

# MICHAEL HICKS

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## RICHARD III AND HIS RIVALS

Magnates and their Motives  
in the Wars of the Roses

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MAGNATES AND THEIR MOTIVES

IN THE WAR OF THE ROSES

MICHAEL HICKS

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## Introduction

This volume collects twenty-three papers on late medieval English history published during the last twelve years and researched in the last twenty. They are all products of the school of history founded by the late K.B. McFarlane. I was too young to know the Master in person, but his teachings were passed to me by his pupils C.D. Ross, T.B. Pugh and J.R.L. Highfield, and by his friend and colleague C.A.J. Armstrong.

My inchoate interests first settled on late medieval England in 1969-70, when I took the Bristol University Special Subject on Yorkist and Early Tudor England 1471-1501 conducted by Dr Ross. Then Reader and subsequently Professor of Medieval History, Charles Ross was the outstanding Yorkist historian of his generation and later the author of the (still) standard biographies *Edward IV* (1974) and *Richard III* (1981). He encouraged my natural biographical bent and focused my attention on the Yorkists. He also referred me to his co-author T.B. Pugh at Southampton, who reinforced my scholarly method and my appreciation of McFarlane's approach to the late medieval nobility. It was my Southampton University M.A. dissertation on the 4th Earl of Northumberland,<sup>1</sup> supervised by Pugh and examined by Ross, that awoke those interests in the North, bastard feudalism, and arbitration that have since proved so fruitful. At Oxford my D.Phil. thesis on the Yorkist prince George, Duke of Clarence, was supervised by John Armstrong, who was and is unique for his expertise both on Richard III and on continental sources.<sup>2</sup> The thesis was in the McFarlane tradition of extensive archival research, in the location of its subject within his estates, income, and local roots, and in the detailed political narrative from the point of view of the opposition. Clarence's career was always intended as the book duly published in 1980,<sup>3</sup> but I then considered it secondary to, and a vehicle for, the

<sup>1</sup> 'The career of Henry Percy, Fourth Earl of Northumberland, with special reference to his retinue' (Southampton University M.A. dissertation 1971).

<sup>2</sup> 'The Career of George Plantagenet, Duke of Clarence, 1449-78' (Oxford D. Phil. thesis 1975).

<sup>3</sup> *False, Fleeting, Perjur'd Clarence: George Duke of Clarence, 1449-78* (Alan Sutton Publishing, Gloucester, 1980).

exploration of bastard feudalism: how retinues were formed; how they died; whether the Wars of the Roses marked a stage in their death; and the role of arbitration.

Following my thesis, I worked in turn for the Victoria County History of Middlesex (1974-8) and at King Alfred's College, Winchester. These posts gave me less time for my own research, little opportunity to teach my chosen field, no opportunity to supervise theses, and no incentive to keep up-to-date with publications on medieval Europe. On a more positive note, they developed my interests in other ways: into local and regional history stretching up to the present; into the early modern economy and society; into religious history; and into historiography. These new areas of strength have shaped increasingly the articles collected here. And it was the demands of other work, the limitations of time, and the need for attainable targets that directed my publications into the case-studies that have suited me so well.

Initially the transition from full-time research into full-time employment curtailed my original work. My evenings were fully occupied in writing up my Southampton dissertation and my Oxford thesis for publication. My first published article, in fact, was a seventeenth-century Middlesex lawsuit,<sup>4</sup> but there followed my monograph *False, Fleeting, Perjur'd Clarence* (1980), which gave rise to an entertaining debate in *The Ricardian*;<sup>5</sup> an article on the 4th Earl of Northumberland (ch. 21); and three papers on the Warwick Inheritance (chs. 18 and 19). 1979-80 was a first *annus mirabilis*. My rebellious urges to do something new resulted in papers on Sir Thomas Cook (ch. 23) and on the Wydevilles (ch. 11). The latter was written for the Bristol symposium of 1978 and distracted me from bastard feudalism for a temporary period that grew to ten years. Charles Ross had encouraged me to develop my work on bastard feudalism, offering me – as he offered other members of the Bristol Connection – the advantage and support of his co-authorship of what he envisaged as a single paper on the topic and I always thought would be several. Much research and a considerable amount of writing was done before the call of the Wydevilles took precedence. At a time when I did not expect to return to the field of bastard feudalism, I revised the ten-year old section on Clarence's arbitration and good lordship from my thesis, which was published in 1983 (ch. 7). Once ahead of its time, it now coincided with three other papers on arbitration, but still contained much that is new.

<sup>4</sup> 'Draper v. Crowther: The Prebend of Brownswood Dispute 1664-92', *Transactions of the London and Middlesex Archaeological Society* xxviii (1977).

<sup>5</sup> M.A. Hicks, 'The Middle Brother: "False, Fleeting, Perjur'd Clarence"', *The Ricardian* 72 (1981); I. Wigram, 'Clarence Still Perjur'd', *ibid.* 73 (1981); M.A. Hicks, 'Clarence's Calumniator Corrected', *ibid.* 74 (1981); I. Wigram, 'Clarence and Richard' and M.A. Hicks 'Richard and Clarence', *ibid.* 76 (1982).

The next substantial piece of work was the paper on 'Attainder, Resumption, and Coercion' (ch. 3), which again developed an important theme from my thesis, but involved much new research. It was complemented by the paper on the Duke of Somerset (ch. 8), which arose from the chance find of a lost act of parliament. The themes of treason, resumption, and attainder have recurred in subsequent work.

But when the opportunity recurred in the early 1980s for further research, the topic chosen was Richard III, Clarence's brother. It was logical to build on my knowledge of him as Duke of Gloucester: I had already discussed his relations with Clarence, with Northumberland, and the Warwick inheritance. Starting with his career as duke, I developed his relations with the de Veres and the Hungerfords in four items below (chs. 5-6, 8 and 9). The papers on Romsey, the Duke of Bedford, and MS Cotton Julius BXII were staging posts along the way (chs. 17, 15 and 14). What was most needed was the opportunity to study in the north again, which came in Lent term 1984 as Borthwick Visiting Fellow at the University of York. There I researched and prepared a new synthesis of Richard III's ducal career (ch. 13). There too, among other things, I completed my work on the Yorkshire Rebellion of 1489 begun in my Southampton dissertation, but now informed by a knowledge of early modern popular rebellions (ch. 22). More than half the papers reprinted in this book touch on Richard, mainly from the vantage of those rivals, who suffered at his hands. They culminate in the book to be published this year,<sup>6</sup> but even then I expect to have more to say.

It was research into Richard III that led me to the Hungerfords. It was my desire for a local topic of research that prompted me to investigate the Hungerford cartulary at Taunton. It was my Special Subject on the Secular Church in the Age of Wyclif that made me appreciate the gold represented by the chantry deeds it contained. It was a sudden, quite unexpected, revelation – perhaps the only moment of that kind that I have experienced. Quite unexpectedly, I realised how intensely personal were the church services prescribed by founders and appreciated how, set in their liturgical context, they revealed the secrets of their author's pious understanding, preferences, and even personality. They offered an insight into late medieval lay piety. This was the message of the paper on the 'Piety of Margaret Lady Hungerford' (ch. 5) and on other papers written at the same time, several of which, such as those on her father-in-law and on the Minoresses, have since been published.<sup>7</sup> Further research

<sup>6</sup> *Richard III: The Man Behind the Myth* (Collins and Brown, London, 1991).

<sup>7</sup> 'Walter Lord Hungerford (d. 1449) and his Chantry in Salisbury Cathedral', *Hatcher Review* xxviii (1989); 'The English Minoresses and their Early Benefactors, 1281-1367', *Monastic Studies: The Continuity of the Tradition*, ed. J. Loades (Headstart Publications, Bangor 1990). 'Four Studies in Conventional Piety', also first written in 1983-4, if forthcoming in *Southern History* xiii (1991).

uncovered the fragments of a truly exceptional archive: at Trowbridge and Devizes; San Marino in California; the Public Record Office; and Sheffield. Four other papers followed. There is scope for more.

As befits a pupil of McFarlane, my early work interpreted the actions of the nobility in purely material terms. Self-interest, self-advantage, and self-preservation featured largely; ideological considerations and the principles that manifestoes appealed to were disregarded as mere propaganda and lip-service. It was a cynical view of a cynical and self-seeking world. By 1984 I had published papers on good lordship and dynasticism, demonstrating how such ideals actually did influence medieval magnates in practice, and others were in preparation on the impact of moral obligation (honour), piety, and lineage on the politics of the Wars of the Roses (ch. 7). Yet I did not recognize what I was doing. It was Professor Dobson, then at York University, who revealed that I was putting the human face back into the fifteenth century and prompted me to make an overall assessment of the role of idealism in late medieval English politics into a major aim. It was a big project that called for further research and much thought. In the meantime priority had to be given to two books: *Who's Who in Late Medieval England, 1272-1485* and to my edition of the papers of the 1987 conference on Recent Research in Fifteenth-Century England, both completed in 1988 and published in 1990-1.<sup>8</sup> Non-material or intangible motivation coloured the biographies of the former and formed a section of the introduction of the latter. Only my study leave in Lent term 1989 permitted a fuller exploration of political idealism in the fifteenth century that is published below (ch. 2). It coincides with the complementary paper of Dr Powell.<sup>9</sup> It treats not just explicit ideals *per se*, but unconscious assumptions, conventions, and the role of propaganda in exploiting shared principles and expectations. The latter are explored at greater length in my *Richard III*.

Always in the background, but apparently unattainable, was a full scale study of bastard feudalism. Charles Ross did not revive our project after 1978 and Dr Harriss's proposal for a co-operative paper by myself and Dr Carpenter foundered on our incompatible points of view. At intervals my interest was revived: for my paper on good lordship; by reviews of new books; by papers that ignored or contradicted my own work; and by my own false starts, notably papers on Lord Hastings that did not get off the ground. The field was developing apace and not in directions of which I could approve. In the 1970s Charles Ross and myself had four simple aims: to demonstrate that McFarlane's interpretation

<sup>8</sup> *Who's Who in Late Medieval England, 1272-1485* (Shepherd-Walwyn, London, 1991); *Profit, Piety, and the Professions in Later Medieval England* (Alan Sutton, Gloucester, 1990).

<sup>9</sup> E. Powell 'McFarlane's Century and the Poverty of Patronage: A Plea for Constitutional History', Manchester Conference Proceedings, ed. R.G. Davies (Alan Sutton, Gloucester, forthcoming).

had superseded rather than refuted those of his predecessors, which still had much to offer; to connect the thirteenth century situation with that of the sixteenth; to reveal bastard feudalism as a social cement as well as a source of disharmony; and to refute the alleged responsibility of bastard feudalism for the breakdown of order and the Wars of the Roses associated with Professors Storey and Bellamy. There were three contradictory and incompatible schools of thought by the late '80s and all appeared to me to be wrong. All exalted material motivation to the point where ideas had no meaning, all employed evidence in an exclusive way that disregarded its limitations, and all postulated a conflict model of society that I could not recognize. They were dangerous distortions which, I recognized increasingly, needed correction before they were accepted. Their incompatibilities needed to be exposed and their more glaring errors indicated, so that future scholarship could proceed from sounder ground in more profitable directions. This was the work of three papers, two first published below (chs. 1, 12) and another on the 1468 Statute of Livery elsewhere.<sup>10</sup> The paper on idealism (ch. 2) is complementary and is an ingredient in future interpretations yet to be devised. *Bastard Feudalism* is to be my next book.

