁾ A. Steel, "English Government Finance, 1377-1413", *Engl. Hist. Rev.*, Vol. LI (1936), p. 30.

⁽²⁾ A. R. Myers, *England in the late Middle Ages* (1952), p. 19.

⁽³⁾ Tout, *Chapters*, Vol. IV, p. 59.

⁽⁴⁾ The younger brother of Sir William Stanley of Hooton; cf. Ormerod, *op. cit.*, Vol. II, p. 416. The best account of his career is in J. H. Wylie, *History of England under Henry IV*, Vol. II (1894), pp. 289-290.

⁽⁵⁾ On the Cheshire guard—a subject upon which a short monograph is overdue—cf. Tout, *op. cit.*, Vol. III, p. 421; Vol. IV, pp. 10, 24, 29, 33, 46, 53, 199, 206; and the appendix in M. V. Clarke and V. H. Galbraith, "The Deposition of Richard II", *Bulletin of the John Rylands Library* Vol. XIV (1930).

crystallize.⁽¹⁾ Palatinates in Pembroke and Lancaster had been deliberately created on the model of Chester by Edward III; along the march of Wales over a hundred others had come into existence, and the position in the Scottish march was little different.⁽²⁾ Far from there being any question of bringing Chester into line with the rest of England, the tendency in the fifteenth century was for the rest of England to fall into line with Chester; and although there were repeated complaints in parliament at Westminster about the outrages and disturbances resulting from conditions in Cheshire,⁽³⁾ "no effective remedy could come from a parliament dominated by the lords who were the first beneficiaries of the system".⁽⁴⁾

The history of Cheshire in the fifteenth century still remains largely unwritten; but throughout the century, down to the accession of the Tudors and beyond, the county was disturbed by riots, feuds and the abuse of livery and maintenance.⁽⁵⁾ Special commissions were issued time and time again—in 1427, 1434, 1441, 1442, 1448, 1454, 1455, 1463, 1481 and 1491⁽⁶⁾—but there is no sign that they were effective, not least of all because the gentry of the county, on whom the task of executing the commissions fell, were all too often the main source of unrest. Thus it was left to Henry VII and Henry VIII, in the course of a wider attack upon "feudal irresponsibility",⁽⁷⁾ to shear Cheshire of its palatine privileges, enforce superior control and assimilate the palatinate in administration and law to the rest of the country. This process of assimilation had, indeed, begun earlier. The defence of "thwertnic" or "thwert-ut-nay" was abolished in 1353, as being "contrary to the common law and destructive of peace";⁽⁸⁾ and almost simultaneously the Black Prince had given orders that his business "should be done by the same laws and usages as the king's own business".⁽⁹⁾ But the hostile reaction which the prince's measures produced prevented further progress; and the stagnation was confirmed by the deterioration at the end of Edward III's reign as a sequel to the set-backs in the continental wars, the weakening of the monarchy that ensued, and the revival of the political and social power of the landed aristocracy. Hence it was not until Tudor times that a policy of assimilation, long overdue, was consistently carried out. The first step, under Henry VII, was the revival of *quo warranto* proceedings, "far stricter than those of Edward I's or Edward II's justices",⁽¹⁰⁾ by which the king demonstrated his determination both to lay his

⁽¹⁾ "The work of the fifteenth century lawyers", says Lapsley (*Durham*, p. 258), "was to define the legal privileges of the palatinate, and thus to prepare the path for the sixteenth century legislators, who swept them away."

⁽²⁾ Holdsworth, *Hist. of Engl. Law*, Vol. I, pp. 92, 118; R. R. Reid, *The King's Council in the North* (1921), pp. 7-21.

⁽³⁾ Stewart-Brown, *Engl. Hist. Rev.*, Vol. XXIX (1914), p. 54, and *Serjeants*, p. 29; Hewitt, *op. cit.*, pp. 154-5.

⁽⁴⁾ H. M. Cam, *History*, Vol. XXV (1940), p. 225.

⁽⁵⁾ Examples in R. H. Morris, *Chester in the Plantagenet and Tudor Reigns* (1894), pp. 49-53.

⁽⁶⁾ Stewart-Brown, *Serjeants*, pp. 30-31.

⁽⁷⁾ Cf. the excellent summary by Cam, *op. cit.*, pp. 225-230.

