If you are having trouble with the vocabulary of *Glanvill*, there is a vocabulary outline which is posted on the website.

I. THE REFORMS OF HENRY II — *GLANVILL*

1. Prologue

a. Pro 1.

Glanvill Pro 1: Regiam potestatem non solum armis contra rebelles et gentes sibi regnoque insurgentes, oportet esse decoratam, sed et legibus, ad subditos et populos pacifice regendos, decet esse ornatam; ut utraque tempora, pacis scilicet et belli, gloriosus rex noster ita feliciter transigat, ut effrenatorum et indomitorum, dextra fortitudinis, elidendo superbiam, et humilium et mansuetorum equitatis uirga moderando iustitiam, tam in hostibus debellandis semper uictoriosus existat, quam in subditis tractandis equalis iugiter appareat.
"Not only must royal power be furnished with arms against rebels and nations which rise up against the king and the realm, but it is also fitting that it should be adorned with laws for the governance of subject and peaceful peoples; so that in time of both peace and war our glorious king may so successfully perform his office that, by crushing the pride of the unbridled and ungovernable with the right hand of strength and tempering justice for the humble and meek with the rod of equity, he may both be always victorious in wars with his enemies and also show himself continually impartial in dealing with his subjects."

Justinian, *Institutiones* [J.I.] Pro. 1: Imperatoriam maiestatem non solum armis decoratam, sed etiam legibus oportet esse armatam, ut utrumque tempus et bellorum et pacis recte possit gubernari; et princeps Romanus victor existat non solum in hostilibus proeliis, sed etiam per legitimos tramites calumniantium iniquitates expellens, et fiat tam iuris religiosissimus, quam victis hostibus triumphator.

Sandars trans.: "The imperial majesty should be not only made glorious by arms, but also strengthened by laws, that, alike in time of peace and in time of war, the state may be well governed, and that the emperor may not only be victorious in the field of battle, but also may by every legal means [lit. 'paths'] repel the iniquities of men who abuse the laws, and may at once religiously uphold justice and triumph over his conquered enemies."

Fine Latin periods. Political theory. King: war and peace, arms for war, laws for peace; justice and equity. Largely derived from J.I. with interesting changes. There are also some verbal similarities with the prologue of the *Dialogus de Scaccario*, but the sentiments reflected in both are common-place enough.

b. Pro 2.

"No-one doubts how finely, how vigorously, how skilfully our most excellent king has practised armed warfare against the malice of his enemies in time of hostilities, for now his praise has gone out to all the earth and his mighty works to all the borders of the world. Nor is there any dispute how justly and how mercifully, how prudently he, who is the author and lover of peace, has behaved towards his subjects in time of peace, for his Highness's court is so impartial that no judge there is so shameless or audacious as to presume to turn aside at all from the path of justice or to digress in any respect from the way of truth. For there, indeed, a poor man is not oppressed by the power of his adversary, nor does favour or partiality drive any many away from the threshold of judgment. For truly he does not scorn to guided by the laws and customs of the realm which had

their origin in reason and have long prevailed; and, what is more, he is even guided by those of his subjects most learned in the laws and customs of the realm whom he knows to excel all others in sobriety, wisdom and eloquence, and whom he has found to be most prompt and clear-sighted in deciding cases on the basis of justice and in settling disputes, acting now with severity and now with leniency as seems expedient to them."

Remember the Angevin Empire. Impartiality and truth as values. Laws stop oppression. Even the king is guided by the laws and customs. The guidance of 'those most learned in the laws and customs of the realm'.

c. Pro 3.

"Although the laws of England are not written, it does not seem absurd to call them laws—those, that is, which are known to have been promulgated about problems settled in council on the advice of the magnates and with the supporting authority of the prince—for this is also a law, that 'what pleases the prince has the force of law.' For if, merely for lack of writing, they were not deemed to be laws, then surely writing would seem to supply to written laws a force of greater authority than either the justice of him who decrees them or the reason of him who establishes them."

The written/unwritten problem. The Roman law tag in curiously unabsolutistic context. Writing is not greater than justice and reason.

d. Pro 4.

"It is, however, utterly impossible for the laws and legal rules of the realm to be wholly reduced to writing in our time, both because of the ignorance of scribes and because of the confused multiplicity of those same laws and rules. But there are some general rules frequently observed in court which it does not seem to me presumptuous to commit to writing, but rather very useful for most poeple and highly necessary to aid the memory. I have decided to put into writing at least a small part of these general rules, adopting intentionally a commonplace style and words used in court in order to provide knowledge of them for those who are not versed in this kind of inelegant language. To make matters clear, I have distinguished the kinds of secular cause in the following manner:"

The problem of multiplicity of law.

e. Division of pleas

Glanvill 1.1: Placitorum, aliud est criminale,. aliud civile. Item placitorum criminalium, aliud pertinet ad coronam domini Regis, aliud ad vicecomites provinciarum. Ad coronam domini Regis pertinent ista.
"Pleas are either civil or criminal. Some criminal pleas belong to the crown of the lord king, and some to the sheriffs of counties. The following belong to the crown of the lord king:"

Glanvill 1.2: Crimen quod in legibus dicitur crimen laesae majestatis, ut de nece vel seditione persone domini Regis vel regni, vel exercitus ; occultatio inventi thesauri fraudulosa, placitum de pace domini Regis infracta, homicidium, incendium, roberia, raptus, crimen falsi, et si quae alia sunt similia, quae scilicet crimina ultimo puniuntur supplicio, aut membrorum truncatione.
"The crime which civil lawyers call lèse-majesté, namely the killing of the lord king or the betrayal of the realm or the army; fraudulent concealment of treasure trove; the plea of breach of the lord

king's peace; homicide; arson; robbery; rape; the crime of falsifying and other similar crimes: all these are punished by death or cutting off of limbs.

Excipitur crimen furti, quod ad vicecomites pertinet, et in comttattibus placitatur et termmatur. Ad vicecomites etiam pertinet pro defectu dominorum cognoscere de medletis, de verberibus, de plagis etiam, nisi accusator adjiciat de pace domini Regis infracta.
"The crime of theft is not included because this belongs to the sheriffs, and is pleaded and determined in the counties. If lords fail to do justice, then sheriffs also have jurisdiction over brawling, beatings, and even wounding, unless the accuser states in his claim that there has been a breach of the peace of the lord king."