From simple beginnings a complex web of interests has developed. My work still features my original themes of inheritance, patronage, coercion, treason and loyalty, my earlier expertise in estate documentation and judicial records, my initial emphasis on the interconnection of national and local politics, and my reliance on the biographical mode. On to them now has been grafted an interest in piety and expertise in the liturgy, a faith in idealism and a search for explicit expressions of motivation, and a sense of a more socially diffuse political nation. Motives are more complex. Explanations are multi-thematic and are often distinctively medieval. The understanding of personal piety is a vehicle for understanding political motivation. Politics remains the objective, but it is a politics of wider significance than the mere defence of essential interests or personal self-advancement that interested me when I started. Those earlier essays listed here are not wrong. The themes they explored did matter, idealism did not always override material motives, and the sources seldom survive. But they did not consider the full range of possibilities.

This book collects my more important papers on late medieval England of the last decade. Some of purely ephemeral interest have been omitted.<sup>11</sup>

<sup>10</sup> 'The 1468 Statute of Livery', *Historical Research* lxiv (1991).

<sup>11</sup> See note 5 above; 'The Warwick Inheritance – Springboard to the Throne', *The Ricardian* 81 (1983); 'Did Edward V Outlive his Reign or did he Outreign his Life?', *ibid.* 108 (1990); 'Landlady Sells Up. Businessman becomes Country Gent. The Sale of the Botreaux Lands in Hampshire in the 1460s'. *Hampshire Field Club Newsletter* new series 5 (1986); 'An Intermittent Abbot of Quarr', *ibid.* 6 (1986).

Two have been published elsewhere.<sup>12</sup> Those on topics after 1500 fall outside the scope of the volume.<sup>13</sup> What is collected here has a natural unity. They proceed from a single mind, they are interrelated, and they often cite one another. They focus on a single period – the late fifteenth century – and a single individual, Richard III, features in most of them. Yet he is seldom the focus. This is a book about the political system and localities that he knew, the ideas that he shared, and predominantly about those he strove against. Almost all these papers focus on *Richard III and his Rivals*.

The debts accumulated over twenty years are enormous. My supervisors' assistance cannot easily be measured. I owe much to the Bristol Connection, especially Professor Ralph Griffiths, Dr Tony Pollard, Miss Margaret Condon and Dr Michael K. Jones. Professor Barrie Dobson, Dr Gerald Harriss and Dr Carole Rawcliffe have been a constant source of encouragement. A range of editors have contributed to the refinement of these papers and it is the kindness of Mr Martin Sheppard that has enabled them to be reprinted. King Alfred's College has twice allowed me study leave. My children have put up with a lot. But this book must be dedicated to my wife Cynthia who has read, heard, and proof-read successive variants of each paper and suffered all the other personal inconveniences that accompany spare-time authorship conducted in the home and from our private income. Without her tolerance and support, these papers would not exist to be collected.

Michael Hicks  
April 1991

<sup>12</sup> See notes 7 & 10 above.

<sup>13</sup> For the most important, see note 4 above; 'John Nettleton, Henry Savile of Banke, and the Post-Medieval Vicissitudes of Byland Abbey Library', *Northern History* xxvi (1990); 'Lessor v Lessee: Nether Wallop Rectory 1700-1870', *Proceedings of the Hampshire Field Club and Archaeological Society* xlv (1990).

*Bastard Feudalism: Society and Politics in  
Fifteenth-Century England*

‘Modern study of England’s history in the later middle ages lost its founding genius with the death of K.B. McFarlane in 1966’, writes Professor R.L. Storey.<sup>1</sup> For Dr Richmond, ‘the fifteenth century is McFarlane’s century. It will be so for longer than the sixteenth century was Tawney’s’.<sup>2</sup> Many other tributes to his influence can be collected.<sup>3</sup> In 1978 there was a conference of McFarlane’s pupils and their pupils ‘even unto the third generation’ and in 1982 Dr Richmond felt obliged to include McFarlane’s name in his first paragraph.<sup>4</sup> And when discrepancies were found between his work and that of McFarlane, a professor of late medieval history, no less, retracted his offending views.<sup>5</sup>

What a cosy unanimity there is about ‘McFarlane’s century’! Most scholars are his pupils or grand-pupils, all acknowledge his influence, and all cite his work. The master’s influence over his devotees compares to that of Karl Marx or Chairman Mao. Or does it? His blessing is claimed for many different enterprises: the study of noble families, of individual kings, noblemen or gentry, of gentry societies, crime, central government, and war. His own work was just as varied and not all he wrote was right. It evolved and changed. Towards the end he was moving, we are told,

<sup>1</sup> R.L. Storey, *The End of the House of Lancaster* (2nd edn Gloucester 1986), vii. The late Professor Charles Ross suggested this project and kindly criticised my earlier drafts of what was to have been a joint article. My principal debt is to him. P.R. Coss, ‘Bastard Feudalism Revisited’, *Past and Present* 125 (1990), 27-64, which is relevant to the 13th and 14th centuries.

<sup>2</sup> C. Richmond, ‘After McFarlane’, *History* lxxviii (1983), 46.

<sup>3</sup> E.g. M.A. Hicks, ‘Restraint, Mediation and Private Justice: George, Duke of Clarence as “Good Lord”’, below, p. 133; C. Given-Wilson, *The English Nobility in the Later Middle Ages* (1987), x; M.C. Carpenter, ‘Law, Justice and Landowners in Late Medieval England’, *L[aw] and H[istory] [Review]* i (1983), 205n; J.G. Bellamy, *Bastard Feudalism and the Law* (1989), 1-2, E. Powell, *Kingship, Law and Society: Criminal Justice in the Reign of Henry V* (Oxford 1989), 2-4.

<sup>4</sup> *Patronage, Pedigree and Power in Later Medieval England*, ed C.D. Ross (Gloucester 1979), 8; *The Church, Politics, and Patronage in Later Medieval England*, ed R.B. Dobson (Gloucester 1984).

<sup>5</sup> Storey, loc cit, x, citing his ‘Bastard Feudalism Revisited’, *B[ulletin of the] M[anorial] S[ociety of Great Britain]* iii (1983), 7-15.



towards a new synthesis,<sup>6</sup> one decidedly different from his seminal beginnings, one inevitably rejecting some earlier conclusions. There was only one McFarlane, but his legacy reflects different stages in his work and different preoccupations. He left no definitive work, no *Das Kapital* or Little Red Book, to which we can all appeal.

Everybody does appeal, of course, but to different parts of his work, sometimes perhaps genuinely inspired, often, no doubt, to find the clincher for a case already formulated. All do not agree. Each scholar ploughs a lonely furrow, building patterns from recalcitrant evidence, citing those of like mind and McFarlane, ignoring those who disagree. Claiming McFarlane's blessing is a game all can play. Surveys of the post-McFarlane scene and manifestos for the future are contradictory,<sup>7</sup> but there has been no debate, for late medievalists do not wish to sour their social harmony with Early Tudor acrimony. There is, in fact, no consensus about premises, methodology, and hence conclusions, and thus the impressive corpus of publications is not altogether compatible. Differences need to be confronted, not because there is a right or a wrong answer, not to impose a new orthodoxy or a correct reading of the master, but better to appreciate the range of insights and methods and to understand more fully their implications.

McFarlane ranged widely across three centuries, England and France, politics, government, economy, society, religion, and much else besides. But his work can be narrowed down to a central core: the fifteenth century and politics and within that bastard feudalism,<sup>8</sup> the bond between lord and retainer, which introduces (as Dr Harriss realised) his other work and from which his most celebrated contributions sprang.<sup>9</sup> Certain aspects of bastard feudalism, such as its origins and demise, regulation by statute, parliamentary representation, arbitration, and recruitment for foreign war, are subsidiary to this main theme, possess their own copious literature, and have been excluded here. McFarlane's essays of 1943-5 marked a new beginning and superseded all that went before, but if McFarlane himself questioned that earlier work, so too should we. This essay looks first therefore to what went *before* McFarlane; to the work of McFarlane and others in his own lifetime; and then focuses on three approaches since his day associated with Professors Storey and Bellamy;

<sup>6</sup> K.B. McFarlane, *The Nobility of Later Medieval England* (Oxford 1973), xxix.

<sup>7</sup> M.C. Carpenter, 'The Duke of Clarence and the Midlands: A Study in the Interplay of Local and National Politics', *Midland History* xi (1986), 23-6; Given-Wilson, *op cit*; G.L. Harriss 'Introduction' in K.B. McFarlane, *England in the Fifteenth Century* (1981), ix-xxvii; C. Richmond, '1485 and All That, or what was going on at the Battle of Bosworth?', *Richard III: Loyalty, Lordship and Law*, ed P.W. Hammond (1986), 172-206; Richmond, *History* lxxviii 46-60; Storey, *BMS* iii 7-15; Powell, *Kingship*, 4-9.

<sup>8</sup> Richmond, *History* lxxviii 46.

<sup>9</sup> Harriss, *op cit* ix.

the county community school; and Dr Richmond. Each offers a radically different model not just of bastard feudalism, but of the social and political systems within which it operated. The intention is to distinguish their approaches and methods and to point out some pitfalls and incompatibilities. That many other scholars are omitted here, perhaps regrettably, is not to undervalue their work. Space is a factor, but their work is omitted (rather than overlooked) principally because this essay focuses on those propagating new methods and approaches or, at least, novel interpretations of McFarlane. The conclusion draws the threads together and seeks a sound basis for future advance and debate.

It is a commonplace that sixteenth-century historians deplored the civil war, noble faction, and general disorder of late medieval England and credited the Tudors with eradicating them. This perspective was retained by subsequent historians and coloured even the work of the professional academics of the 1870s and '80s:

Another main cause of the paralysis of the government was the overgrown power and insubordination of the nobles . . . The reign of Edward III . . . saw the beginning of that bastard feudalism which, in place of the primitive relation of lord and tenants, surrounded the great man with a horde of retainers, who wore his livery and fought his battles . . . while he in turn maintained their quarrels and shielded their crimes from punishment.<sup>10</sup>

Thus runs Charles Plummer's celebrated denunciation of 1885. But Plummer, although the first begetter of the label bastard feudalism, did not originate the interpretation, which he shared with such other principled Victorian churchmen as J.R. Green, William Denton and William Stubbs. By offending against the Whig tradition of England's orderly progression towards parliamentary democracy and the rule of law, bastard feudalism naturally attracted their moral disapprobation, which was nevertheless soundly based on such contemporary sources as the works of Sir John Fortescue, the statutes, and, above all, the Paston Letters. James Gairdner's edition of 1872 included not just the letters and a factual commentary, suggestive in themselves, but an introduction to 'Social Aspects of the Wars of the Roses'. He did not denounce bastard feudalism nor make it responsible for the Wars of the Roses, but he did identify it as a necessary precondition:

At no time in England's history was there a stronger feeling of the needful subordination of different parts of society to each other; but under a king incapable of governing this feeling became a curse, not a blessing . . . That civil

<sup>10</sup> J. Fortescue, *Governance of England*, ed C. Plummer (1885), 14-16.

war should have broken out in a state of society like this need occasion no surprise. The enormous retinues of feudal noblemen were in themselves sufficiently dangerous to the peace of the kingdom, and when the sense of feudal obligation to the sovereign was impaired, the issue could not be doubtful.

A magnate like Warwick, who lavishly feasted all-comers:

had no difficulty in obtaining friends to fight for him in the day of battle. He maintained, in fact, what might be called a little standing army at all times, and if an emergency arose, doubtless many who had dined at his table would flock to his standard and take his wages.

Henry VII curbed abuse by executing rivals and prosecuting retainers.<sup>11</sup>

Gairdner had said enough. There followed in 1878 a brief comment by Green and a massive contribution by Stubbs drawing on a wider range of sources. If feudalism itself had died, a nobleman nevertheless maintained his lifestyle and power with cash:

he could . . . support a vast household of men armed and liveried as servants, a retinue of pomp and splendour, but ready for any opportunity of disturbances; he could bring them to the assizes, to impress the judges, or to parliament, to overawe the king.