⁽⁸⁾ *Cal. Ch. Rolls*, Vol. V, pp. 313-4; cf. Stewart-Brown, *Engl. Hist. Rev.*, Vol. XL, p. 20. The date, usually stated to be 1346, is probably 1353; *Chester C.C. Rolls*, p. xxxi.

⁽⁹⁾ Tout, *Charters*, Vol. III, p. 196.

⁽¹⁰⁾ Cam, *op. cit.*, p. 228.

hands on profitable rights alienated during the civil wars and to exercise stringent control over the anomalous Cheshire franchises.⁽¹⁾ Under Henry VIII there followed the series of measures by which Cheshire was brought into "belated conformity with the rest of England".⁽²⁾ In 1542 the system of avowries, which had "contributed largely to the lawless conditions of the county", was abolished.⁽³⁾ Six years earlier, in 1536, justices of the peace had been instituted for Cheshire, and their appointment taken out of local hands and vested in the Lord Chancellor and Lord Keeper of England.⁽⁴⁾ More important, perhaps, in securing uniformity was the control exercised, as over any other county, by the Star Chamber;⁽⁵⁾ while the advent of new financial machinery took away the business and importance of the Chester exchequer, which functioned henceforward simply as a court of justice.⁽⁶⁾ Finally, in 1543, both the county and the city of Chester were granted representation in parliament;⁽⁷⁾ and this was the decisive step in bringing them into line with the rest of the kingdom.

Henceforward, all that remained of the former status of the county was the palatine courts, which were expressly retained in 1536 and continued to function down to 1830. But even in this narrowly legal sphere continuity was formal rather than substantial. From 1543 the justiciar of Chester became, in effect, the head of a Welsh circuit;⁽⁸⁾ while even within Chester itself the privilege—confirmed by queen Elizabeth in 1568⁽⁹⁾—"that the queen's writ doth not come, nor ought to be allowed or used within the said county palatine", meant only that judicial writs issued "under the seal of the said county palatine" instead of under the great seal.⁽¹⁰⁾ The existence of the palatine courts no longer spelt immunity from, but simply an alternative form of application of the law common to the whole country.⁽¹¹⁾

IV

A survey of the history of Chester from the Norman Conquest shows us—what has, indeed, been hinted at before⁽¹²⁾—that its palatine status came comparatively late in its development. There was little, if anything, in the first century of the Norman earldom

⁽¹⁾ Stewart-Brown, "The Cheshire writs of *Quo Warranto* in 1499", *Engl. Hist. Rev.*, Vol. XLIX (1934), pp. 676–684; cf. Cam, *op. cit.*, p. 226.

⁽²⁾ Stewart-Brown, *Serjeants*, p. 32.

⁽³⁾ *Engl. Hist. Rev.*, Vol. XXIX, p. 54.

⁽⁴⁾ 27 Hen. VIII, c. 5; cf. Stewart-Brown, *Serjeants*, pp. 105–108.

⁽⁵⁾ Early Star Chamber proceedings are printed, *Rec. Soc. Lancs. and Cheshire*, Vol. LXXI (1916). The existing records of the justices of the peace do not, however, begin before 1559; cf. J. H. E. Bennett and J. C. Dewhurst, *Quarter Sessions Records for the County Palatine of Chester*, Vol. I (1940).

⁽⁶⁾ *Engl. Hist. Rev.*, Vol. LVII, p. 296.

⁽⁷⁾ 34 & 35 Hen. VIII, c. 13.

⁽⁸⁾ Holdsworth, *op. cit.*, Vol. I, pp. 120, 124; *Engl. Hist. Rev.*, Vol. LVII, p. 297.

⁽⁹⁾ Coke, *Fourth Part*, p. 212; Ormerod, *op. cit.*, Vol. I, pp. 127–9.

⁽¹⁰⁾ Coke, *op. cit.*, 213. For the exchequer and other palatine seals, cf. Tout, *Chapters*, Vol. V, pp. 421–9 and Plate V; H. Jenkinson, *Archaeologia*, Vol. LXXXV (1936), pp. 332–3; F. Taylor, "Selected Cheshire Seals", *Bulletin of the John Rylands Library*, Vol. XXVI (1942).