Glanvill 1.3: Placitum civile, aliud in curia domini Regis tantum placitatur et terminatur; aliud ad vicecomites provinciarum pertinet. In curia domini Regis habent ista tractari et terminari: placitum de baroniis, placitum de advocationibus ecclesiarum, quaestio status, placitum de dotibus unde mulieres ipsae nil penitus perceperunt, querela de fine facto in curia domini Regis non observato, de homagiis faciendis, et releviis recipiendis, de purpresturis, placitum de debitis laicorum; et ista quidem placita folummodo fuper proprietate rei, prodita sunt; de illis autem quae super possessione loquuntur, et per recognitiones placitantur et terminantur, inferius loco fuo dicetur.
"Some civil pleas are to be pleaded and determined only in the court of the lord king; others belong to the sheriffs of counties. The following must be dealt with in the court of the lord king:
"Pleas concerning baronies; pleas concerning advowsons of churches; the question of status; pleas of dower, when the woman has so far received none; complaints that fines made in the lord king's court have not been observed; pleas concerning the doing of homage and the receiving of relief; purprestures; debts of laymen. All these pleas concern solely claims to the property (*proprietas*) in the disputed subject-matter: those pleas in which the claim is based on possession (*possessio*), and which are determine by recognitions, will be discussed later in their proper place"

Glanvill knew some Roman law. How much is controversial, but it is reflected not only in the echoes of JI in the Prologue but also in the general organization of the book. Of the basic organizational principles of Roman law, *Glanvill* clearly has the civil/criminal distinction; his distinction between *proprietas* and *possessio* probably can be mapped onto the Roman distinction between *dominium* and *possessio*; he does not seem to have the distinction between property and obligation (note that he speaks of the *proprietas* in a debt, which a Roman lawyer would find incomprehensible).

2. The distinction between procedure and substance won't help for *Glanvill*'s time; the two are inextricably intertwined, though *Glanvill* does make some attempts at pure substance in books 6–8, family property and in book 9 lay debts. The former discussion has much of the quality of a 13th c. French *coutumier*, the latter is suffused with Roman law.
3. Let's look at some of the key pieces of *Glanvill* that seem to support the Milsom argument. One of the keys to the argument is that originally the real actions were not about ownership and possession, but rather about different types of claims (Milsom calls them 'upward-looking' claims) that a tenant might might make against his lord.
    a. That argument has considerable support in the case of mort d'ancestor, a recognition whether the immediate ancestor (father, brother, uncle) of the demandant died seised of the land, and that the demandant is the heir.

(13.2–12, pp. IV–26): Rex vicecomiti salutem: Si G. filius T. fecerit te securum de clamore suo prosequendo, tunc summone per bonos summonitores duodecim liberos et legales homines de visineto de illa villa, quod sint coram me vel justiciis meis ea die, parati sacramento recognoscere si T. pater praedicti G. suit seisitus in dominico suo sicut de feodo suo, de una virgatae terrae in illa villa die qua obiit. Si obiit post primarn coronationem meam, et si ille G. propinquior haeres ejus est; et interim terram illam videant, et nomina eorum imbreviari fàcias; et summone per bonos summonitores R. qui terram illam tenet, quod tunc sit ibi auditurus illam recognitionem; et habeas ibi summonitores, &c. T. &c.
"The king to the sheriff, greeting. If G. son of O. gives you security for prosecuting his claim, then summon by good summoners twelve free and lawful men from the neighbourhood of such-and-such a vill to be before me or my justices on a certain day, ready to declare on oath whether O. the father of the aforesaid G. was seised in his demesne as of his fee of one virgate of land in that vill on the day he died, whether he died after my first coronation, and whether the said G. is his next heir. And meanwhile let them view the land; and you are to see that their names are endorsed on this writ. And summon by good summoners R., who holds that land, to be there then to hear the recognition. And have there the summoners and this writ. Witness, etc."

Milsom's argument gets considerable support from the text of the Assize of Northampton (1176):

Assize of Northampton (c. 4, p. IV-5 to IV-6): "Item, if any freeholder has died, let his heirs remain possessed of such **'seisin'** as their father had of his fief on the day of his death; and let them have his chattels from which they may execute the dead man's will. And afterwards **let them seek out his lord and pay him a 'relief'** and the other things which they ought to pay him from the fief. And if the heir be under age, let the lord of the fief receive his homage and keep him in ward so long as he ought. Let the other lords, if there are several, likewise receive his homage, and let him render them what is due. And let the widow of the deceased have her dow[er] and that portion of his chattels which belongs to her. And should the lord of the fief deny the heirs of the deceased 'seisin' of the said deceased which they claim, let the justices of the lord king thereupon cause **an inquisition to be made by twelve lawful men** as to what 'seisin' the deceased held there on the day of his death And according to the result of the inquest let restitution be made to his heirs. And if anyone shall do anything contrary to this and shall be convicted of it, let him remain at the king's mercy."

b. The claim with regard to the assize of novel disseisin, a recognition whether the demandant was disseised "unjustly and without judgment" since the king's last crossing to Normandy, rests, among other things, on the language of the writ as given by *Glanvill*:

(13.32–39, p. IV–31): Rex Vicecomiti salutem: quaestus est mihi N. quod R. injuste et sine judicio disseisivit eum de libero tenemento suo in illa villa, post ultimam transfretationem meam in Normaniam; et ideo tibi praecipio quod si praefatus N. fecerit te securum de clamore suo prosequendo, tunc facias tenementum illud reseisiri de catallis quae in eo capta fuerunt, et ipsum cum catallis esse facias in pace usque ad clausum Paschae et interim facias duodecim liberos et legales homines de visineto videre terram illam et nomina eorum imbreviari facias, et summone illos per bonos summonitores, quod tunc sint coram me vel justiciis meis parati inde facere recognitionem. Et pone per vadium et salvos plegios praedictum R. vel ballivum suum, si ipse non fuerit inventus, quod tunc sit ibi auditurus illam recognitionem. Et habeas ibi &c T. &c.

"The king to the sheriff, greeting. N. has complained to me that R. unjustly and without a judgment has disseised him of his free tenement in such-and-such a vill since my last voyage to Normandy. Therefore I command you that, if N. gives you security for prosecuting his claim, you are to see that the chattels which were taken from the tenement are restored to it, and that the tenement and the chattels remain in peace until the Sunday after Easter. And meanwhile you are to see that the tenement is viewed by twelve free and lawful men of the neighbourhood, and their names endorsed on this writ. And summon them by good summoners to be before me or my justices on the Sunday after Easter, ready to make the recognition. And summon R., or his bailiff if he himself cannot be found, on the security of gage and reliable sureties to be there then to hear the recognition. And have there the summoners, and this writ and the names of the sureties. Witness, etc."