They backed him by force and law. Chivalry, so Stubbs thought, encouraged his pomp and display, prompted him to scatter his livery and protect recipients against violence and justice alike. Maintenance increased, for liveries gave 'effective security to the malefactor' and 'became badges of the great factions of the court, and the uniform, so to speak, in which the wars of the fifteenth century were fought'. Livery connected two evils, maintenance and dynastic faction, and was eradicated not just by legislation but by enforcement in Star Chamber.

Stubbs broke much new ground with this impressive synthesis. He recognised good lordship as 'a revival, if not a survival, of the ancient practice by which every man was to have a lord, and every lord was to represent his men or be answerable for them in the courts'. He saw that Edward III's indenture system was applied to domestic strife, that the system could promote cohesion between nobility and gentry, and that retainer could subordinate the parliamentary Commons to their Lords. He criticised households inflated beyond functional need and remarked the co-existence of indenture of retainer, of livery and household, of

<sup>11</sup> *The Paston Letters, 1422-1509*, ed J. Gairdner (3 vols 1872-5), iii lxiv-v. Gairdner says almost nothing on the subject in his *Houses of Lancaster and York* (1874).

payment for service and lordship. By coupling 'livery and maintenance', he blamed the former for the latter.<sup>12</sup>

Stubbs touched on almost every aspect of bastard feudalism investigated since. His contemporaries Denton and Plummer added a few refinements: the manpower of the Wars of the Roses came from disgruntled French veterans, the wars themselves arose from the escalation of private feuds among the nobility, and bastard feudalism itself developed over time.<sup>13</sup> For seventy years, however, most historians were content to repeat Stubbs' interpretation and saw no need for the thorough institutional study that feudalism had received or for detailed investigation of bastard feudalism's effects on domestic politics and justice. Attention moved instead to parliamentary representation and warfare abroad: areas strictly irrelevant to this essay, but which influenced the themes it treats.

Military history brought out the central importance of the indenture of retainer. Most important in the armies of the Wars of the Roses, according to Professor Oman, were those:

men gathered under the system of 'Livery and Maintenance' . . . knights and esquires of a district bound themselves, by written agreement, to some great neighbouring lord to espouse his quarrels in every place from the lawcourt to the battlefield.

Professor Prince was yet more emphatic:

the practice of Livery and Maintenance, with its uses and abuses, was based upon and derived from, the Indenture organization. It is hardly an exaggeration to aver that the indenture system was mainly responsible for the English triumphs (and defeats) in the Hundred Years' War and subsequently for the Wars of the Roses.

And in 1945 Professor Lewis's meticulous analysis of surviving indentures illuminated such contracts in detail.<sup>14</sup>

Miss Helen Cam switched the focus firmly back to peace-time politics

<sup>12</sup> W. Stubbs, *Constitutional History of England in the Middle Ages* (3 vols 1874-8) iii, 304-5, 573-88, 591. For the impact of the Paston Letters on Stubbs, see *Letters of William Stubbs, Bishop of Oxford, 1825-1901*, ed W.H. Hutton (1904), Stubbs to Freeman 3 January 1877. For Green's similar interpretation, see J.R. Green, *History of the English People* (4 vols 1877-80), ii 16-17.

<sup>13</sup> W. Denton, *England in the Fifteenth Century* (1888), 274-306; Plummer, 14-19.

<sup>14</sup> C. Oman, *History of the Art of War in the Middle Ages* (2 vols 2nd edn 1924), ii 407; A.E. Prince, 'The Indenture System under Edward III', *Historical Essays in Honour of James Tait*, ed J.G. Edwards, V.H. Galbraith & E.F. Jacob (1933), 283; N.B. Lewis, 'The Organisation of Indentured Retinues in Fourteenth Century England', *Transactions of the Royal Historical Society* 4th ser xxvii (1945), 29-39.

and the control of local government and justice. For her the corruption of the late medieval legal system arose from the retainer by lords of its officers – sheriffs, judges, jurors, JPs – who manipulated it for their lords. Lords bought up retainers, who willingly perverted justice or fought for them, so that the nobility, in effect, took over royal administration and exercised authority through it.

If this be called feudalism, it is a parasitic institution, deriving its strength from an institution hostile to itself, cut off from its natural roots in the soil, and far removed from the atmosphere of responsibility, loyalty and faith which had characterised the relationship of lord and vassal.

The parasite was scotched by the Tudors, who confiscated noble estates and prosecuted retainers in Star Chamber.<sup>15</sup>

Cam's paper of 1940 was thus the first major re-appraisal of Stubbs' work and tended to vindicate it. Others were actively studying aspects of the subject, H.G. Richardson and Lewis as well as the young McFarlane, and there was a not unimpressive record of publications on the subject. These have been neglected for the past forty years because outdated and superseded by McFarlane, but it is doubtful whether this is wholly justified. These early writers were considerable scholars and particularly well-versed in the literary sources we neglect today for records. McFarlane was the product of this tradition, the master of both literary *and* record sources. He drew extensively on and adapted what they had done, and subsequent writers, perhaps unconsciously, have covered much of the same ground. Moreover McFarlane did not *refute* what went before, he offered an alternative – an alternative that has been *preferred* but not *proven*. Nor was McFarlane alone in reassessing Stubbs, even if his contribution appears most enduring. His two classic papers of 1943-5 can be seen as replies to Cam, Lewis and Richardson, two of whom, incidentally, respond.<sup>16</sup>

When McFarlane began work, late medieval politics was seen through the eyes of the king: the barons were irritating opponents of royal policy and constitutional advance. McFarlane substituted a pluralist approach, in which the viewpoints of both parties received sympathetic treatment, and in which politics was seen not in a determinist perspective, which no contemporary could recognise, but as the debate of king and magnates

<sup>15</sup> H.M. Cam, 'Decline and Fall of English Feudalism', *History* xxv (1940), 223 sqq; see also 'The Relation of English Members of Parliament to their Constituencies in the Fourteenth Century', *Liberties and Communities in Medieval England* (1944), 223-35.

<sup>16</sup> See H.G. Richardson, 'The Commons and Medieval Politics', *TRHS* 4th ser xxviii (1945), 21-45; H.M. Cam, 'The Quality of English Feudalism', *Law-Finders and Law-Makers* (1962), 44-58.

found in the chronicles. The new approach called for a fuller understanding of the noble's outlook, which was not necessarily primarily political, and hence led McFarlane into a massive assault on surviving noble records and their multi-dimensional study. His Ford lectures of 1953 treated not just noble politics, but the education, finances, family strategies, and other influences conditioning their whole outlook and hence their politics.

This was the vantage point from which McFarlane re-appraised bastard feudalism, which he saw as quite different from the classic feudalism it superficially resembled. The payment by lords for services hitherto exacted from feudal tenants arose from the substitution by the crown of paid service for unpaid feudal service. Royal contracts for troops for particular campaigns prompted captains to subcontract with their inferiors on a more permanent basis. Royal indentures survived from the late thirteenth century and subcontracts are common from the mid fourteenth century. While insufficient for a whole retinue of war, subcontracts provided the nucleus of retainers on each occasion. The indenture of retainer, which usually traded service *for life in peace and war* for an annuity, was the most normal arrangement. Just as characteristic, so McFarlane argued, was the fragility of the contractual bond: it lacked the stability of a tenurial tie; gentry often served several lords, offering neither exclusive nor overriding obedience; retainer for life could be broken and often was. Within certain constraints, lords and men had freedom of choice, in which their mutual advantage was the main consideration. This theme was expanded in a second, contemporary, article, which challenged the idea that the parliamentary commons were pawns of the lords. Their experience of affairs and their wealth barely distinguished them from their lords and suggested that they would have been relatively independent, an argument he substantiated by a careful analysis of the county elections in the Paston Letters. In East Anglia, at least, lordship conferred little authority over dependants, who endured it only so long as it was good and abandoned it when it ceased to be advantageous:

And so around a hard core of household and estate officials there accumulated a vast but indefinite mass of councillors, retainers and servants, tailing off into those who were believed to be well-wishers.<sup>17</sup>

Politics was about power, self-interest, and personalities, not ideals or principles, still less the Lancastrian Constitutional Experiment.

<sup>17</sup> K.B. McFarlane, 'Bastard Feudalism', *Bulletin of the Institute of Historical Research* xx (1945), 161-80; 'Parliament and "Bastard Feudalism"', *TRHS* 4th ser xxvi (1944), 53-79; reprinted as chs 1 & 2 of *idem, England*.

McFarlane had eclipsed Cam, Richardson, and even Lewis. His many research students preached his new orthodoxy in the expanding universities. For thirty years the mainstream represented in a host of theses (including my own) was the noble family or individual nobleman. Research students took records from many repositories, national and local, bearing on many topics, usually starting with the noble estate and finances and working outwards. The localities were studied as part of a wider canvas covering the whole range of the nobles' interests and activities and concentrating on what seemed most important, which was often not local at all. Some noblemen were indeed backwoodsmen, others courtiers, diplomats, or warriors; some estates and localities were central to them, others were not. One chapter – and usually no more – considered the retinue. There were never enough indentures of retainer, so students relied more on office-holding, annuities, and other evidence of service, stopping short of feoffees and witnesses to deeds. Whilst aware that many gentry were multiply retained, a rule of thumb and *feel* for locality and retinue was employed to identify their priorities. Multiple retaining need not entail rivalry between lords and often a second fee was evidence that the second lord wished for influence through the retainer with the first. Such analyses treated the whole affinity, focusing on those areas seen as most important. Riots were attributed to particular lords by checking rioters against retainers and attendance of retainers at battles was interpreted as service to their lords. To measure the local importance of the retainers and the magnate's local influence, the personnel of county administration and elections to parliament were analysed. Whilst magnates may not always have determined such matters, they sometimes did, and the negative argument – that men with such ties could not act against their lord's influence – was sometimes employed.<sup>18</sup> The strengths of such an approach were that it was selective in coverage, for only areas *adequately documented* were treated, that it ordered a lord's priorities – local and national, political and military, dynastic and cultural – and that it was not restricted to one line of motivation, although this was perhaps more often deduced than stated by contemporaries. Its most obvious weakness was that it rested on a series of generally unstated assumptions, that were not confronted at the time and have been challenged in recent work. It also diluted the classical purity of McFarlane's arguments.

Most of these theses added data consistent with McFarlane's stance, rather than developing or correcting it, and contributed rather to our knowledge than our understanding. They did, however, push the origins of bastard feudalism back into the thirteenth century, before J.O.

<sup>18</sup> M.A. Hicks, *False Fleeting Perjur'd Clarence: George Duke of Clarence 1449-78* (1980), 73, 186-9. This para is based on personal experience and observations. The underlying assumptions were openly discussed, but seldom if ever stated in the theses themselves.

Prestwich demonstrated it co-existed with, rather than succeeded, feudalism, and forward into the sixteenth century, where Tudor historians had (and still have) perforce to seek a new chronology and explanation of demise.<sup>19</sup>

For bastard feudalism itself a chronology of evolution was offered by the American Professor W.H. Dunham. Relying solely on the sixty-seven indentures surviving in California from the retinue of William Lord Hastings (d. 1483), Dunham argued for a movement from military to civil retaining and from payment to good lordship. Instead of a debasement of feudalism, he postulated a progressive refinement, payment being easier than subinfeudation and 'the final substitution of good lordship . . . for the fee created a more refined, certainly a more subtle, relationship'. It was by retaining those running local government and sitting in parliament that noblemen now exerted their power. Dunham argued that this could benefit not just lords but the king. The risk of abuse diminished as retaining became less military and was confined progressively to the most trusted of the social and political élite.<sup>20</sup> Narrowly based though they are, Dunham's views recur in textbooks, stimulated Mr Morgan's claim that Edward IV used bastard feudalism to control the localities, and help explain Professor Lander's declaration that:

The noble retinue, the affinity, in other words the 'bastard feudalism' which has been so often condemned as an unmitigated evil, was an essential part of Yorkist and Tudor government.