⁽¹¹⁾ Cf. Holdsworth, *op. cit.*, Vol. I, p. 109.

⁽¹²⁾ Cf. Plucknett, *Harvard Law Review*, Vol. XLII (1928–9), p. 643; Lapsley, *Law Quarterly Review*, Vol. LI (1935), p. 319; Lapsley, *Crown, Community and Parliament*, p. 100; cf. *Cheshire Sheaf*, 3rd Series, Vol. XXX (1935), p. 86.

to distinguish Chester from other earldoms, save its durability; and although the tenure of earl Ranulf Blundeville evidently marked a turning-point, the evidence that the county was officially considered to be a palatinate at any time down to 1237, is slight and unsatisfactory. Whether, in an age when personal factors still counted for much, the administration built up by Ranulf Blundeville would have survived the extinction of the ruling dynasty, had the monarchy not intervened, is a question the answer to which we can only guess; but it is clear and demonstrable that the special position of Chester as a palatinate only became unambiguous when it passed into the hands of the crown, and then precisely because it was the special endowment of the monarchy. Thus the emergence of the palatinate was an historically conditioned event, and its "regal jurisdiction", far from being an attribute possessed from the beginning or conferred in 1071 upon earl Hugh, was something which grew.⁽¹⁾

It is easy to place too great emphasis on the separateness of Cheshire and its autonomy, and upon the factors which distinguished it from the kingdom of England;⁽²⁾ but we shall do well to remember that Cheshire, though it "differed from other counties in some respects", "resembled them in many more".⁽³⁾ The determinative influence of its contiguity to Wales may easily be exaggerated; it was only for a few years at the close of the eleventh and the beginning of the twelfth centuries, and then again under Edward I, that it seriously affected the position; but we may safely say that it was because of its function as a base for the Edwardian conquest of North Wales that its palatine status was confirmed and solidly established. For the rest, it is remarkable how the history of Cheshire conforms at every stage to the broad pattern of English development. Thus it was only in the fourteenth century, when the rise and definition of the peerage drew a clear line between the greater and the lesser franchise-holders, that the status of Chester as a county-palatine became a matter of first-rate political importance; indeed, we may say that the history of the palatinate—as distinct from the history of the earldom—is a reflection of the changes in English political society which produced at this time a revival of the political and social power of the landed aristocracy. With this society it rose, and with this society it fell. The palatine organisation, grafted on to feudal society at a time when its healthy roots were withering, was always in some degree artificial and anomalous; and although in Cheshire—unlike Lancaster, where it was deliberately created—it grew out of the Anglo-Norman earldom, its character was rather that of a perversion, or at least an ossification, than of a living continuation of the earldom from which it

⁽¹⁾ I use the word "grew" because there is nothing whatever to support Lapsley's contention (*Law Q. Rev.*, Vol. LI, p. 322) that "the privilege" (i.e. the enjoyment of "iura regalia") derived "from the crown", if by this he intends to imply an explicit royal grant of such rights.

⁽²⁾ E.g. the differences in the organization of the county court, which gave rise to the controversy between Plucknett, Woodbine and Lapsley referred to above p. 45, n. 12; for which differences cf. Stewart-Brown, *Engl. Hist. Rev.*, Vol. XXXIX (1924), p. 84, and *Chester C.C. Rolls*, pp. xvii, xxvi, xxx.

⁽³⁾ Hewitt, *op. cit.*, p. viii.

sprang. As it existed under the governance of the Black Prince, it had something of the brittleness and formal hollowness which Stubbs once attributed to the fourteenth century as a whole; it marked a deliberate halting of the process of disintegration of feudal society.