Like mort d'ancestor this leads to the convening of a jury of 12 called "the assize," which answers the specific question posed in the writ.

"The king to the sheriff, greeting. N. has complained to me that R. **unjustly and without a judgment** has disseised him of his free tenement in such-and-such a vill since my last voyage to Normandy. Therefore I command you that, if N. gives you security for prosecuting his claim, **you are to see that the chattels which were taken from the tenement are restored to it**, and that the tenement and the chattels remain in peace until the Sunday after Easter. And meanwhile you are to see that the tenement is viewed by twelve free and lawful men of the neighbourhood, and their names endorsed on this writ. And summon them by good summoners to be before me or my justices on the Sunday after Easter, ready to make the recognition. And **summon R., or his bailiff if he himself cannot be found**, on the security of gage and reliable sureties to be there then to hear the recognition. And have there the summoners, and this writ and the names of the sureties. Witness, etc."

c. The claim with regard to the writ of right is more complicated. *Glanvill* gives us what seems to be two forms for the writ:

i. "writ of first summons," which brings the case into the central royal courts to start off with

(1.6) Rex uicecomiti salutem. Precipe N. quod iuste et sine dilatione reddat R. unam hidam terre in illa uilla unde idem R.c queritur quod predictus N. sibi deforciat. Et nisi fecerit, summone. eum per bonos summonitores quod sit ibi in crastinum post octabas clausi Pasche coram me uel iusticiis meis ostensurus quare non fecerit. Et habeas ibi summonitores et hoc breue. Teste Rannulfo de Glanuill' apud Clarendunam.

(p. IV–10): "The king to the sheriff, greeting. Command N. to render to R., justly and without delay, one hide of land in such-and-such a vill, which the said R. complains that the aforesaid N. is withholding from him. If he does not do so, summon him by good summoners to be before me or my justices on the day after the octave of Easter, to show why he has not done so. And have there the summoners and this writ. Witness Rannulf Glanvill, at Clarendon."

ii. writ of right patent, issues to the lord of whom the demandant claims to hold

(12.3) Rex comiti Willelmo salutem. Precipio tibi quod sine dilatione plenum rectum teneas N. de decem carrucatis terre in Middelton's quas clamat tenere de te per liberum seruicium centum solidorum per annum pro omni seruicio, uel per liberum seruicium feodi unius militis pro omni

seruitio, uel per liberum seruitium unde duodecim carruce faciunt feodum unius militis pro omni seruicio; uel quas clamat pertinere ad liberum tenementum suum quod de te tenet in eadem uilla uel in Mortun' per liberum seruitium etc', uel per seruicium etc'; uel quas clamat tenere de te de libero maritagio M. matris sue, uel in liberum burgagium, uel in liberam elemosinam; uel per liberum seruitium eundi tecum in exercitum domini regis cum duobus equis ad custum tuum pro omni seruicio; uel per liberum seruicium inueniendi tibi unum arbalastarium in exercitu domini regis per quadraginta dies pro omni seruicio: quas Rodbertus filius Willelmii ei deforciat. Et nisi feceris uicecomes Deuon'; faciat, ne amplius inde clamorem audiam pro defectu recti. Teste etc'.

(p. IV–20, Baker p. 613 (A.i)): "The king to Earl William, greeting. I command you to do full right without delay to N. in respect of ten carucates of land in Middleton which he claims to hold of you by the free service of one hundred shillings a year for all service (or by the free service of one knight's fee for all service, or by the free service appropriate when twelve carucates make up one knight's fee for all service; or which he claims as pertaining to his free tenement which he holds of you in the same vill or in Morton by the free service, etc., or by the service, etc.; or which he claims to hold of you as part of the free marriage portion of M. his mother, or in free burgage, or in frankalmoin; or by the free service of accompanying you with two horses in the army of the lord king at your expense for all service; or by the free service of providing you with one crossbowman for forty days in the army of the lord king for all service): which Robert son of William is withholding from him. If you do not do it the sheriff of Devonshire will, that I may hear no further complaint for default of right in this matter. Witness, etc."

Clause 34 of Magna Carta in 1215 says "The writ called *precipe* [the first Latin word in the first form of the writ of right] shall not be issued for anyone concerning any tenement whereby a freeman may lose his court." After 1215, *Glanvill*'s "writ of first summons" disappears and the following forms are used, both of which explain why the case is an appropriate one for the central royal courts to start off with. The writ of right patent continues.

iii. *in capite*—Where the demandant claims to hold of the king *in capite*, i.e., "in chief" as a tenant-in-chief with no mesne lord (Baker (from 'the' register of writs, i.e. late 14th century), p. 614, B.i).

"The king to the sheriff of N greeting. Command A. that justly and without delay he render to B. one messuage with the appurtenances in D., which he claims to be his right and inheritance and to hold of us in chief, and whereof he complains that the aforesaid A. unjustly deforces him. And if he will not do so, and if the aforesaid B. shall give you security for pursuing his claim, then summon the aforesaid A. by good summoners that he be before our justices at Westminster [on such a day] to show why he has not done it.. And have there the summons and this writ. Witness, etc."

iv. *quia dominus remisit curiam*—Where the demandant claims to hold of a lord "who has remitted his court" (e.g., because he does not have a court or because he has already decided that he does not want to hear the case) (Hall, Early Registers CCC, p. 36 ("substantially of the middle 1260's").

"'The king to the sheriff greeting. Command B. that justly and without delay he render to A. so much land with appurtenances, in such a vill, which he claims to be his right and his inheritance and whereof he complains that the said B. unjustly

> deforces him. And if etc., and the said A. shall have given you security to prosecute his claim, then summon by good summoners, the aforesaid B. that he be before our justices at Westminster on such a day to show why he has not done this. And have there the summoners and this writ. [Witness, etc.] because the chief lord of that fee has remitted to us his court thereof.' And thus that clause is always set down after the date of the writ."

Milsom's argument is that what happened after 1215 is just simply a specification what was always intended, i.e., that the writ of summons was used, or was supposed to be used, only in those cases where (i) the parties both claimed to hold of the king, or (ii) where there was no lord's court to which to send the writ or the lord had already refused to hear the case, or (iii) where the parties claimed to hold of two different lords. His argument also depends on what the 'count' (the first substantive pleading) was in the writ of right:

(2.3) (p. IV–9): "When both parties appear again in court after the three reasonable essoins and the view, the demandant sets out his claim and suit as follows: 'I claim against this N. the fee of half a knight and two carucates of land in such-and-such a vill as my right and my inheritance, of which my father (or grandfather) was seised in his demesne as of fee **in the time of King Henry the First (or since the first coronation of the lord king)**, and from which he took profits to the value of five shillings at least, in corn and hay and other profits: and this I am ready to prove by this free man of mine, H., and if any evil befalls him then by this other man or by this third man, who saw and heard it.' (He can name as many as he likes but only one of them shall wage battle.) Or the claim may be in other words, thus: 'And this I am ready to prove by this free man of mine, H., whose father in his last minutes enjoined him, by the faith binding son to father, that if ever he heard of a suit concerning this land, he should offer to prove it as something seen and heard by the dying man.'"