Dunham's view of bastard feudalism was particularly rosy; others still saw it as a curse. McFarlane was cautiously optimistic. Like Dunham and perhaps partly because of Dunham's work, McFarlane increasingly adopted a civil rather than military justification for retaining. Where he had seen the origins in payment for military service and 1400 as dividing the age of the indenture from the more casual and less stable relationships

<sup>19</sup> E.g. G.A. Holmes, *The Estates of the Higher Nobility in Fourteenth Century England* (Cambridge 1957), 58-74; J.R. Maddicott, *Thomas of Lancaster, 1307-22* (1970), 40-66; M. Prestwich, *War, Politics and Finance under Edward I* (1972), 61-2; J.O. Prestwich, 'The Military Household of the Norman Kings', *E[nglish] H[istorical] R[evue]* xcvi (1981), 1-35; C.S.L. Davies, *Peace, Print and Protestantism 1450-1558* (1977), 54-5; A. Cameron, 'The Giving of Livery and Retaining in Henry VII's Reign', *Renaissance and Modern Studies* xviii (1974), 19-37.

<sup>20</sup> W.H. Dunham, *Lord Hastings' Indentured Retainers, 1461-83* (Transactions of the Connecticut Academy of Arts and Sciences xxxix, 1955). The Hastings affinity has been repeatedly misunderstood: see below ch. 12. For what follows, see E.F. Jacob, *The Fifteenth Century, 1399-1485* (1961), 337 sqq; B. Wilkinson, *Constitutional History of England in the Fifteenth Century, 1399-1485* (1964), 337 sqq; D.A.L. Morgan, 'The King's Affinity in the Polity of Yorkist England', *TRHS* 5th ser xxiii (1973), 17 sqq; J.R. Lander, *Crown and Nobility 1450-1509* (1976), 69.



of the Paston Letters, later he gave higher priority throughout to good lordship and peacetime service and even speculated whether it was the fourteenth century that was 'the century of unbridled livery'. Undoubtedly bastard feudalism could subvert justice and fuel civil strife, but it had caused neither the breakdown of order nor the outbreak of civil war. Enforcement of the law and royal control over lords were adequate safeguards, which failed not because bastard feudalism was uncontrollable, but because kings were weak. As good lords of all good lords, kings should have settled disputes and kept order. Where Henry VI failed, Henry V and Henry VII triumphantly succeeded. Abuses existed before bastard feudalism and the chorus of complaints and even legislation indicate rising expectations rather than escalating problems or moral degeneration.<sup>21</sup> Substantiating this case, unfortunately, was never a priority of his research and he never tackled the three interrelated fields that are now generally regarded as containing the answers: the operation of the law; the gentry; and provincial (or county) society. Work on the first already threatened his interpretation at his death; since then, work on the latter two, often ostensibly inspired by him, has replaced the nobility in the mainstream and has offered perspectives contradicting his own.

Traditional hostility to bastard feudalism proved perfectly compatible with McFarlane's mechanics and was even stimulated by it. Miss Cam returned to the fray. Accepting Dunham's argument that livery 'was again a perfectly legitimate practice in its proper place' did not justify it when 'worn by men not of the household and supplemented by badges . . . serving . . . as rallying points for gangs of men'. Retainer 'by indenture extended far beyond the bona fide members of a noble household or active officials of a great estate'. Lords could maintain retainers in legitimate ways, but bastard feudalism was associated with illegitimate maintenance. Local government was endangered by the suborning of its officials and domestic peace because unlike feudalism, with its hereditary tenurial stability and *raison d'être* of fighting for the king, 'in these contracts the military service is to a subject'. Bonds of service were too easily broken or multiplied. Bastard feudalism remained, despite McFarlane:

a pest that riddled the countryside . . . making law and justice a dead letter there. From the reign of Edward II onwards this complex of private loyalties threatened revolt and civil war. Bastard feudalism was indeed a disease of the body politic, a disease which had to be mitigated, if not eradicated, by the Tudors.<sup>22</sup>

<sup>21</sup> McFarlane, *Nobility*, 107n, 114-19; idem, *England*, 40-1, 238-40, 247-8.

<sup>22</sup> Cam, *Law-Finders and Law-Makers*, 44-58.

Cam's arguments could be dismissed as a last Stubbsian relic if not supported from an impressively up-to-date quarter. A newly sorted source, the ancient indictments of the court of King's Bench, offered copious evidence of aristocratic crime and disorder. From them Professor Storey argued in 1966 that the courts' inability to settle noble feuds enabled them to escalate into private and then civil war. Bastard feudalism gave lords the manpower to corrupt justice and practise violence. He too blamed it for a degeneration from the (idealised) legal and constitutional achievements of earlier centuries, when there was an orderly system of royal justice, a military system based on contracts between the king and those who served, a government that increasingly involved all landed classes, and a local administration run by gentry freed from meaningful ties and thus politically independent. The growth of retaining drove gentry into affinities and those retained needed noble protection to secure favourable treatment before the law. Should their interests clash, lords could call out those wholly dependent on their good lordship. No social stability could be founded on so slight a basis as mutual satisfaction.<sup>23</sup>

Storey's book clashed with McFarlane's Raleigh Lecture, which may have caused him to modify some opinions. Like Cam, he came to accept some positive aspects of bastard feudalism, as in arbitration, though even these called for royal supervision. He pushed its growth back to the ineffective kingship of Henry VI and used this expansion to explain later legislation to curb it and eliminate abuse. His basic hypothesis, however, was unchanged and in 1971 he carried it back to the ineffective rule of Richard II. Bastard feudalism facilitated Richard's deposition and was already a source of corruption and disorder. Two strands of contemporary thought mirrored modern historical debate: while the Lords asserted their *privilege* and capacity to control their retainers, the Commons trusted in the commissions of the peace and restrictions in retaining. Short-term royal preoccupations alone explain why legislation was so circumscribed and the county commissions were left to the mercy of the lords. Public order *demanded* a ban on extraordinary retaining. Local disturbances prompted him to assert in 1973 that 'bastard feudalism was inherently incompatible with the rule of law':<sup>24</sup> as extreme a position as any observed so far.

Storey's opinions were the current orthodoxy for his pupil Professor J.G. Bellamy. Right at the start of his book on late medieval crime Bellamy remarked that:

<sup>23</sup> Storey, *Lancaster* (1966), esp 6-17.

<sup>24</sup> R.L. Storey, *The Reign of Henry VII* (1968), 35-40, 151-6; 'Liveries and Commissions of the Peace 1388-90', *The Reign of Richard II*, ed F.R.H. Du Boulay and C.M. Barron (1971), 133; 'The North of England', *Fifteenth-century England, 1399-1509: Studies in Politics and Society*, ed S.B. Chrimes, C.D. Ross and R.A. Griffiths (Manchester 1972), 133.

It was the large followings of the magnates which made the task of local law enforcement so difficult since the enforcers were often attached to one of the great lords, as were a considerable number of those they brought into court.

Judicial corruption and bastard feudalism were already entwined in 1300. Their prevalence and persistence stemmed from:

the increasing local influence of those who were already powerful and the way the law was corrupted by this influence. What historians have not yet established is whether influence increased because of the lowering of the quality of public order or public order deteriorated because of the magnates' desire and ability to attract supporters. The more common view is that the known partiality of justice compelled men with complaints . . . to resort to dishonest means. This meant ultimately seeking the good offices of a lord who was so powerful in the region that none would readily wish to offend him . . .

Here again are the growing power of the nobility, the simultaneous and dependent decline in public order, and the centrality in recruitment of good lordship. In some places a lord's authority was 'quite stifling' and made redress of grievances impossible. Because lords were indiscriminate, they retained professional criminals, who set bad examples to fellow retainers engaged in local government. The latter 'must also have been corrupted' as 'constant witnesses to the misapplication of the law and misuse of office' by their lords. Lords wanted retainers at least partly to dominate the king and good order suffered whenever king and magnates clashed. As cure Bellamy saw the release of the gentry from their indentures and longer terms of local office, but no king acted appropriately until the sixteenth century.<sup>25</sup>

Bellamy remains convinced of the causal connection between bastard feudalism and corruption of the law and just as hostile to them both. In 1984 he identified maintenance and riot as characteristic and endemic crimes of the aristocracy. It was to combat them that much new legislation bypassed those procedures most liable to corruption by substituting informers, examination and summary judgement. So successful were these that they were transferred to other areas of law, yet procedures had to be repeatedly strengthened as aristocratic crime nevertheless increased. Yet if much of Bellamy's interpretation remains unchanged, the emphasis had altered substantially, bastard feudalism with all its evils appearing now less as an end than a means.

Although historians have talked a great deal about the abuses of livery giving . . . at the heart of the disruption of public order in fourteenth- and fifteenth-century England, a very good case can be made for forcible entry and riot

<sup>25</sup> J.G. Bellamy, *Crime and Public Order in England in the Later Middle Ages* (1973), esp 1-24.

being the prime causes, with the other evils springing from them. Because this was where their wealth was centred, the upper classes thought first and foremost about their property in land and ways of extending and defending it, as the Plumpton, Stonor, and Paston correspondence clearly shows.<sup>26</sup>

This argument was substantiated in 1989 in the first full-scale book on bastard feudalism, which is profoundly hostile to McFarlane and his school and dismissive of their perfunctory treatment of its social effects.

Having accepted as 'incontrovertible fact that so many aspects of late-medieval English life were intertwined with bastard feudalism', Bellamy set out to devise a 'model' that identified the central and subsidiary features of the relationship. Only thus, he argues:

is it possible to reach a conclusion on whether the evils which have at various times been attributed to bastard feudalism were created, fuelled, or even perhaps kept within reasonable limits by the administrators and the administration of the law; and whether this dark side, was, as has sometimes been implied, the result of an ill-conceived, malfunctioning, or corrupt legal system.

Pride of place goes to the 'land wars' or 'gentlemen's wars', concepts devised by himself in 1978 and employed (but not explained) in 1984. Land was the essential foundation of aristocratic estates, wealth, and lifestyle and its defence or acquisition were vital preoccupations of nobility and gentry alike. Contemporary land-law gave no security of tenure and fomented disputes, in which every gentleman participated and in which no opportunity was missed in bending the law to his will, as Bellamy illustrates copiously from contemporary correspondence. Hence the mass of litigation, forcible entries, feuds, violence and other consequent 'evils', which were, he argues, widely recognised and attacked repeatedly in legislation:

Kings, ministers, and parliaments worked repeatedly, if not persistently, towards the eradication of the evils attendant on bastard feudalism but, because these were an integral part of the very structure of society, progress was necessarily slow . . . This amounted to taking advantage of almost every procedural device possible under the criminal law to ensure accusations were forthcoming and also loading, although legitimately, the method of trial to make conviction much more likely than acquittal.