In the early age which covers the span of the Anglo-Norman earldom, a large measure of decentralization and devolution was probably as beneficial as it was inevitable. But the historian, looking back, is likely to conclude that, after the ending of Edward I's Welsh wars, nothing but benefit would have accrued from the assimilation of Cheshire to the English county system. Instead, it was this very period that saw the development of palatine autonomy, not for reasons of administrative necessity or even convenience, but as a source of power. No doubt, the system offered the individual a chance to make a career; and many Cheshire families owed their fortunes to it. But the result, in general, was that the county remained backward and disorderly for upward of two centuries; and the remarkable thing is how quickly it recovered and caught up with the rest of England, once the Tudors had established order. The sixteenth and seventeenth century topographers, from Camden and Speed onwards, paint an almost uniform picture of prosperity, very different from the poverty of Cheshire in the middle ages; and that change, though doubtless it had many contributory causes, is a measure of what the county palatine gained by its assimilation to English society at the hands of Henry VIII. It is very significant of the weakening of older habits of life and thought that the changes carried through by the Tudors were not resisted, as they were resisted in the northern counties, for example, in the movement which culminated in the Pilgrimage of Grace and later in the northern rebellion of 1569. On the contrary, it was the inhabitants themselves of the county and city of Chester who petitioned in 1541 for representation in parliament, and thus took a decisive step to align the palatinate with the rest of the kingdom.⁽¹⁾ The explanation lies, in part, in the settlement of Wales, the creation of the Welsh counties and the destruction of the marcher lordships, which, putting an end to the conditions in which Cheshire autonomy had flourished, resulted almost necessarily in its own assimilation. But more important was the change in the balance of social and economic power which followed the suppression of the monasteries. The Cheshire families that shared in the redistribution of landed property⁽²⁾ had their feet firmly planted in Tudor England; although many had laid the foundation of their fortunes in the disturbed years between Crécy and Bosworth Field, they turned their backs on the fifteenth century and set themselves instead to exploit the opportunities which Tudor England offered, turning away from the palatinate to a wider world with London and the court at its centre,

⁽¹⁾ For the text of the petition, cf. Ormerod, *op. cit.*, Vol. I, p. 80.

⁽²⁾ Cf. Ormerod, *op. cit.*, Vol. I, p. 255, for a list of those who came into possession of Chester abbey lands; not all are Cheshire names, but the list includes Cholmondeley, Calveley, Legh of Adlington, Venables, Wilbraham, Mainwaring and Egerton.

and responding to social and economic influences which had their motive power far away from Cheshire. The palatinate, on the contrary, stood as an obstacle rather than a link between two societies, the feudal society of Ranulf Blundeville and the moneyed society of the Tudor gentry. So far as we can see, it passed unmourned; and when, in the later years of the sixteenth century, memories of its "Regall Jurisdiction", extending back "tyme out of mynde" to the days of "Earle Leofricus", were revived and expounded,⁽¹⁾ it was not a living tradition but a compound of the interested arguments of palatine lawyers, defending their perquisites, and the romantic patriotism of local antiquaries and historians, recording "the fame and high estimation" of "this princely county of Chester" "to the contentment and satisfaction of its noble inhabitants."⁽²⁾

APPENDIX

The historian of Cheshire under the Anglo-Norman earls is reliant, for the greater part, upon deeds and charters for his evidence. Except for fragments of the "Domesday Roll", the early official records of the county have disappeared; and prior to the annexation by the crown in 1237, the records of the central government, including both the pipe-rolls of the exchequer and the later chancery enrolments, only exceptionally refer to Cheshire. The chronicles of England and Normandy provide us, of course, with information about the political and other activities of the earls, but mainly in relation to English and Norman affairs, and contribute little that is relevant to Cheshire history; while the information provided by the "Annals of Chester", the only local chronicle for the period, is comparatively meagre.⁽³⁾ On the other hand, the charter evidence, notwithstanding statements to the contrary,⁽⁴⁾ is by no means sparse; and the extant body of charters and letters of the earls, of which more than ninety still survive in original, is sufficiently extensive to enable us to form a reasonably full picture of their interests and activities and of the organisation upon which they depended.

The comital charters are thus the main authority for the early history of Cheshire, and a project for their publication is in hand. Despite their central importance, none has been reproduced here, since a representative selection is already available in facsimile. Instead I have selected as illustration three documents which illustrate other aspects of Cheshire history. All date from the thirteenth century, and one belongs to the period of the Anglo-

⁽¹⁾ *Chetham Misc.*, Vol. II, p. 14.

⁽²⁾ Cf. the passages from Webb and Lee reprinted in Ormerod, *op. cit.*, Vol. I, pp. 142, 154, 177.

⁽³⁾ The Gray's Inn manuscript of the Dieulacres chronicle (cf. Clarke and Galbraith, *The Deposition of Richard II.*, p. 5) is worth re-examination, but is of its nature unlikely to provide first-hand material before the thirteenth century.