The claim is that the lord, or his ancestor, has let in the wrong man. This may be a clue as to why the lords' courts regularly default. Immediately after he describes the writ of right patent, *Glanvill* tells us:

(12.6) (p. IV–19): "These pleas [i.e., those under the writ of right patent] are tried in the courts of lords, or of those who stand in their place, in accordance with the reasonable customs of those courts, which cannot easily be written down because of their number and variety. Proof of default of right in these courts is made in the following way when the demandant complains to the sheriff in the county court and produces the writ from the lord king [i.e., the original writ of right; see Stenton, pp. 20–21. GDH], the sheriff will, on a day appointed to the litigants by the lord of the court, send to that court one of his servants, so that he may hear and see, in the presence of four or more lawful knights of that county who will be there by command of the sheriff, the demandant's proof that the court has made default of right to him in that plea; the demandant will prove this to be the case by his own oath and by the oath of two others who heard and understood it and who swear with him. With this formality, then, cases are transferred from certain courts to the county court, and are once again dealt with and determined there; and neither the lords of those courts nor their heirs may contest this or recover jurisdiction for their courts in respect of the particular plea."

This procees known as *tolt*. In another place *Glanvill* tells us that once the case is in the county court either party may remove it to the central royal court by a writ known as *pone* (6.7, p. 61,

Hall ed.). *Tolt* procedure thus involves watching the court sit on its hands. But why would the lord's court default? Well, we must ask who the defendant (tenant) is in the lord's court. He is, of course, the lord's man, who has done homage to the lord. That involved a lot of obligations of the tenant to the lord, but it also involved obligations of the lord to the tenant. The lord must warrant the tenant in his holding. Maybe the demandant is right. The lord or his ancestor let in the wrong man, but what is the lord to do about it now that he has warranted the tenant, particularly when all the other tenants are standing around in the lord's court. He's going to do nothing. When the case proceeds by *tolt* and *pone* to the central royal courts, *Glanvill* tells us what happens there. 3.1 (p. IV-18): "The presence of the third party ... is required ... if the tenant says [the land] is his, but that he has in respect of it a warrantor from whom he got it as a gift, or by sale, or in exchange, or some other such way." If the warrantor enters into the warranty, *Glanvill* tells us, there is no way that the tenant can lose. If the warrantor succeeds in defending the claim, the tenant, of course, gets the tenement. If he fails, the warrantor must provide the tenant with an exchange tenement, an *escambium* (p. IV–19), as the Latin goes. If the warrantor does not enter into the warranty, then the tenant will lose, but then the warrantor has to face his other tenants back home.

4. Milsom reinforces his argument that the three basic real actions are all 'upward-looking' claims with an equally elaborate argument about the later development of writs of entry, which he calls 'downward-looking' claims.

   a. There are actually some examples of these in *Glanvill*, not in the later form, but fitting Milsom's characterization of downward-looking claims. Here's one that is not in the *Mats.* but on the outline: *Glanvill* 10.9 (Hall ed., p. 125):

      "The king to the sheriff, greeting. Command N. to restore, justly and without delay, so much land (or, certain specified land) in such-and-such a vill to R., of a term which is now past, as R. alleges; and to accept payment from him (or, which he alleges he has redeemed by payment). If he does not do so, summon him by good summoners to be before me or my justices at a certain place on a certain day to show why he has not done so. And have there the summoners and this writ. Witness, etc." This can lead to a recognition whether gage or fee.

      For Milsom this type of writ raises two questions: (1) why is this case in the central royal courts and not in R's court, and (2) why is there a special form of the writ rather than the basic writ of first summons. The answer to the first question is relatively simple. R has chosen to proceed in the central royal courts rather than in his own court (perhaps R. is not as powerful as N.) and the king will allow him to do so. The answer to the second question may be that we need a special writ because otherwise the assize or the jury might be confused. The question is not whether R. let in the wrong man. R. let in N., but now he doesn't belong there because his term has expired. That's what the assize or the jury needs to focus on.

   b. Before 1215, Milsom notes, there are examples of writs of right in the central royal courts where the parties pay for a special jury in lieu of the grand assize or for a special question to be put to the grand assize ("special mise to the grand assize"). (See *Glanvill*, 2.6 [IV–12]; 13.27, p. 166–7.) Once more, the questions that these jurors are being asked frequently seem to be about something that went wrong with the tenant's tenure after an

initial rightful entry. The proliferation of writs of entry after 1215 (and the decline of the special mise to the grand assize) may be explained, once more, by the need to specify why the case did not begin in the lord's court, the answer being that the lord has chosen not to deal with it in his own court but to bring it to the central royal court.

c. Milsom also explains the proliferation of the writs of entry in another way. Prior to the assize of novel disseisin a lord who had a tenant who had stayed his term (or who was there because the lord's guardian had put him there, and now the lord is of age, or who was there because the lady's husband had put him there and now the lady is widow, etc.) would call the tenant into his or her court and ask him by what warrant he was there, the implication being not by my warrant. If the tenant had no good answer to that question, the lord or lady would disseise him. This was, of course, a disseisin "justly and with judgment." But if the lord were then sued in novel disseisin, he would have to prove it by having his court testify to it. There are no essoins in novel disseisin, and gathering one's court for the first hearing is not easy, perhaps impossible. Milsom's example is the case of the countess Amice. Hence, in these situations, the lord sought the king's help to start off with and did not proceed in his or her own court.

5. Unburdened with knowledge of Roman law, it seems relatively clear that what we are dealing with here originally is three types of claims that may be made against a lord. Burdened with a knowledge of Roman law we see them as dealing with ownership and possession. *Glanvill* hints at this, and *Bracton* develops it extensively. But the writs of entry are a problem in this scheme and like so much else in legal history it's the last development that gives the clue to the whole puzzle. Later authors will say that they are half way in between proprietary and possessory, a characterization that would make a Roman lawyer blink hard.[1] The very awkwardness of it suggests that we should look for other explanations.