Actually the situation was much improved even by the fifteenth century, when feuds were almost 'bloodless', serious crime by the aristocracy –

<sup>26</sup> J.G. Bellamy, *Criminal Law and Society in Late Medieval and Tudor England* (Gloucester 1984), esp 70. This is one of a number of works that has rehabilitated the late medieval legal system.

felonies rather than trespass – decidedly unusual, felony itself had become less common, and there were no more Folville and Coterel gangs. Although vestiges survived into the seventeenth century, bastard feudalism was repeatedly restricted and was undermined by developments in land-law that gave greater security and certainty and thus obviated the need for chicanery, violence, and retaining alike.<sup>27</sup>

Storey's early work undoubtedly idealised earlier centuries, when the virtues of royal justice and local government now look less obvious and for which abuse may be less well-documented but certainly occurred. He underplayed the growing influence of fifteenth-century gentry. Bastard feudalism and judicial abuse did not begin suddenly, but evolved gradually in the twelfth to thirteenth centuries. Similarly Bellamy originally relied on causes célèbres – crimes recognised as exceptional even by contemporaries – which tells us little of the mundane and sordid crime of every day. It is as though we judged our public order by the Hungerford Massacre and the Yorkshire Ripper. Strangely in his second book Bellamy relied wholly on the statutes, not apparently even searching for evidence of offences and enforcement in the records of the courts, and deduced the problem *and* the effectiveness of counter-remedies from the statutes. Few cases of riot and forcible entry are recorded for the early fifteenth century, yet they must have existed, because 'If they were not, then there would have been lacking a basic reason for the frequent promulgation of statutes not only against riot, but illicit retaining, livery giving, and maintenance in the crucial period 1380-1430'. The new procedures, he writes, 'demonstrate how serious a problem riots were becoming'. Yet 'no examples of these examinations . . . survive today, but then no others from the fourteenth or early fifteenth centuries for common law purposes do either', an admission that does not prevent him from asserting, firstly, that they were effective, and, secondly, that the crimes attacked nevertheless increased. Thirdly, he speculates why they were disobeyed. From this short summary it is surely obvious that by applying a pre-existing interpretation to the statutes, Bellamy forces them to carry too many mutually-contradictory elements of his argument. It *could* all be explained by 'rising standards of order rather than a rising tide of crime',<sup>28</sup> as indeed he has now implicitly recognised.<sup>29</sup> The same circular arguments about the causes and results of legislation occur also in his latest book.<sup>30</sup> Substantiation of either hypothesis depends on the

<sup>27</sup> J.G. Bellamy, *Bastard Feudalism and the Law* (1989), esp 4-6, 8n (p. 146), 9, 12-15, 84, 98-101, 123 sqq; for the term 'gentlemen's wars' see Bellamy, *Criminal Law*, 65, 70, 84.

<sup>28</sup> Bellamy, *Criminal Law*, esp 64-5, 67; see my review in *Parliamentary History* vii (1987), 168-70; Powell, *Kingship*, 112.

<sup>29</sup> Bellamy, *Bastard Feudalism*, 100.

<sup>30</sup> E.g. *ibid* 83-6.

correlation of legislation with the records of enforcement, which even his latest book does not attempt.

Moreover there is no easy equation between crime and the ancient indictments, which require handling as careful as any other source. The records of many courts, such as commissions of the peace and gaol delivery, are lost and we can only guess at their contents.<sup>31</sup> Indictments are charges, not convictions, contain errors and are not proven; they are the products of that same legal system whose probity is in dispute, as indeed are convictions; as few ever came to trial, we know nothing of the case for the defence and have few convictions; and events are expressed in legal formulae and categories and not necessarily as they actually happened.<sup>32</sup> Moreover they need to be seen not in isolation, but in several contexts. More cases came before royal courts as rival jurisdictions declined. New laws may indicate rising expectations and changing standards of what was tolerable, not changed conduct, or may instead reflect the sectional interests of pressure groups rather than public demand.<sup>33</sup> They may not even have created new crimes, as when new legislation substituted statutes of forcible entry for the assize of novel disseisin and redefined much violence as the new offence of riot.<sup>34</sup> They may *merely* introduce new procedures for handling old offences. More laws inevitably mean more offences and more prosecutions, whether or not conduct has deteriorated or changed. The accessible and surviving court records treat only formal litigation, not the complementary conciliar or private resolution of disputes by mediation or arbitration, which *may* have been as or more extensive, but for which the records were private, unsystematic, and are largely lost.<sup>35</sup> Many suits never reached court and many, perhaps most, that did were settled out of court. If recorded crime increased in the later middle ages, this does not necessarily mean that public order declined and indeed it is more likely to have improved. Bellamy now admits that aristocratic gangs and felonies were more common in the early fourteenth than in the fifteenth century. Perhaps respect for human life increased? More recorded crime certainly indicates more resort to the royal courts and *perhaps* therefore a growing respect for royal justice and the law.

Professor Storey, in fact, claims to have recanted his earlier views. What he now believes is not easy to distinguish from those he cites and, indeed, he appears now to see more in the work of McFarlane and others that agrees with his older work. He rejects binding ties of lordship, accepts

<sup>31</sup> Ibid 4-5. For the rest of this paragraph, see Carpenter, *L & HR* i 207-9.

<sup>32</sup> E.g. T.B. Pugh, *Henry V and the Southampton Plot of 1415* (Gloucester 1988), 130-1.

<sup>33</sup> See Carpenter, *L & HR* i 231.

<sup>34</sup> E.g. Bellamy, *Criminal Law*, 54, 65.

<sup>35</sup> Hicks, below, 145-6.

McFarlane's claims that maintenance could be legitimate, and that 'the English aristocracy of the later middle ages was, on the whole, a highly responsible body, with a vested interest in public order and good governance'. Bastard feudalism could be controlled and it was because of his 'inanity' that Henry VI's 'personal authority was non-existent' and disorder escalated. This retraction, less than complete though it is, is concealed in a particularly obscure periodical and is therefore less influential than his original use and interpretation of the ancient indictments.<sup>36</sup>

They are a standard source for today's historians. A host of historians have analysed particular disputes and feuds in print.<sup>37</sup> The best show a proper discrimination in their employment, but this is a time-consuming process liable to produce only tentative results. To confine oneself to convictions, for example, would deny oneself the bulk of the evidence. Often their use is less scrupulous. Whilst admitting the difficulties in interpreting legal evidence and that 'the impartiality of the commission [of oyer and terminer for Herefordshire in 1457] had been challenged in a court of law', Ailsa Herbert nevertheless treats its unsubstantiated proceedings as fact and draws conclusions about the strength of local government and the shape of local politics. By deducing from the low level of convictions and high rate of acquittals that king's bench 'had little success in punishing crime' and was unable 'to complete cases' she assumes even those acquitted were guilty,<sup>38</sup> a decidedly dangerous presumption shared by Dr Powell and Dr Carpenter, who also presumes charges of judicial chicanery to be true! Although innocent of the methodological implications of 'social crime', applied to the later middle ages only by Dr Hanawalt,<sup>39</sup> Dr Carpenter is not alone in seeing forcible entry and riot as crimes characteristic of the late medieval nobility and gentry.<sup>40</sup> Even the scrupulous Professor Griffiths encourages Bellamy's picture of endemic aristocratic crime by itemising major cases (and assuming their accuracy) in chapters on 'Lawlessness and (Aristocratic) Violence' in his monolithic *Reign of King Henry VI*; and a similar chapter by

<sup>36</sup> Storey, *Lancaster* (2nd edn Gloucester 1986), x; 'Bastard Feudalism Revisited', *BMS* iii 7-15.

<sup>37</sup> Many references to studies by Cherry, Griffiths, Jeffs, Virgoe and others are collected in the bibliography of R.A. Griffiths, *The Reign of King Henry VI, 1422-61* (1981).

<sup>38</sup> A. Herbert, 'Herefordshire, 1413-61: Some Aspects of Society and Public Order', *Patronage, The Crown and the Provinces in Later Medieval England*, ed R.A. Griffiths (Gloucester 1981), 103-22, esp 112, 115-17. For the next phrases, see M.C. Carpenter, 'The Beauchamp Affinity: A Study of Bastard Feudalism at Work', *EHR* xcv (1980), 525; Powell, *Kingship*, 234.

<sup>39</sup> B.A. Hanawalt, 'Fur-collar Crime: The Pattern of Crime among the Fourteenth-Century English Nobility', *Journal of Social History* viii (1974), 1-17.

<sup>40</sup> For Bellamy, see above.

Dr Powell appears in a recent volume on Henry V.<sup>41</sup> In short, there is a danger, despite Professor Storey's recantation, that bastard feudalism may nevertheless become entrenched as the commonplace instrument of everyday aristocratic disorder.

Why does it matter? After making due allowance for deficiencies in the sources, there surely remains overwhelming evidence that aristocrats did commit such crimes and that bastard feudalism was their instrument. A majority of gentry engaged in litigation, Professor Bellamy and Dr Carpenter tell us,<sup>42</sup> and the preservation of order was and is a vital function of government. Quite. The principal problem with all this, however, is that over-reliance on legal records generates a conflict model of society. So too does Bellamy's latest reliance on correspondence about legal disputes.<sup>43</sup> Both suggest a society in perpetual friction and turmoil. But one must have a sense of proportion. Court records and correspondence about lawsuits *can* only reveal crime and conflict. We have nothing of comparable consistency or quantity to illustrate concord and co-operation. Correspondence tells us about much other than lawsuits.<sup>44</sup> Litigation and much maintenance were not only legal, but normal and integral features of society. Not all litigation was contentious, not all brought recourse to maintenance and violence, and much ended in compromise. Compulsive litigants, large-scale confrontations, and long and bloody disputes occurred everywhere, but they were not normal, continuous, or all-embracing. Even the Great Berkeley Lawsuit, the Paston-Fastolf dispute, or the Bonville-Courtenay feud did not flare up every day, week, month or even year, did not embroil all the aristocracy of the affected areas, and produced surprisingly little bloodshed. The Fight at Clyst (1455) must of course be deplored, but that only twelve deaths created such a furore reminds us how exceptional such a level of violence was considered.<sup>45</sup> Although employing a ritualised violence and described in such terms in legal records, most disputes were, as Bellamy admits, bloodless. How appropriate, then, are the terms 'land wars' and 'gentlemen's wars', which have connotations of brute-force, violence, and bloodshed that are completely lacking here? Bellamy and Carpenter alike stress the *quantity* of litigation and litigants, but a single lawsuit per gentleman per lifetime is unimpressive and does not add up to a litigious

<sup>41</sup> Griffiths, *Henry VI* (1981); E. Powell, 'The Restoration of Law and Order', *Henry V: The Practice of Kingship*, ed G.L. Harriss (Oxford 1985), ch 3.

<sup>42</sup> Bellamy, *Bastard Feudalism*, 34; Carpenter, *L & HR* i 524.

<sup>43</sup> Bellamy, *Bastard Feudalism*, 6 & passim; see also the apposite comment of McFarlane, *Nobility*, 115.

<sup>44</sup> Cf. H.S. Bennett, *The Pastons and their England* (2nd edn 1932) passim.

<sup>45</sup> M. Cherry, 'The Struggle for Power in Mid-Fifteenth-Century Devonshire', *Patronage, The Crown and the Provinces*, ed Griffiths, 137. Cf. A. Macfarlane, *The Justice and the Mare's Ale: Law and Disorder in Seventeenth Century England* (Oxford 1981).



society. Conflict was the exception rather than the rule and the conflict model is wrong. Surely a relatively law-abiding and orderly society is an essential backcloth for a breakdown of order in the 1450s that nevertheless never approached social or political anarchy? Far from condoning violence and political corruption, subjects looked for remedies to king, parliament, and the courts, and were not disappointed, as Bellamy himself argues. Progressively stricter legislation against bastard feudalism may reflect progressively stricter standards of tolerance. The medieval past cannot be judged by the civilised standards attained today.