⁽⁴⁾ Cf. Tait, *Engl. Hist. Rev.*, Vol. LVII, p. 457.

Norman earldom and was actually authenticated with the seal—now unfortunately lost—of earl Ranulf Blundeville. The other two date from the period after the annexation of the county by the crown, and include a charter of the first royal earl, Edward [I], to which a fine seal is attached.

Transcripts of the three documents are printed opposite the facsimiles on pages 51, 53 and 55. Summaries of the documents, together with a brief indication of their historical significance, are given below.

I

Final concord, levied in the court of earl Ranulf III at Chester and enrolled in the "Domesday Roll" of Cheshire, between Matilda de Venables, plaintiff, and William de Venables senior, defendant, whereby the plaintiff quitclaims to the defendant the whole wood of Lindwood, saving only rights of pasture, and the defendant and his son, William de Venables junior, quitclaim to the plaintiff a moiety of the wood of "Alresahe" and the whole estate of Twembrook, retaining the mills and millponds of Witton.

Chester, 27 August 1228.

Orig.: Tabley House, Old Deeds I, 13.

This unique document⁽¹⁾ is by far the earliest surviving original record of its kind, and the only one extant from the period of the Anglo-Norman earldom. Both in external form, which closely resembles that of fines levied in the king's court, and in content, it is remarkable. Noteworthy, in the first place, is the venue, *i.e.* "in the court of lord Ranulf the earl". In view of other evidence (*Cheshire Sheaf*, 3rd Series, Vol. XX, pp. 1, 4, 15, 17) we must assume that this court was the county-court of Chester; but it is significant that, unlike contemporary entries in the "Domesday Roll", the charter nowhere mentions the county-court. The possibility cannot, therefore, be entirely dismissed that, in earl Ranulf's time, there may have been an "earl's court" superior to the county-court—similar to that of the bishop of Durham (Lapsley, *Law Quart. Rev.*, Vol. LI, pp. 323-4)—and that the peculiar amalgamation of ordinary county business and pleas by writ, which made the Cheshire county-court unique, may not have occurred until later, perhaps not conclusively until after earl Ranulf's death in 1232, or even until after 1237. Circumstances after 1237 would favour such a development; earlier, on the other hand, it seems unlikely that there was anything to prevent particularly important or intricate cases being removed from the county-court into the earl's presence elsewhere; that is, indeed, perhaps the intent of the writ cited in *Cheshire Sheaf*, Vol. XX, p. 9, No. 16. Significant also is the statement, at the close of the charter, that it was sealed not only with the seals of the parties, but also with the earl's seal, and that it was enrolled, for greater security, "in the authentic roll of our lord the earl, which preserves memory and record". This is

⁽¹⁾ Cf. above, p. 36.

TRANSCRIPT

Hec est finalis concordia facta in curia domini Rannulfi comitis Cestrie et Lincolnie apud Cestriam die dominica proxima post festum sancti Bartholomei apostoli anno incarnationis domini millesimo ducentesimo vicesimo octavo, coram domino nostro comite Cestrie et Lincolnie, Philippo de Orrebi tunc temporis iustitiario Cestrie, Rogero de Monte Alto senescallo Cestrie, Willelmo de Vernona, Warino de Vernona, Baudewino de Vario, Ricardo Phitone, et aliis fidelibus domini comitis ibidem presentibus, inter dominam Matildem de Venabulis petentem per breve de recto per dominum Nicholaum de Eletes suum aturnatum ad lucrandum vel perdendum, et dominum Willelmum de Venabulis tenentem, scilicet de bosco de Lindwode et de Alresahe et de terra de Twinebrokes, quam dicta Matildis petebat per breve de recto versus dominum Willelmum, filium predicti Willelmi de Venabulis, per dictum Nicholaum suum aturnatum, scilicet quod predictus Nicholaus dimisit et quietum clamavit pro predicta Matilde et heredibus suis dicto Willelmo seniori et heredibus suis totum boscum de Lindwode cum pertinentiis, preter quod predicta Matildis et heredes sui habebunt in dicto bosco pasturam herbagii ad quindecim averia et personam ad viginti porcos quietos de pasnagio, quando ibi erit persona. Et sciendum est, quod averia predictae Matildis et heredum suorum non intrabunt in dictum boscum a festo sancti Michaelis usque ad festum sancti Andree apostoli, si persona ibi fuerit. Et pro hac dimissione et quietam clamantia predictus Willelmus de Venabulis senior dedit et recognovit predictae Matildi et heredibus suis totam medietatem bosci de Alresahe propinquiorem terre sue de Wimigham cum pertinentiis. Et predictus Willelmus de Venabulis iunior reddidit et dimisit et quietam clamavit totam terram de Twinebrokes cum pertinentiis predictae Matildi et heredibus suis imperpetuum, illam scilicet, quam predictus Willelmus iunior habuit de dono patris sui predicti Willelmi de Venabulis. Et sciendum est, quod molendina de Wittona et stagna erunt in pace predicto Willelmo seniori et heredibus suis sine impedimento de dicta Matilde et de heredibus suis, sicut fuerunt die predictae concordie facte. Et ut hec finalis concordia perpetue firmitatis robur obtineat, prefati Willelmus de Venabulis et Nicholaus de Eletes et Matildis predicta huic scripto mediante sigillo domini comitis sigilla sua apposuerunt. Et ad huius rei maiorem securitatem istam finalem concordiam in rotulo domini nostri comitis autentico, qui retinet memoriam et recordam, de consensu prenominatorum inrotulari decretum est. Testibus prefatis et multis aliis.