II. THE REFORMS OF HENRY II — THE POLSTEAD SAGA

1. I first became interested in these cases because I was looking for a Matilda, daughter of Hugh de Polstead, who was involved in a marriage case that was appealed to the pope in the 1170s. A Hugh de Polstead, appears in no fewer than 79 documents, dating from perhaps as early as 1163 (but more likely closer to 1178) until a man of that name features fairly prominently in the Exchequer's *Book of Fees*, in a document drawn up in connection with the great scutage raised in connection with the expedition of Henry III to Gascony in 1242. The Hugh de Polstead of the *Book of Fees* held in 1242 X 1243 held: (1) Two and three-quarters knights' fees in Polstead [Suff, near Colchester, Essex] of the honour of Rayleigh; (2) Two and a half knights' fees in Burnham and Burnham Sutton [Norf, on the north coast] together with a William de Gimingham, partially of the Haughley honour, and partially of the honour of the earl of Warenne; and (3) One-half a knight's fee in Compton [Surrey, about mid-county] of a part of the Eton honour, which is described as the honour of William de Windsor. The 1232 X 1233 entry in the *Book of Fees* suggests that we should add one and quarter fees in Prittlewell [Essex], also of the honour of Rayleigh. That gives a total of between four (dividing the

[1] Details in C. Donahue, "What Difference Did Roman Law Make? The Legal Reforms of Henry II About Actions Concerning Land," forthcoming in a volume of essays in honor of Anne Josephine Duggan, edited by Travis R. Baker.

Burham holdings in half and leaving out the Prittlewell holding) and seven knights' fees (adding them all up), which puts Hugh well over the line of respectability, but certainly does not make him a great lord. All of the documents are contained in the *Materials*, which contain a map that locates the places involved and an attempt at the genealogy.

The Hugh de Polsteads who appear in these 79 documents are not all the same man. In 1199, Hugh de Polstead, who is probably the Hugh of the documents of the 1170s, constitutes his son Hugh his attorney. Hugh I was dead by 1204, when his widow, Cecily, is claiming her dower and vouches her son Hugh [II] to warrant. Hugh II is probably not the Hugh de Polstead who appears in entries dated 1242 X 1243 in the *Book of Fees*. It was probably his son, also Hugh. That there was a Hugh III seems clear. He died by 1266, survived by three daughters.[2]

2. Most of the entries in the *Materials* involving the Polsteads are from the plea rolls of the central royal courts, a remarkable series of records that runs from the reign of Richard I (spotty) and (virtually complete) to the reign of Queen Victoria. They record every session of the court in the four terms, Michaelmas (autum), Hilary (late winter and early spring), Easter (Pasch), (late spring), and Trinity (early summer), who appeared in each case, and what pleas were made in each case, and what actions the court took. Here's the first membrane (online) of the first complete plea roll from an amazing website that has all the unpublished plea rolls from the Middle Ages and well into the early modern period. It's the Common Bench roll for Michaelmas term 44/45 Henry III (1260) (the regnal year changes in October). The chief is Gilbert de Preston (CJCP 1260–1273). His companions are John de Wivill (Foss: Wyville) and John de Kava (Foss: John de Cave),[3] who are far less well known. The first entry is a dower case from Beds (Leihton, being Leighton Buzzard).

   Heading: Placita apud Westm' de termino sci Mich' Anno regni Regis Henrici filii Johannis [one has to admit doesn't look very much like that] / quadragesimo quarto incipiente quadragesimo quinto coram G de Prestone / Johanne de Wyvill et Johanne de Kava justiciarris de Banco.

3. Analyzing the early plea rolls in land cases is not easy. It's so easy to see the world in terms horizontal relationships. Some joker is on my land and I want to get him off. *Glanvill* because of his Romanism masks, to some extent, the nature of what was going on. Even the plea rolls do, but we may, if we push on both, see a much more complicated three-dimensional world. Let us look at the entries for the first case in the *Mats*., the one involving land Christian Malford and Winterbourne Stoke, Wiltshire: (See map in *Materials*, p. IV–32.)

   Added later: plea roll heading transcription: Placita apud Westm' de termino sci Mich' Anno regni Regis Henrici filii Johannis [one has to admit doesn't look very much like that] / quadragesimo quarto incipiente quadragesimo quinto coram G de Prestone / Johanne de Wyvill et Johanne de Kava justiciarris de Banco

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[2] *CPR*, *1258–66*, 572 (28 Mar. 1266) (license for Avis, first-born daughter and one of the heirs of Hugh de Polstead, to marry), 574 (1 Apr. 1266) (grant of the marriage of Pernell and Rose, daughters and heirs of Hugh de Polstead).

[3] Features prominently in A. C. Chibnall, *Sherington Fiefs and Fields of a Buckinghamshire Village* (Cambridge, 1965). He was a clerical justice who began as a clerk to Roger Thurkilby.

3:M95—Geoffrey de 'Maisi' owes one mark for right against Hugh de Polstead. Pipe Roll 7 Ric. I, i.e., D.M. Stenton (ed), *The Great Roll of the Pipe for the Seventh Year of the Reign of King Richard the First*, Pipe Roll Society [PRS] ns 6 (London 1929) 141.

3. Michaelmas, 1195. "Item about new promises through the archbishop of Canterbury: Geoffrey de 'Maisi' [? Mayfield, Sussex] owes one mark for right about four hides of land in Winterbourne [Winterbourne Stoke, Wilts]. And about a half a hide of land in Christian Malford [Wilts] against Hugh de Polstead." D.M. Stenton (ed), *The Great Roll of the Pipe for the Seventh Year of the Reign of King Richard the First*, PRS ns 6 (London 1929) 141.

> This is not from a plea roll, but from the Pipe Roll for Michaelmas 1195, a type of document at which we have already looked. Geoffrey de 'Maisi' owes one mark for right, which probably means a writ of right. against Hugh de Polstead.

4:P96—fine: G. de M. to hold of H. de P. Feet of Fines, 7 Ric. I, i.e., Feet of Fines of the Reign of Henry II and the First Seven Years of the Reign of Richard I, PRS 17 (London 1894) 112, no 126 (Wiltshire no 8).