The gentry are the focus of the county community school of historians. The county community is a concept first applied to the early modern period and justified theoretically by Professor Everitt. Shires were not merely administrative, but social, political, and cultural units. County gentry focused politically on county government, concentrated social life on fellow gentry within county boundaries, and saw themselves as distinct from and sharing different interests from central government and neighbouring counties alike. Everitt's 'federation of county communities' succeeded Given-Wilson's 'federation of lordly spheres of influence'.<sup>46</sup>

Everitt's late medieval counterparts treat peace, rather than war. Most play down the peerage and play up the gentry. None focus on the nobility, the great estate, or the great connection. For some the late medieval county/region was *the* valid social, political, and cultural unit. All concentrate on the many gentry who collectively held most manors and crop up most in records rather than the few nobles and their few documents (though more per head). Dr Wright is typical in that her 'overriding concern is the reconstruction of gentry attitudes and the complexities of gentry society'; Dr Bennett, yet more ambitiously, aims at 'a more "rounded" picture of English society' through the examination of 'individuals, groups and communities . . . interacting in the widest possible range of capacities'. Much of the time and for many activities the gentry were operating independently: managing their estates, administering the county, intermarrying, conveyancing, and litigating. Noblemen feature relatively seldom, in clearly-restricted areas, and thus appear either as mere *members* of the community much like other gentry, or as *outsiders* intermittently intruding on a self-sufficient society that did not need them to 'work'. They exploited pre-existing societies for their own ends and thus appear unnecessary. To be retained created one extra tie

<sup>46</sup> A. Everitt, 'Local Society and the Great Rebellion' (Historical Association, 1969); A. Everitt, *The County of Kent and the Great Rebellion 1640-60* (Leicester 1966); Given-Wilson, *English Nobility*, 1. For what follows, see M. Bennett, *Community, Class and Careerism: Lancashire and Cheshire Society in the Age of Sir Gawain and the Green Knight* (Cambridge 1983); S.M. Wright, *The Derbyshire Gentry in the Fifteenth Century* (Derbyshire Record Society viii, 1983); and papers cited subsequently by Carpenter and Rowney.

among many and not necessarily the most important. Since society came first and lordship afterwards, lordship had to conform to social realities and did not shape them. In lieu of an ordered hierarchy subject to a lord, there is a 'richness of texture' arising from the interplay of multiple influences on hundreds of gentry in constant demographic flux.<sup>47</sup>

Dr Bennett's Northwest England comprises Lancashire and Cheshire c. 1370-1425. The gentry of each county formed a genuine community. They intermarried, turned out in force to settle property or elect MPs, and ran county administration. In 1400 and 1403 the Cheshiremen rebelled and Lancastrians rallied for the king, manifesting 'the existence of a framework of trust, consensus, and co-operation' in each county. Such events, the differing national policies of their lords, and indeed county boundaries could not impede a natural regional solidarity born of physical proximity, a common dialect and ecclesiastical government, economic and social similarities, and commercial interdependence. This 'regional solidarity . . . was most strikingly demonstrated' by the 200 local gentry who supported Sir Robert Grosvenor in the Scrope and Grosvenor controversy, but it emerged also in shared administrative responsibilities, private co-operation, intermarriage, and the burgeoning regional sentiment in literature of the later fourteenth century. There were lords, of course, and indeed many north-westerners were recruited in war and political crises by kings and great magnates. Soldiers not only enhanced their wealth and rank, they also established connections 'readily transposed to a civilian setting' which brought 'material assistance through "livery and maintenance"' and access to 'pardons, protections, aid in dealing with bureaucracies, and other indulgences from the authorities'. Quite apart from grants of office both Richard II and the Lancastrian kings distributed fees of up to half their annual revenues in the region. So one-sided was the balance of advantage that:

it is tempting to conclude that . . . the earls of Chester and the dukes of Lancaster were administering their estates in the Northwest mainly for the benefit of the local gentry . . .

During the fourteenth century great landlords were losing ground to the gentry. Before 1425, with 'no great aristocratic lineage' to settle disputes informally, 'the system was one of mutual credit and collective security' in which leading gentry exercised a social control 'perhaps as typical a feature of English society at this time as the more notorious system of "bastard feudalism"'. The county community itself linked king and subjects, 'royal household and the lesser gentry', but already Sir John Stanley was emerging as leader of regional society, anticipating the family

<sup>47</sup> The phrase is Dr Richmond's, *History* lxviii 58.

hegemony later to replace the community as broker with the crown and submerge it 'in the swelling tide of aristocratic challenge'.<sup>48</sup>

Several historians give detailed narratives of county politics subdivided mainly by the careers of particular magnates and characterised by rapid change. In Dr Rowney's Staffordshire, for example, lords constantly competed to control county administration and the gentry that ran it. Fees mattered, but only:

by protecting and furthering the interests of his supporters could a lord achieve the same for himself. Similarly, it was by obtaining 'good lordship' that a gentleman was best able to preserve and enhance his position and possessions.

The intervention in the county of Humphrey Stafford (later Duke of Buckingham) in the late 1430s was resisted by Lord Ferrers of Chartley, many of whose men deserted to the duke even before his own death in 1450 prompted Buckingham and Warwick to recruit those who remained. Buckingham won. In the 1460s Warwick and Clarence had a free hand, for Lord Hastings did not extend his interests into the county:

Indeed, why should they have done, given that this would have brought him into rivalry with other loyal intimates of Edward IV, namely, Warwick and the king's brother George, duke of Clarence?

Hastings did take over in 1474. Buckingham in the 1450s and Hastings in the 1470s controlled the county. That there were nevertheless unaligned sheriffs in the 1450s was due to reluctance to serve and the reality that 'a sheriff who had made an enemy out of . . . Buckingham, would find it difficult, if not impossible, to act effectively'. There were also JPs unretained by Hastings, but:

Surely we are not to believe that Edward IV's right hand man would suffer this region of special interest to him, to be governed by men hostile to him?

So too with shire elections. Buckingham could not force his man on the gentry, for that 'would have produced massive gentry resentment', but could rest assured 'that no-one unacceptable . . . might reasonably hope to be elected'. 'Blatant partisanship' occurred only during national crises, when retainer proved a fragile tie. Lords could not always – or even often – commit their men to battle. Buckingham's feed men would not support him in battle:

They were unprepared to fight in their own county and certainly had no intention of going elsewhere to do so . . . Gentry immobility was due less to

<sup>48</sup> Bennett, *Community*, esp 33, 39-40, 73, 84-5.

cowardice or apathy than to a confident assumption of immunity from reprisal. Bastard feudalism was above all a voluntary business relationship with patronage and service as unenforceable contractual obligations.

So Buckingham was killed. And when their next lord Clarence 'marched throughout the heartland of the honour in March 1470', he overlooked 'the latent apostasy of the gentry', who declined to follow him. Clarence, indeed:

only ever won over men's heads not their hearts; and it was their hearts he needed to mould an affinity into a retinue. There is no evidence that John [Curzon] III ever followed Clarence into revolt or battle. However, the ties between them grew closer with time . . . Yet Curzon was wise enough to avoid becoming so closely involved . . . that he fell from grace with his patron.<sup>49</sup>

There are parallels here with Dr Cherry's analysis of the 210 and 351 men indicted for the Earl of Devon's risings in 1451 and 1455, which demonstrate the falling participation of the gentry and thus how such irresponsible violence could alienate retainers and lead to the disintegration of the Courtenay affinity.<sup>50</sup> Noblemen could only solicit their retainers, not command them.

A third example is Dr Carpenter's Warwickshire, where bastard feudalism was such a 'part of the normal fabric of society' that:

all the more prominent Warwickshire gentry can be shown to have been of the affinity of at least one lord. In view of the social and political significance of bastard feudalism this was to be expected: only the unimportant would be without a lord.<sup>51</sup>

The retinue existed to protect a lord's lands against rival claimants. To achieve this, he needed to dominate county government – the key to criminal and civil justice – and that in turn called for control of as much of the county and as many gentry as possible. Only by thus 'dominating the local administration' could he 'really help his men and secure their

<sup>49</sup> I. Rowney, 'Government and Patronage in Staffordshire, 1439-1459', *Midland History* viii (1983), 49-69, esp 51, 54-5, 58, 65-6; 'The Hastings Affinity in Staffordshire and the Honour of Tutbury', *BIHR* lvii (1984), 35-45, esp 45; 'Resources and Retaining in Yorkist England: William, Lord Hastings and the Honour of Tutbury', *Property and Politics: Essays in Later Medieval English History*, ed A.J. Pollard (Gloucester 1984), 139-55, esp 140, 150; I. Rowney, 'The Curzons of Fifteenth-Century Derbyshire', *Derbyshire Archaeological Journal* ciii (1983), 111.

<sup>50</sup> Cherry, 123-44, esp 137n (p. 143).

<sup>51</sup> Carpenter, *EHR* xcv 514-32. For what follows, see *ibid* esp 517, 523; M.C. Carpenter, 'Sir Thomas Malory and Fifteenth-Century Local Politics', *BIHR* liii (1980), 29-43, esp 33; *idem*, *Midland History* xi 22-48, esp 23-8.

support'. It was the duty of any gentleman like Sir Thomas Malory:

to protect his landed inheritance for both himself and his posterity and to pursue all claims to land that lay with the Malory family. This obligation – one that was rendered exceedingly difficult by the complexities and delays of the legal system – was the overriding preoccupation of the gentry and one that necessitated the most careful choice of protectors and friends. It was in aiding such families in the preservation and improvement of their landed and social status that the nobility could establish their 'worship' and hence their support amongst the gentry . . . [For Malory] like all the gentry . . . the game of local politics [was] a game where the stakes were high, for they were no less than the lands without which a gentry family could have no existence.

Dr Carpenter begins with Richard Beauchamp, Earl of Warwick (1401-39), certainly the greatest lay landholder and dominant lord in the county. His affinity and those of his allies, with which it intermingled, 'provided the major unifying force amongst the Warwickshire gentry'. It enabled him to control county administration and gave him the clout necessary for a good lord, even by chicanery and violence. His rule contented the majority and meant the areas 'of his hegemony could be left in great part to run themselves' without royal interference. Even Beauchamp had few lands in parts of the county, where he could not attract retainers. No magnate could:

maintain an affinity unless he held land in demesne nearby. Without the threat of military force, that could be raised from the land, retainers could not be brought to heel, nor mastery over rival affinities demonstrated.

Here he allied with local notables. Whenever such lands changed hands, potential rivals undermined his local authority, indirectly threatened control of the whole county, and thus forced him to reassert himself vigorously in the affected areas. On Beauchamp's death in 1439, leaving a minor, Buckingham became 'the focal point of an alliance system', attracting former Beauchamp retainers into his affinity. Others opposed him, dividing county society and the Beauchamp affinity alike. Duke Henry Beauchamp briefly ousted Buckingham in 1445-6, when he died leaving an heiress, and not until 1449 could Earl Richard Neville begin 'recreating the splintered Warwick affinity'. He was probably behind Malory's attacks on Buckingham and his men. Their 'struggle for mastery . . . eventually became enmeshed with the national political crisis' and it was the Yorkist victory in 1461 that saved him. His conduct in 1469-71 again split the affinity and his son-in-law Clarence 'was not the man to restore the balance'. Seriously weakened to his east and north and by consequent competitive recruiting, Clarence's failure to keep order led King Edward to intervene and begin 'enlarging his own authority at the expense of Clarence'. Needing to prove himself not to be trifled with,

Clarence murdered Ankarette Twynho and backed Thomas Burdet – actions that led directly to his execution.

Such precision is achieved in spite of gaps in the evidence, as Dr Carpenter admits:

Tracing changes in power in the late medieval localities is by no means easy. The evidence at the historian's disposal is problematic, lacking as it does direct avowals of motive, and consisting principally of indications of friendship (indenture, service, witnesses, feoffees, beneficiaries of wills and so on) and of conflict (primarily the judicial records).