SEAL: three tags,⁽¹⁾ two without seal, on the third a small seal of light coloured wax.

⁽¹⁾ Although four seals are mentioned, there are only three tags, doubtless because the seals of Matilda and her attorney were appended on the same tag.

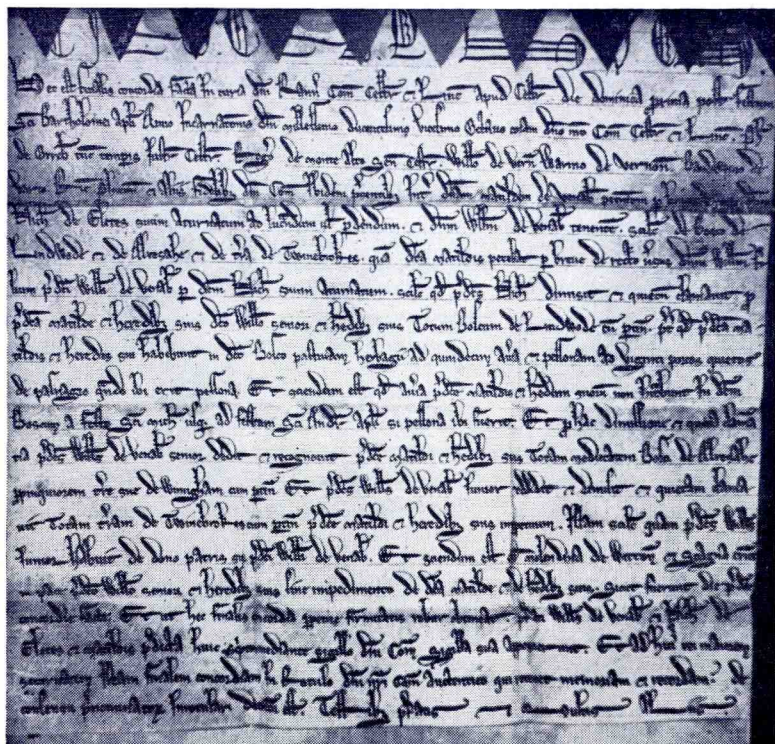


PLATE 1 : CONCORD MADE IN THE COURT OF EARL RANULF III
AT CHESTER IN 1228.