4 May 1196. "This is a final concord made in the court of the lord king at Westminster on the Saturday after the Invention of the Holy Cross in the seventh year of the reign of King Richard before H[ubert] archbishop of Canterbury, R[ichard fitz Neal] of London, G[ilbert Glanvill] of Rochester, bishops, H[enry] of Canterbury, R[alph ?Foliot] of Hereford, R[ichard Barre] of Ely, archdeacons, G[eoffrey] fitz Peter, William de Warenne, Ric[hard] de Herriard, Osbert fitz Hervey, Simon de Pattishall, Thomas de Hurstbourne and other barons and faithful of the lord king then present, between Hugh de Polstead demandant and Geoffrey de 'Maisil'' tenant, about four hides of land with its appurtenances in Winterbourne and a half a hide of land with its appurtenances in Christian Malford which are of the fee of the abbot of Glastonbury about which there was a plea between them in the court of the lord king, to wit: that the same **Hugh de Polstead granted to the aforesaid Geoffrey de 'Maisil'' and his heirs all the aforesaid land with its appurtenances to hold of him and his heirs for the service of one knight. And for this grant and concord the aforesaid Geoffrey de 'Maisil'' gave forty marks of silver to the aforenamed Hugh de Polstead and did him homage for the aforesaid land**." *Feet of Fines of the Reign of Henry II and the First Seven Years of the Reign of Richard I*, PRS 17 (London 1894) 112, no 126 (Wiltshire no 8).

> This is also not a plea roll, but from a satellite series of documents known as 'fines', from Latin *finalis concordia* ('final concord'), which record what purport to be compromises of litigation in the court of Common Pleas. Each of the parties got a copy and the bottom, the 'foot' of the fine, was kept by the court. Very early on parties used this device when here was no real dispute. They pretended that there was in order to record in the court the record of a conveyance. That was almost certainly what was happening here.

6:M96—G. de M. pays. Pipe Roll, 8 Ric. I, i.e. D.M. Stenton (ed) *The Chancellor's Roll for the Eighth Year of the Reign of King Richard the First*, PRS ns 7 (London 1930).

6. Michaelmas, 1196. "Item about new promises through H[ubert] archbishop of Canterbury. The same sheriff [of Wilts] renders account of one mark from Geoffrey de 'Maisi' for right about four hides of land in Winterbourne. And about a half a hide of land in Christian Malford against Hugh de Polstead .... In the treasury three talleys. And he is quit." D.M. Stenton (ed) *The Chancellor's Roll for the Eighth Year of the Reign of King Richard the First*, PRS ns 7 (London 1930)

8:P98—H. de P. appoints H. de P. attorney. Plea Roll, 9 Ric. I, i.e., *Curia Regis Rolls* [CRR] 1 (Public Record Office, London [PRO] 1922) 52.

8. Easter, 1198. "Somerset. Hugh de Polstead puts his son Hugh in his place against the court of Glastonbury to gain or lose." *Curia Regis Rolls* [CRR] 1 (Public Record Office, London [PRO] 1922) 52.

But the case continues, now on the plea rolls.

9:P98—Four members of the court of Glastonbury to bear the record. Plea Roll, 9 Ric. I, i.e., id., 53.

9. Id. "A day is given to Gerard de 'Brohton'', Richard son of Robert, Geoffrey de 'Stawell'' and Hugh Travet who ought to bear record of the court of Glastonbury between Hugh de Polstead and Geoffrey 'del Meisi' on the octave of St. John [1 July], and let them come then and bear record, and let Geoffrey be summoned that he might be there then to hear that record." Id. 53.

Tentative conclusion: Hugh tries to sell land to Geoffrey and gets into trouble because he has bypassed his lord's court (the abbot of Glastonbury).

Image of the abbot's kitchen at Glastonbury

4. Compton (Surrey) and Chiddingfold

5:P96—fine: Walter de Windsor to H. de P. for Compton

5. 26 May 1196. "This is a final concord made in the court of the lord king at Westminster on the octave of St. Dunstan in the seventh year of King Richard before H[ubert Walter] archbishop of Canterbury, R[ichard fitz Neal] bishop of London, G[ilbert Glanvill] bishop of Rochester, R[ichard Barre] archdeacon of Ely, Master Thomas de Hurstbourne, Osbert fitz Hervey, Simon de Pattishall, Richard de Herriard, then justices, and other faithful men of the lord king then present, between Walter de Windsor [Berks] demandant and Hugh de Polstead and Cecilia his wife tenants about a fee of half a knight in Compton [Surrey] about which there was a plea between them in the aforesaid court, to wit: **that the aforesaid Walter quitclaimed all right and claim that he had in the aforesaid fee of half a knight for himself and his heirs to the aforesaid Hugh and Cecily and their heirs for ever, saving the claim of the same Walter or his heirs for the service of the aforesaid fee against William de Hastings [Sussex] or his heirs, if he or his heirs can deraign the service against the aforesaid William de Hastings or his heirs**. And for this final concord and quitclaim the aforesaid Hugh and Cecilia his wife give the aforesaid Walter thirty marks of silver." *Feet of Fines of the Reign of Henry II and the First Seven Years of the Reign of Richard I*, PRS 17 (London 1894) 150–1, no. 167 (Surrey no 3). (William de Hastings may = William de Windsor, see no 76.)

76. 1242 X 1243. Surrey. "Of the honour of William de Windsor. Hugh de Polstead [III] holds a half a knights fee in Compton of the same honour." *Id*. 2 (1923) 685. (This is a document connected with the great scutage raised in connection with Henry III's expedition to Gascony in 1242. The honour of William de Windsor was one-half of the honour of Eton [Bucks]. His father, also William, and his father's cousin Walter had divided the honour in 1198 after fifteen years in which the inheritance had been disputed. Walter's portion passed to his sisters Christiana and Gunnor in 1203, the latter of whom was married to ?Hugh I de Hosdeny. Thence it passed to Ralph I in 1203 and to Hugh II de Hosdeny in 1222. I. J. Sanders, English Baronies 116–17.)

32:M04—novel disseisin, C. de P. vs. Hugh de H., Chiddingfold

32. *Id*. "Surrey. The assize comes to recognize if Hugh de Horsley unjustly and without judgment disseised Cecilia de Polstead [widow of Hugh de Polstead I] of her free tenement in Chiddingfold [Surrey] within the assize. The jurors say that he thus disseised her. Judgment. Let her have her seisin, and Hugh is in mercy for the disseisin two and a half marks. Damage two and a half marks." CRR 3:235.

Hugh de Horsley cannot be firmly identified, but he is probably a tenant of Walter de Windsor claiming that Ceclia holds of him.

37:M05—Cecilia owes for her assize, Chiddingfold. Pipe Roll, 7 John, i.e. S. Smith (ed), *The Great Roll of the Pipe for the Seventh Year of the Reign of King John*, PRS ns 19 (London 1941) 155.