The personnel of local government can also be analysed. Whereas for Dr Rowney proof of retainer is *supplemented* by evidence of service 'as tenants, estate officials, feoffees or witnesses to deeds',<sup>52</sup> Dr Carpenter reverses the priority. Since a lord's prime objective was to protect his land and transmit it to his heirs, he would take especial care to choose trustworthy feoffees, witnesses, and executors for such conveyances.

From this two conclusions follow: firstly that, within reasonable limits, such evidence must take precedence over evidence of retainer and service; and secondly that the real strength of a lord's affinity may be judged by the extent to which the common factor linking groups of associates within his geographical sphere of influence is a connection with that lord. Given these premises it is evident that, within the parameters imposed by the availability of local lordship, each gentry family would have a shifting pattern of allegiances, responsive to formal links with magnates, to relations with friends and neighbours, and to the broader pattern of local and national politics. Changes in the balance of power in the localities have to be traced from the functioning of these complex networks.

Her 'second main assumption' is that, since 'political power' depended on 'local military might', which 'was determined primarily by its tenurial structure' and modified by changes in it, the 'utmost attention' must be given 'to geographical factors'. So important was county government that:

no magnate . . . could afford to ignore the politics of each of the counties where his lands lay . . . [and] had to acquire enough followers in each of the counties where he had a concentration of estates to give him significant authority over the local officers and a large body of military support if litigation developed into violence.

If not, not. So lords and gentry alike were committed to a constant policy of aggressive retaining and local politicking to remain where they were

<sup>52</sup> Rowney, *Midland History* viii 52.

and this in turn shaped national politics.

Here we have a new methodology and two new interpretations of bastard feudalism, society and politics. But are they soundly based? Several areas need reviewing now: the treatment of the county community; the place of lordship; the nature and use of evidence; the objectives of local politics; and the character and operation of local political society. Other broader areas raised, such as the nature and activities of the nobility and the purpose of their retinues, will be discussed later in this essay.

Let us begin with the concept of the county community. There is no doubt that medieval people lived in communities and were capable of a sense of community, even a county or regional one: thus the Paston circle often meant their county when referring to their country and northerner was more than a label of abuse for others.<sup>53</sup> It does not follow, however, that the aristocracy necessarily, universally, or exclusively saw themselves in terms of the county, for their horizons may have been larger or smaller. County institutions were the only organs through which much local financial, judicial, electoral, feudal and other business was *expressed*: their use does not prove county-mindedness. The existence or evolution of the county community is not, however, the issue here, nor indeed the validity (and very considerable value) of its study for economic, social, religious, and even political history of this period, but the way these *particular* studies apply it to politics.

There are a number of related problems, not all shared by them all. Firstly, counties are not necessarily natural geographical entities and Carpenter, Rowney and Wright sometimes treat only part of a regional phenomenon, for example only the Warwickshire, Staffordshire or Derbyshire section of Lord Hastings' indentured retinue. Secondly, the county community appears as an alternative to lordship, whereas it was not or was not necessarily so. The Paston circle's county-mindedness co-existed with noble dominance of local politics. Thirdly, the community is given priority in time, lordship coming after, whereas the community itself depends on patterns of land tenure based on feudal lordship which evolved, without a break, into the late medieval situation. There can never have been a time when there were no lords and lordship was not a formative influence. As the gentry were also lords – the distinction between the two branches of the aristocracy being somewhat semantic – lordship existed everywhere, even where there were no titled peers.

<sup>53</sup> R. Virgoe, 'Aspects of the County Community in the Fifteenth Century', *Profit, Piety and the Professions in Later Medieval England*, ed M.A. Hicks (Gloucester 1990), 5-6; 'John Benet's Chronicle, 1400-62', ed G.L. and M.A. Harriss, *Camden Miscellany* xxiv (1972), 187-8.

<sup>54</sup> M. Clanchy, *From Memory to Written Record: England 1066-1307* (1979), 2 sqq.

Lordship coloured the lives of those who were not retained just as literacy affected the illiterate.<sup>54</sup> Fourthly, the lords are presented as *intruders* who must take account of social realities and take over the pre-existing network of gentry: the possibility is ignored that such relationships might have been *shaped* by membership of the great's lord's affinity, as in Dr Pollard's Richmondshire and Dr Carpenter's Warwickshire.<sup>55</sup> And finally from this stems a belief that lordship is relatively weak, an assumption epitomised by Dr Bennett's decision to relegate it to chapter 10 of his book and Dr Wright to chapters 6 on. To keep an open mind is admirable; but it can shape the results obtained.

Dr Bennett's book claims to treat independent county and regional communities that managed affairs for themselves without dominance of a single lord. This strains credibility, for it was the king who was Earl and Prince of Chester; John of Gaunt and the Lancastrian kings were Dukes of Lancaster. Such lords needed no intermediaries. Their palatine counties were marked off by privilege from neighbouring shires and possessed central institutions that prevented recourse to Westminster. Naturally inhabitants looked inward; naturally they attended assemblies when summoned.<sup>56</sup> It was their lords' privilege and government, exercising exceptional authority from close at hand, that recruited the gentry on a large-scale, and used them to overawe parliament, for civil and foreign warfare. The Cheshire revolts and Lancastrian resistance demonstrate organisation and commitment to respective lords that carried them into battle. Those retained gained both good lordship and fees, which were not meant to and did not only benefit themselves. Military support from these Lancastrians justified their fees. Such lords had no need or desire for a broker, who would erode their own authority. It was only gradually that the Lancastrian kings, notably Henry VI, became absentees,<sup>57</sup> that the palatinates became like other shires, and that scope for an intermediary developed.

Let us move on to Staffordshire and Warwickshire, where precise narratives give magnate connections a central place in spite of the inadequate evidence of retainer. There are, for example, no receiver-general's accounts, valors, household accounts, comprehensive sets of ministers' accounts, or other archives of any part of the Warwick estate for the thirty years after 1449. The Stafford archive has survived better, but those of the Earl of Wiltshire and Lord Ferrers of Chartley have not. These gaps are filled by evidence of co-operation in land transactions and

<sup>55</sup> A.J. Pollard, 'The Richmondshire Community of Gentry during the Wars of the Roses', *Patronage, Pedigree and Power*, ed Ross, 37-56, esp 52; see above p. 22.

<sup>56</sup> In the Scrope and Grosvenor controversy, witnesses testified at formal sessions at Warrington and Lancaster, Bennett, *Community*, 16.

<sup>57</sup> Cf. C.D. Ross, 'The Yorkshire Baronage, c. 1399-1436' (Oxford D.Phil. thesis 1952).



litigation, which justify Dr Carpenter's claim that everyone belonged not just to a connection but to *successive* connections at different dates. But feoffees were often chosen for reasons of prestige, to deter opponents, and links need not be close; witness lists are evidence only of *association*. Given that feoffees frequently denied knowledge of the purpose of their enfeoffment and that deeds – including enfeoffments – were not necessarily signed by all those present in company on the day stated, the argument from association to political commitment is thin. At best, it suggests amicable terms, not necessarily an alliance. As for crimes, leaving aside Dr Carpenter's unduly literal interpretation of indictments, they disclose a difference, not necessarily a decisive one; so too does litigation. A great magnate like Clarence was engaged in many lawsuits at any one time, some initiated by himself, some by his council, some trivial, others fundamental. Not all could be allowed to be decisive. 'Because the Duke of Somerset and the Earl of Warwick disputed the lordship of Glamorgan, did the latter kill the former at the first battle of St Albans?' parodies Dr Richmond.<sup>58</sup> We need a sense of proportion and priorities.

These items become important because of the assumptions that go with them and are so clearly stated by Dr Carpenter. She is not alone in stressing the importance of land-disputes: the present author indicated that magnates' lands were essential interests,<sup>59</sup> and Professor Bellamy sees them as root-cause of bastard feudal corruption and violence.<sup>60</sup> There were certainly many of them. But again a sense of proportion is needed. Given that many estates were disputed and every lord had a stack of claims to make good in favourable circumstances, it does not follow that this was true of every estate, that all claims were pursued aggressively, that the struggle was continuous, or that control of county administration was decisive. The Great Berkeley Lawsuit and the Talbot-Lisle dispute flared up at irregular intervals over many years. Such feuds were decided, if at all, at the centre, not in the localities. That properties had to be defended need not mean aggressive self-aggrandisement, though some particularly favoured magnates, such as Suffolk in the 1440s and Gloucester in the 1470s, do seem to have pursued every vestigial claim. Similarly with great magnates, all of whom had isolated manors in counties far from their seats of power: it does not follow that Clarence's manors in Surrey or Norfolk were under constant threat. It was not necessary for him to build up an affinity in these counties to control county government and he did not try. Most magnates spent most of their time

<sup>58</sup> Richmond, *History* lxvii 59 (though this is a less absurd example than Dr Richmond intended).

<sup>59</sup> M.A. Hicks, 'Descent, Partition and Extinction: The "Warwick Inheritance"', below, 333.

<sup>60</sup> For Bellamy, see above.

away from most of their estates, yet did not lose them. Indeed, did any fifteenth-century nobleman or gentry *permanently* lose their lands because of purely *local* violence and chicanery? The *regional* hegemony of the Earl of Warwick extended beyond the bounds of his estates, included that majority of lands he did not hold, and was not threatened by the geographical fine-tuning on which Dr Carpenter places such store. Reliance on records of title and litigation about land has been allowed to unduly colour her interpretation.

Similarly, knowledge of the personnel of county administration and our capacity to analyse them has evidently prompted us all to exaggerate their political significance. What did they actually *do*? The day of the sheriff was past and JPs were not yet the omniscient body of a century later. The sheriff's servicing of the central courts and the JPs judicial proceedings were largely routine. Neither surviving sessions rolls nor indictments returned to king's bench suggest much business of political significance, nor indeed does the low attendance of justices – usually only three to five, mainly professional experts – who actually attended.<sup>61</sup> *Pace* Dr Maddicott, the routine of the county court is unlikely to have attracted more and even shire elections were normally uncontested.<sup>62</sup> The puzzle of the uncommitted Staffordshire JPs, sheriffs and MPs is perhaps more easily explained by accepting that these offices were *not* always the focus of factional competition. Historians of the nobility and county community are equally wrong.

Their evidence prompted Dr Carpenter, Dr Rowney, Dr Wright and indeed Professor Bellamy to postulate a conflict model of society. To *defend* their lands, magnates *must* control county administration. Since only one of them can do it, they are engaged in *aggressive* competition. For a gentleman to be retained committed him politically; to be retained again indicates a change of loyalty, the subsequent tie taking priority, and rivalry between lords. Fluctuations in witness lists indicate the ebb and flow of loyalties. If you are not for me, you are against me. It is such *presumptions* that determine much of the interpretation. Witnessing deeds was part of normal social intercourse. To witness a deed was not to make a political commitment. To be retained more than once occurred because loyalties were generally compatible. It may well be, as Professor Bean suggests, that different contracts carried different obligations, and/or that duties were highly specific and thus did not clash, as Dr Horrox argues.<sup>63</sup> Lords were not necessarily constantly feuding: they could coexist

<sup>61</sup> Based on PRO Ancient Indictments, 1461-85.

<sup>62</sup> J.R. Maddicott, 'The County Community in Fourteenth Century England', *TRHS* 5th ser xxviii (1978), 29-30.

<sup>63</sup> R.E. Horrox, *Richard III: A Study of Service* (Cambridge 1989), 18-19; J.M.W. Bean, *From Lord to Patron: Lordship in Late Medieval England* (Manchester 1989), 186.

peacefully, retain one another, agree about parliamentary elections,<sup>64</sup> litigate without feuding, and even compromise about land disputes.<sup>65</sup> Good lordship could involve following a retainer into conflict with a rival's lord; it could also involve joint arbitration by the two lords, just as each lord settled disputes within his own affinity.<sup>66</sup> Lords saw local politics in a wider context of other estates, localities, and activities and did not necessarily wish to feud with their kinsmen, friends, and colleagues. Sometimes, of course, they did and we know about many such feuds, but not everywhere or all the time. Stresses and strains exist in any relationship, but they do not invariably or even usually result in breakdown, which is often worse than the problem.