TRANSCRIPT

Edwardus illustris regis Anglie primogenitus, archiepiscopis, episcopis, abbatibus, prioribus, comitibus, baronibus, iusticiariis, vicecomitibus, prepositis, ministris et omnibus ballivis et fidelibus suis, salutem. Licet quondam ad instantiam Rannulphi tunc comitis Cestrie homines de partibus de Lyra in Cestresiria ad securitatem illarum partium boscos suos posuissent in defensione, et iidem bosci postea usque nunc per coheritionem dominorum eidem comiti succedentium extiterint sic in defensione, ita quod domini illorum boscorum non potuerunt de eisdem assartare, vendere et dare ac pro voluntate sua de eis disponere, sicut antecessores sui antiquitus facere consueverunt, nos tamen, ipsorum hominum gravaminibus compatientes ipsisque gratiam specialem in hac parte facere volentes, concedimus eisdem et per cartam presentem confirmamus, quod iidem homines et heredes sui libere et sine impedimento seu calumpnia nostri aut heredum seu ballivorum nostrorum possint decetero de boscis suis predictis, qui sunt extra forestam nostram, assartare, vendere, dare et, quocumque modo sibi placuerit, disponere ac eos penitus tenere extra defensionem, sicut fuerunt, antequam positi fuerunt in defensione, sicut predictum est. In cuius rei testimonium presentem cartam sigilli nostri appositione roboravimus. Hiis testibus: dominis Rogero de Montealto senescallo Cestrie, Fulcone de Orreby tunc iusticiario nostro Cestrie, Rogero de Leyburna, Galfrido de Langeleia, Rogero de Clifford, Hamone extraneo, Willelmo la Zusche, et aliis. Datum per manum nostram apud Bermundeseye vicesimo sexto die octobris anno regni domini regis patris nostri quadragesimo tertio.

SEAL: on plaited cords (red and green); round; green wax; fragmentary. *Obv.*: equestrian figure. Legend: . . . [P]RIMOGENITVS : ET : HE[R]E[S] : D[OMINI] : REGIS : ANGLIE]. *Rev.*: shield of arms, three lions of England. Legend: . . . HENRICI : ILLVSTRIS : R[EGIS] . . .

TRANSCRIPT

A tous ceus ke ceste lettre verrount ou orrunt, Phelipe de Hardschulle saluz en nostre seynur. Sachez mey estre tenuz a sire Edmound de Estafforde seynur de Madeleye a servir ly tawnt come la gwere dure entre le rey de Engleterre e le rey de Fraunce, la quele gwere fust entre eus le jowr de la confection de cest escrit. E par ceste presente lettre apres le avaunt dite gwere je le avaunt dit Phelipe me oblige a le avaunt dit sire Edmound de mey atacher en sa compaignye de ly servir avaunt touz autres, par quey il me face autaunt come autres me voddront fere, for pris le servise e la retenaunce sire Willam de Hardschulle mon frere, ke ie forpreng sus touz autres. E si issi seyt, ke ie le avaunt dist Phelipe sey chivaler, ke les robes, ke ie dei prendre de sire Edmound, li seynt returnez. E si il aviengne, ke ie le avaunt dit Phelipe reen de cestes choses defaylle, je me oblige a la destreste des senescaus e des mareschaus nostre seynur le rey de Engleterre, ke donkes seynt, ausi bien de hors la verge cum de dens. En tesmoigne de quele chose a ceste presente lettre ay mys mon seel. Donec a Gawnt en Flawndres le jeofdy procheyn apres la feste seyn Michel en le an de le regne le roy Edward le vintime quint.

SEAL: missing.

[illegible]

PLATE 3 : AN EARLY INDENTURE FOR MILITARY SERVICE, 1297.

the earliest independent reference to what was later known as the "Domesday Roll", and direct proof of its record quality. The charter is not, however, to be found in those sections of the "Domesday Roll" which have survived; but an entry under the year 1238 records a charter from William de Venables, senior, to his son, William, granting him "Winton [*i.e.* Witton] and all the wood of Lindewode" for his homage and service (*ibid.*, p. 2, No. 4).

The properties at issue all lie in the neighbourhood of Northwich; cf. Ormerod, *Cheshire*, Vol. I, pp. 627, 629, Vol. III, p. 154, who also explains (Vol. III, pp. 187-8, 198) the relationship of the parties. Nicholas Delettes, attorney of Matilda, was her son-in-law, and later succeeded to the lands and rights here secured to her (*ibid.*, Vol. I, p. 627).

II

Edward, eldest son of king Henry III, grants the men of Lyme in Cheshire the right to assart and dispose freely of their woods, as they were able to do before earl Ranulf, for the security of those parts, placed them "in defence".

Bermondsey, 26 October 1259.

Orig.: Warrington, Borough Library, MS. 896.