42:P06—Cecilia essoins against H. de H. plea of rent, R. de H. loses his court

42. Easter, 1206. Essoins probably for sickness in coming to court. "Surrey. Cecilia de Polstead against Hugh de Horsley about a plea of rent by Roger de 'Reindon''. To the day

after the octave of St. John [2 July] He has sworn. Ralph de ‘Hodeng’’ asks for his court about it. Let him not have court by consideration of the court.” D.M. Stenton (ed), *Pleas before the King or his Justices* [PKJ], Selden Society [SS] 67 (London 1953) 1:282, no 2082. See above no 76.

47:T06—R. de H. and D. de L. claim their court, Chiddingfold

47. Trinity, 1206. “Surrey. Ralph de ‘Hodeny’ and Duncan de ‘Lacell’’ asked for their court on the third day before the pleas in the suit which is between Hugh de Horsley and Cecilia de Polstead about the land of the Walds [probably in Chiddingfold, Surrey].” CRR 4:181.

48:T06—Hugh de W., writ of entry *dum infra aetatem*, Compton

48. *Id*. “Surrey. Hugh de Windsor demands against Cecilia de Polstead one hide of land with its appurtenances in ‘Witentre’ [probably in Compton, Surrey] into which she would not have had entry except through Walter and William de Windsor who gave it to her while the same Hugh was under age and in their custody. And she asks for a view of the land. A day is given in the octave of St. Michael [6 October].” CRR 4:207.

ASIDE: Bodleian Register R no. 780 (G. D. G. Hall (ed), *Early Registers of Writs*). “render to A. who is of full age, as it is said, ten acres of land with apppurtenances in N. into which the said B. has no entry save by G. to whom the aforesaid A. demised them while under age etc.”

53–54, 58, 64–65:M06, M07, P08–Various essoins and constitutions of attorney. Neither the Compton case nor the Chiddingfold case ends up in a judgment. We can probably tentatively conclude that Hugh and Cecilia got in trouble because they got their ticket from the wrong management.

53:M06—Cecilia essoins vs. H. de W. by her atty.

53. Michaelmas, 1206. Essoins for sickness in coming to court:. “Surrey. Ralph, attorney of Cecilia de Polstead against Hugh de Windsor about a plea of land by Ralph de Burnham. To two weeks after the octave of St. Michael [20 October]. He has sworn.” PKJ 3:298, no 2230.

54:M06—Cecilia brings in Michael clericus, Compton

54. Michaelmas, 1206. “Surrey. Hugh de Windsor demands against Cecilia de Polstead one hide of land with its appurtenances in ‘la Witretre’ as his right. And her attorney says that he [*sic*] does not hold that land but Michael the clerk holds it. And therefore he withdraws without a day.” CRR 4:241.

58:M07—Michael essoins, Compton

58. Michaelmas, 1207. Essoins for sickness in coming to court:. “Michael de Polstead against Hugh de Windsor about a plea of land by Ralph de ‘Slifeld’’. After the view. Two weeks after St. Hilary. He has sworn.” PKJ 4:37, no 2842.

64:P08—Michael and C. essoin, Wm. makes atty., Compton

64. Easter, 1208. Essoins for sickness in coming to court. “Surrey. Michael de Polstead against Hugh de Windsor in a plea of land by John de ‘Kendon’’. One month after Easter. He has sworn. The same day is given to Cecilia de Polstead by Roger her attorney. Hugh de Windsor puts in his place William de Horsley.” *Id*. 48, no 2938.

65:P08—Cecilia makes atty., warranty, Compton case ends

65. Easter, 1208. "Surrey. Cecilia de Polstead puts Roger de Polstead in her place against Hugh de Windsor about a plea of warranty of land and about a plea of two and a half marks silver." CRR 5:187.

Tentative conclusion: Hugh and Cecilia get in trouble because they got their ticket from the wrong management.

5. Burnham (abbreviated). This is a wonderful case for anyone who is interested in marital property.

15:P99—? covenant. The record is badly damaged but it suggests that that one Walter de Grancurt and Hugh son of Hugh de Polstead are litigating about a covenant that has something to do with a woman named Juliana. F. Palgrave (ed), *Rotuli curiae regis* [RotCR] 1 (Record Comm'n, London 1835) 394.

16:M99—suggests that the writ is *ostensurus quare* he made her a nun. "Hugh de Polstead [and Hugh his son essoin themselves] against Walter de Grancurt about a plea why he made his niece a nun by Robert son of Adam." PKJ 1:187, no. 2184.

The initial proceedings are not described in our extracts from *Glanvill*. Elsewhere he describes an action of covenant, which may be involved here. In entry 16 languge is used that will later be found in the writ of trespass, but that does not appear formally until the middle of the 13th century. The archbishop of Canterbury, mentioned in entry 18, was Hubert Walter, who was also chief justiciar until 1198.

18:M99—Walter G. tells his story. "Walter de Grancurt complains that Hugh de Polstead, when Juliana his neice [the word can also mean granddaughter, but that doesn't make any sense considering what follows] and his heir was in the custody of the same Hugh by the lord of Canterbury and he before him and the other justices faithfully promised that he would not marry her without the assent of this Walter and of his progeny, he [Hugh] of his own will made her a nun unjustly. Hugh came and defended that she was never made a nun by him but he says that the steward of the count of Perche [Normandy], as is said, sent for her to his house, and he doesn't know what he did with her. Walter says that this Hugh against the will of the same Juliana and while she was under age made her take up the habit of religion so that he might obtain the portion of the inheritance of this Juliana along with her first born sister whom he took to wife. Hugh proffered a charter of the count of Perche and of M[____] his countess which testified that they had given the same Hugh Avis the first-born with her inheritance and that this Juliana before this count and countess and many others asked if she could with their permission take up the habit of religion. And Walter says that this could not be because she never crossed [the Channel] nor spoke with the count or the countess. A day was given, one month after St. Hilary [13 February] to hear their judgment." RotCR 2:126–7.

"M[____]," countess of Perche, is Matilda, the neice of Richard I, the daughter of his older sister (also Matilda) and Henry the Lion, duke of Saxony.[4]

[4] See K. Thompson, "Matilda, countess of the Perche (1171-1210)," *Tabularia* (2003) http://www.unicaen.fr/mrsh/craham/revue/tabularia/print.php?dossier=dossier3&file=01thompson.xml.