The conflict model is again inappropriate. So, too, therefore must be many (but not all) the deductions and studies based upon it. The most likely reason for the non-aligned gentry in high office in Staffordshire 'at the time of the power struggle between Buckingham and Warwick' in the 1450s was because, as in the 1470s, there was no power struggle. If Lord Hastings did not intervene in Staffordshire in 1462, it was not because he feared clashing with Warwick, his brother-in-law and patron. Earl Richard Beauchamp did indeed 'control' Warwickshire, but is there any evidence worth considering that there were subsequently power struggles between Buckingham and Ferrers in the 1440s, Buckingham and Earl Richard Neville in the 1450s, or Clarence and Edward IV in the 1470s? They *could* have happened, but we have no real evidence for them. That local politics was as volatile as this is surely contradicted by the long-term stability of ties between lords and retainer over many generations and their survival of disasters. If the Courtenays' affinity disintegrated in the 1450s and Clarence's in the 1470s, how can we account for the formers' successful recruitment for the Tewkesbury campaign in 1471 and the pro-Warwick rebellion in the West Midlands in 1486? How was the newly restored Northumberland able to play such a decisive role in 1471? If Richard III's northern retainers deserted him in 1485, why did some rebel again in 1486-7 and again in 1535? Clearly there is more to connections and local politics than kaleidoscopic change and self-interest. If a century is a short time in economic and social history, what about the history of political structures? How different was the Gloucestershire political *system* in 1500 from 1400 and 1300? Bennett's Northwest England suggests that there was no direct transition from magnate's spheres of influence to county communities and that new lords could still rise from the gentry to

<sup>64</sup> M.A. Hicks, 'Dynastic Change and Northern Society: The Fourth Earl of Northumberland 1470-89', below, 370-5; McFarlane, *England*, 10.

<sup>65</sup> See e.g. Lord Neville's quitclaim to the Duke of Gloucester in 1478, below, 331.

<sup>66</sup> E.g. below, 140-5.

take over from old ones. The county community can be a successful approach to politics provided inappropriate assumptions and methodologies are avoided, but the geographical and chronological fine-tuning of some recent studies is probably always impossible and of doubtful validity. The studies of Dr Saul and Dr Virgoe are effective precisely because they confine themselves to what is adequately documented and they do not find it necessary to write continuous detailed narratives of what is not. Theirs are the examples to follow. Counties vary: the next study should perhaps focus on a shire in which the *peerage* actually were weak. But there will still be lords and lordship.

McFarlane cited many instances of the bonds of retainer being broken, of the gentry's capacity for independence, and of the careful management required of lords to carry their retainers with them. These formed the starting point for the work of his pupil Dr Richmond, who has approached the subject not from the nobility, but from the study of the gentry and local society. His work is highly critical of both the nobility and county community schools of historians, whose careful filing of retainers from archives is an outside job that misses the 'richness of texture' of relationships.<sup>67</sup> A changed angle of approach has brought new perspectives to the subject. Beginning merely by asserting the importance of the gentry, Dr Richmond now attaches little political significance either to the nobility or bastard feudalism.

For Richmond the 'political importance and independence' of the Commons is axiomatic. It was substantial gentry like the knights of the shire who ran local government, managed their own extensive affairs, and engaged in litigation. Already they (and their immediate inferiors) 'were effectively in politics in the fifteenth century',<sup>68</sup> by the 1550s they were active opponents of government in and out of parliament, and their role was even more crucial a century later. They could make their own independent decisions on matters of political significance, for example whether to rebel with the Bastard of Fauconberg in Kent in 1471 or whether to attain the king's brother seven years later. They could even choose not to engage in politics or local government, like the Suffolk squire John Hopton, and were not driven by external pressures into doing so or being retained by a lord. Hopton's neutrality may even have been more typical than the notorious partisanship of the Pastons.

<sup>67</sup> Richmond, *History* lxviii 58, 60. For the next four paras see *ibid* 46-60, esp 58-9; *idem*, 'Fauconberg's Kentish Rebellion of 1471', *EHR* lxxxv (1971), 673-92, esp 689, 691; *idem*, 'The Nobility and the Wars of the Roses, 1459-61', *Nottingham Medieval Studies* xxi (1977), 71-85, esp 83-5; *John Hopton: A Fifteenth-Century Suffolk Gentleman* (Cambridge 1981); '1485 and All That', *loc cit* 173-206, esp 179-80, 196 (n50), 197-8 (n59).

<sup>68</sup> So too were those of East Anglia, see R. Virgoe, 'Aspects of the County Community in the Fifteenth Century', *Profit, Piety, and the Professions*, ed Hicks, 10-11.

Fauconberg's Kentish gentry had no lord to make up their minds for them and perforce had to decide for themselves. But even when there were lords, they could not *command* compliance with their wishes. Noble power:

depended on the co-operation of the gentry to exercise it on their behalf . . . It was not William Lord Hastings who 'ran' the honour of Tutbury; the local gentry did – that is why he made them his retainers. He needed them more than they wanted him. So it was everywhere . . .

Lords took advantage of pre-existing communities of gentry: Lord Hastings "bought" a clan rather than constructed an affinity',<sup>69</sup> and the clan continued to run local government thereafter. Retainer did not change this. How could it? By the mid-fifteenth century it was neither firm nor exclusive. Instead, it was too indiscriminate to be effective, many gentry were retained by several lords, and thus an indenture of retainer need have determined no-one's loyalties.

Discover one and you have discovered an obligation, but it is only one of many . . . it may not have been the most important . . . A lord could never be sure of his retainers in the fifteenth century, no lord could ever have been . . . Fifteenth-century England is not like some twentieth-century mechanical toy called perhaps 'Connection': press a button marked William Lord Hastings . . . and you have won the central Midlands . . . For the point about the ties between lords and men is that they were not binding . . .

Contracts were based on mutual advantage, which constantly shifted. They varied in intensity and from time to time and by themselves cannot reveal 'how the political society of a region "works"'. Gentry made their own decisions, lordship being merely one factor taken into consideration, and often not the decisive one. Were loyalties 'ever simple or straightforward enough to *predetermine* their behaviour?'

Of course they were not, as Richmond strove to demonstrate by analysing participation in battles. Most peers and many gentry fought in 1461, carrying Edward IV to the throne, but in 1485 noblemen and gentry alike avoided committing themselves at Bosworth:

A bare handful of peers fought for their King on that occasion, even fewer fought against him, and it is after all an encounter notorious for the fact that two noblemen, who were in a position to engage in the fighting, did not do so . . . Nearly four-fifths of them, by simply staying away, avoided the issue that was decided there that day.

And so too did the gentry. Richard's northerners suffered few casualties

<sup>69</sup> This is actually Rowney's phrase, *Property & Politics*, 145.

because they were not there,<sup>70</sup> unless perhaps in Northumberland's division and thus prevented from fighting:

Yet need we accept an explanation which involves Richard's retainers being there with Northumberland? Can we not simply take it that they were not there at all? And if they were not, ask why not?

Might they not have decided not to back him, in their own self-interest or even the public interest? If so:

If the Cumbrian gentry failed him . . . then the whole structure of authority as represented by lord and retainer is called into question. Richard in Cumbria was . . . the most over-mighty subject of them all: that was as Duke of Gloucester in 1483.<sup>71</sup> Can two years of kingship have undermined such authority? The Cumbrians had gained as much from Richard's royal patronage as had his other northern retainers: good lordship is not what is at issue here. So, if where he was apparently strong – at his strongest on most readings of the way in which power 'worked' in the fifteenth century – he was weak, we have surely to look again at Richard's kingship as well as at where power lay (and how it worked) in the fifteenth century.

Even those at Bosworth may have come to prosecute private quarrels of purely local origin from purely local issues rather than from loyalty to their lords. Was loyalty chiefly a 'literary device', asks Dr Richmond, 'that operated only when a lord's success made his retainer's self-interest coincide?'

Influenced perhaps by the ambiguous balance of advantage of lord and retainer remarked by his pupil Dr Rowney<sup>72</sup> and by his own observation that gentry ran lords' estates for them, Dr Richmond identifies the key retainers as the lawyers, who:

were the councillors of many masters. It is these men who managed things, who were at the heart of political life, whether of town, shire, or kingdom. Their loyalties were never predetermined, because they owed them everywhere; they were their own men because they were everyone else's. If power has to be located in one place then it should be here with these gentlemen.

<sup>70</sup> Professor Ross preferred the testimony of the near-contemporary 'Ballad of Bosworth Field' that they were present, *Richard III* (1981), 212-25, 235-7, but Richmond rejects this evidence and takes no account of it in his calculations.

<sup>71</sup> This is based on a misunderstanding. Cumberland was not Richard's strongest area before its elevation to a palatinate only in 1483, an elevation that did not take effect, see M.A. Hicks, *Richard III as Duke of Gloucester: A Study in Character*, below, 268-9; see also below, 372.

<sup>72</sup> Rowney, *Property & Politics*, 149-51.

They had turned their employers into their dependants:

noble lords had become by the mid-fifteenth century no more than socially prestigious puppets, whose strings were worked by knights, esquires and gentlemen. This is incontrovertibly revealed when the military aspect of retaining is considered. In spring 1471 Edward IV's return depended not on William lord Hastings but on William lord Hastings' retainers; they got both lord and king back into power.

Similarly Richard III's retainers let him go in 1485. It was the retainers who chose, their freedom that made politics so unpredictable, and hundreds of them, not a few noblemen, who determined the results, and whom historians should be studying.

Starting from a cautious scepticism, Dr Richmond has thus reduced late medieval politics to meaningless anarchy and, in McFarlane's name, has rejected the work not only of McFarlane, but of everyone else who has ever addressed the topic. Fortunately such a radical reassessment is not required. His preliminary premise that retainer was not binding and his claim that lords were tools of their retainers will be discussed later in this essay. What must be reconsidered here is the supposed independence of the gentry; their capacity for independent decision-making; the unimportance of lordship; and the inability of magnates to carry their retainers into battle.

The claim to independence for the gentry is debatable rather than objectionable and not inherently improbable. The number of extraordinary retainers is known to be surprisingly small and there were surely too many gentry for all to be feed by the nobility. But the evidence is deficient: invariably for the composition of noble households, which were supposedly growing; merely normally for the payment of fees. Is it ever sufficiently comprehensive for us to be *certain* any individual was not retained? Dr Saul also has gentry 'outside the embrace of "bastard feudalism"', but the 'trouble with 'independent gentry'', as Dr Carpenter pointed out, 'is that they only remain independent until evidence turns up to link them with a magnate affinity', as two of Saul's have since been.<sup>73</sup> So too with Dr Richmond's Kentishmen, whose *apparent* independence overlooks affiliations with Warwick the Kingmaker during his ten-year term as warden of the Cinque Ports and his fifteen-years as the captain of Calais.<sup>74</sup> John Hopton, too, is an improbable candidate for such a role. Assuming that his blindness set in late and did not force his withdrawal from public life,<sup>75</sup> he and his son were nevertheless connected over fifty

<sup>73</sup> Carpenter, *L & HR* i 206n. This depends, however, whether one accepts Dr Carpenter's methodology.

<sup>74</sup> *CPR*, 1452-61, 300; 1461-7, 45.

<sup>75</sup> C. Richmond, 'When did John Hopton become blind?', *Historical Research* lx (1987), 103-6. See the scepticism of Prof Storey, *Lancaster* (1986), ix.