A translation of this interesting charter⁽¹⁾ was printed in *The Palatine Notebook*, Vol. III (1883), pp. 208-210; its concession is noted under the year 1259 "circa festum omnium sanctorum" in the *Annales Cestrienses*, p. 76. "To place in defence" has a restricted technical meaning in forest law (cf. G. J. Turner, *Select Pleas of the Forest*, Selden Society, Vol. XIII, 1899, p. xciv); but it is clear, from the statement that earl Ranulf had placed the woods of the inhabitants of Lyme "in defence" "for the security of those parts", that he was not in this case concerned merely with the preservation or exploitation of forest rights, but had a wider purpose in view—namely, to maintain an impenetrable military barrier by prohibiting clearings. The location of the forest of Lyme is not certain. Tait (*Chartulary*, Vol. I, p. 102) cautiously renders "extra Lymam" as "beyond the eastern boundary of Cheshire"; Ormerod (Vol. III, p. 538) believes that it was an earlier name for the forest of Macclesfield; M. V. Taylor (*Rec. Soc. Lancs. and Cheshire*, Vol. LXIV, p. 29) thinks it "more probable that Lyme was a separate forest" and that it lay to the south of Macclesfield. Without definitely adopting the views of the last-mentioned writer, I also am inclined to believe that the present charter refers to the south-eastern boundary, covering the area from Dieulacres and Leek towards Newcastle. There is also, I think, little doubt that the earl referred to is Ranulf III. When earl Ranulf took this measure is, however, not known; it may be suggested that a possible date is indicated by the crisis of 1223, or alternatively it may be connected with the construction of Chartley Castle, Staffordshire, after the earl's return from Egypt in 1220. It is, in any event, significant

⁽¹⁾ Cf. above, pp. 30, 37.

that it was his eastern, and not his western or Welsh, frontier that the earl set out in this way to strengthen. For the fine and not very common seal, *cf.* W. de Gray Birch, *Catalogue of Seals in the British Museum* (1887-1900), Vol. II, p. 335.

III

Letters of Philip of Hardeshulle (Hartshill, co. Warwick), announcing that he has engaged himself to serve Sir Edmund of Stafford during and after the present war between the kings of England and of France, saving the service due to his brother, Sir William of Hardeshulle.

Ghent, 3 October 1297.

Orig.: Crewe, Marquess of Crewe's Estate Office, XXVI. 3,
Madeley, No. 4.

Although not technically drafted in the form of an indenture, this is perhaps the earliest specimen now surviving in original of the class of document known as the "military indenture" or "indenture for military service".⁽¹⁾ The well-known indenture printed by Denholm-Young, *Seigniorial Administration*, pp. 167-8, which he describes as "perhaps the earliest of its kind now surviving" (p. 23), dates from 9 June 1297; but the original has disappeared and it is only extant in a late transcript. On the use of indentures for building up a military retinue and the part they play in the "new feudalism" of the later Middle Ages, *cf.* Jolliffe, *Const. Hist.*, p. 424; Cam, *History*, Vol. XXV, p. 224; J. E. Morris, *The Welsh Wars of Edward I* (1901), p. 278; and more particularly A. E. Prince, "The Indenture System under Edward III", *Hist. Essays in Honour of James Tait*, pp. 283-97, and N. B. Lewis, "The Organisation of Indentured Retinues in fourteenth-century England", *Trans. Royal Hist. Soc.*, 4th Series, Vol. XXVII (1945), pp. 29-39. Edward I's Flemish campaign of 1297, during which the present agreement was made, was "a landmark in the development of the contract system of military service" (N. B. Lewis, *Studies Presented to F. M. Powicke*, 1948, p. 310), and Sir Edmund de Stafford, lord of Madeley (co. Stafford), was a captain in Edward's army (*ibid.*, pp. 314, 318). Six days after the agreement was made the campaign was brought to a close by the armistice of Vyve-Saint-Bavon; *cf.* Pirenne, *Hist. de Belgique*, Vol. I (5th ed., 1929), p. 409. For the family of Hardeshulle or Hartshill, a fee of the honour of Chester, *cf.* Farrer, *Honors and Knights' Fees*, Vol. II, pp. 153, 284, and Dugdale, *The Antiquities of Warwickshire* (1656), pp. 776-8. William, the elder brother of Philip Hardeshulle, died in 1304.

⁽¹⁾ *Cf.* above, p. 42.