20–24:HPM00—Juliana appears, suggesting that she is out of the convent; various essoins and constitutions of attorneys and the case fizzles out.
The five entries suggest that there are probably at least three lawsuits going on here: Walter (with Juliana) v. Hugh (father and son). Juliana v. Hugh and Avis. The count of Perche v. Walter (about the wardship 'custody'). The plea rolls are virtually complete for the next six years, but nothing appears on them until:

39–41:P06—Hugh de P. wins a novel disseisin brought against him by William de G., but a case brought by William and his wife Juliana against him continues

40. "The assize comes to recognize if Hugh de Polstead unjustly and without judgment disseised William de Gimingham of his free tenement at Burnham within the assize. The jurors say that he did not disseise. Judgment. William is in mercy for a false claim." CRR 4:124.

This is, of course, the assize of novel disseisin, described in *Glanvill* on p. IV-29 ff.

41. "Hugh de Polstead [and Avis his wife] essoin themselves [with regard to the matter] that is before the king against William de Gimingham and Juliana his wife about a plea of land … ."

45–6:P06—More of the story comes out; the parties have paid for a special jury to be taken on the question whether Walter de G. "intruded" himself on the land at the time of the death of Ascelina de Candos; the jury says that he did. The writ here is a variant of the assize of mort d'ancestor, described in *Glanvill* on p. IV–24 ff.

45. "Hugh de Polstead and Avis his wife by Hugh de 'Ylleg'' demand against Walter de Grant Curt one carucate of land with its appurtenances in Burnham, of which Ascelina de Candos, whose daughter and heir the aforesaid Avis is, died seised as of her *maritagium* given by William de Grancurt and in which he intruded himself by force and arms while Ascelina lay in the infirmity of which she died, and he held it thus violently after her decease and by that intrusion he took from it chattels which were on that land to the value of twenty marks, and that Ascelina thus died seised of that land as of her maritagium and that Walter so intruded himself in that land he [sic] offers to deraign by consideration of the court. And Walter defends his right, and he says that Avis has a sister who is not named in the writ and therefore he does not wish to reply without her unless the court shall have considered, and since there was mention in the writ of intrusion and he does not know if the sister wanted to follow. It was considered that he reply because Hugh and Avis offer the lord king forty shillings for having a jury by lawful men [on the question] whether this Ascelina died seised of that land as of a maritagium given her by the aforesaid William and whether this William [?sic] intruded himself in that land by force and while she lay in the infirmity of which she died, or not, and the offering is received. And Walter offers forty shillings for the same … and let William de Gimingham [Norfolk] and Juliana his wife, the sister of the aforesaid Avis be summoned to come to follow the jury if they will. … ." CRR 4.

46. "The jury comes to recognize if Ascelina de Candos, mother of Avis, wife of Hugh de Polstead, was seised on the day on which she died of one carucate of land with its appurtenances in Burnham as of her *maritagium* which was given to her by William de Grancurt, father of the aforesaid Ascelina, and if Walter de Grancurt with force and arms intruded himself on that land while this Ascelina was in her sickness of which she died and though tha**t intrusion** remained on that land after the decease of this Ascelina. **The jurors say**

> **that William de Grancurt gave the aforesaid land to Hugh de Candos in *maritagium* with the aforesaid Ascelina, and she held that land as her *maritagium* all her life; and while she lay in her infirmity of which she died, fifteen days before her death Walter came with a multitude of people and put himself on that land and thus he held it from then to now. It was considered that Hugh de Polstead and Avis his wife and William de Gimingham and Juliana his wife have seisin of that land of which Avis and Juliana are the heirs of this Ascelina. And Walter is in mercy.**"

Maritagium took various forms, but the version involved here was probably a grant to a husband and his wife for their joint lives with a remainder for life in the survivor and the inheritance passing to the heirs of the marriage. The issue here may be whether the inheritance would pass to the children of the couple when they had only daughters or would return to the wife's family from whence it had come.

> 49–52:TM06—Various essoins and constitutions of attorney. What's going on is not totally clear, but what is clear is that the two sisters are suing each other joined by their husbands. Wm. and Juliana then attempt to raise the ante by bringing an attaint proceeding against the jury.
>
> 52. "A day is given to William de Gimingham and Juliana his wife by their attorney and to Hugh de Polstead about a plea of rent and about a jury for convicting the twelve on the octave of St. Hilary by the request of the parties. And let it be known that all twenty-four are to be attached. And Hugh removed his attorney and wishes to prosecute in his own person." CRR 4:230.
>
> 55:H07–the countess of Perche demands her court
>
> 55. "The countess of Perche demands her court by William 'Pachche' her bailiff on Thursday before the octave of St. Hilary [18 January] about the suit between William de Gimingham and Juliana his wife demandants and Hugh de Polstead and Avis his wife tenants about land in Burnham." CRR 5:1.
>
> 56, 59–63:HM07, P08—various essoins
>
> 66-70, ET08, P09—various proceedings leading to the compromise
>
> 71:P09–Compromise
>
> Tentative conclusion: The marriage settlement goes awry because the lord's arrangements for Juliana cannot be enforced after the break with Normandy in 1204.
>
> All of this looks as if we're talking about horizontal relationships, two sisters and their husbands squabbling. There are more than hints of vertical relationships upward in the previous generation and involving the count of Perche and the Grancurts, but nothing to suggest that anything is going on below the tenurial level of the litigants. That that is not true, however, is apparent when we come to no. 71.
>
> It looks as if it is organized (1) free tenants, (2) unfree tenants, (3) demesne lands, (4) incorporeal rights (advowsons, markets, mills). Here's the summary:

(1) Doubling the number of free tenants, we get thirty free tenants, who owe £1 8s, presumably annually, in service. Some of them are also responsible for varying proportion of the scutage levied, presumably on their land, ranging all the way from 75% to 1%.

(2) Doubling what's listed in the fine, it looks like we get roughly sixty unfree peasant householders.

(3) The demesne adds up to roughly 50 separate parcels of land, which are probably to be added to the 40 acres first mentioned, which, in turn, is probably half of the main demesne of the manor. Few acreages are given, so estimates of total size are speculative. We are probably dealing with roughly 200 to 400 acres of demesne.

(4) The advowsons of 2 churches, 2 mills, ½ a market, and some water rights.

At the end of the fine William and Juliana exchange one named unfree peasant household for another named unfree peasant household that Hugh and Avis have, and both agree that they can repair each others' mills and take the costs of repair out of the profits of the mills.

6. The Boxford case (abbreviated)

36:P05—John orders the suit postponed, previously the bp. of Norwich had claimed his court, this is the kind of thing we'll be talking about when we get to Magna Carta.

III. CONCLUSION

The evidence that supports the Milsom thesis is *Glanvill* and the plea rolls. *Glanvill* tells us how important the jurisdiction of the lord is, and the plea rolls tell us that we ignore the lord at our peril.