

THE
FIFTEENTH-CENTURY
INQUISITIONS
POST MORTEM
A Companion



Edited by MICHAEL HICKS

The Fifteenth-Century
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THE BOYDELL PRESS

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Preface

This book celebrates the publication of the early fifteenth-century inquisitions *post mortem* (IPMs) and seeks to ensure their exploitation as widely and profitably as possible. It sets the agenda for the much fuller exploitation of a key source for many aspects of the late medieval English economy and society and sets out the rewards of more sustained study of the IPMs. Of all twenty-nine volumes of calendars (CIPMs), it is volumes xxii–xxvi that are the most comprehensive and those best attuned to the interests of twenty-first-century users. The Arts and Humanities Research Board (now Council), the National Archives, the University of Cambridge, Professor Christine Carpenter as editor, and Drs Matthew Holford, Claire Noble, Kate Parkin, and Stephen Milesen deserve the grateful thanks both of specialists on fifteenth-century history and of that much wider community of researchers (often recreational) who can now fully exploit this wonderful material. This *Companion* needs to reach that host of local historians and genealogists for whom IPMs are a crucial but often unrecognised resource. Calendaring of the IPMs has stopped, one hopes temporarily, with the inquisitions *post mortem* for 1447–85 uncalendared. In the meantime, Professor Michael Hicks is leading the AHRC-funded project to digitise the twenty-nine volumes and make them freely accessible – volumes i and ii are already on British History Online – and to convert volumes xviii–xxvi into a fully interactive web-mounted resource that will permit analysis which is currently extremely difficult and laborious.

In the meantime, there is a danger that the expertise and insights derived from the calendaring process will be lost. The AHRC projects revealed how much more there was to learn about the IPMs and what a difference this could make to their effective use. IPMs have enormous potential to deepen and extend our understanding of many aspects of our late medieval past. A first fruit is Professor Carpenter's important 'General Introduction' to the series published in volume xxii. Hence also the conference at Winchester University that Professor Hicks organised in 2010 on 'The Fifteenth-Century Inquisitions *Post Mortem*: Source, Process, and Potential', which was fortunate to attract a range of those most expert in different facets of the IPMs. This book derives from that conference. It seeks to inform those who use the IPMs, to identify areas that need researching, appropriate approaches and sources, and to warn future researchers of pitfalls. It will be of value to researchers in late medieval history of many types, in geography and archaeology, to family and local historians, and no doubt to other categories of users yet to be identified. It is hoped that it will stimulate resort to the printed calendars and will spawn more substantial contributions to our understanding attainable from this splendid resource.

The 2010 Winchester conference was a small and informal assembly pooling the participants' expertise. All were pushing the boundaries of their subjects and explaining to others the potential that the *CIPMs* had for them. None of them have said the final word and all hope to have stimulated successors to explore further. Some of these essays preserve the personal and engaging informality of tone that characterised the original conference.

A Glossary explains any technical terms. There is no bibliography, but the main secondary works feature in the Abbreviations. Of course the source most cited is the *Calendar of Inquisitions Post Mortem (CIPM)*.

The editor gratefully acknowledges the support of all the contributors and participants in the conference, and the advice of Professor Bruce Campbell and Dr James Ross. Dr Matthew Holford has assisted greatly in the editing of this volume. Dr Linda Clark identified many infelicities, inconsistencies and some errors. The University of Winchester has given generous financial support through funding some of Dr Holford's research, hosting the conference, and contributing to the costs of publishing this book.

Michael Hicks
August 2011

Glossary

Affeeror	Official (esp. in a manorial court) responsible for determining the level of fines and amercements
Assignment of dower	Allocation of lands of deceased tenant after IPM to his widow
Attornment	Formal acknowledgement of right
Bastard	Offspring born outside marriage with no rights of inheritance
Burgage	Type of freehold tenure in towns
Cestui que use	Beneficiary of a trust (enfeoffment to use)
Chancery	Government writing department that issued writs to hold inquisitions, received returns, and ordered subsequent actions
Courtesy of England or Law of England	A widower's entitlement to all estates of a deceased heiress by whom the man had fathered a living child (who might subsequently have died)
Demesne	Property held directly by landholder; also that part of a manor held by the lord rather than the tenants
Dower	Common law right of a widow to one-third of all lands of which husband was seised at death and/or during their marriage
Dowry, marriage portion	Lump sum due on marriage of a gentlewoman, often payable in instalments
Enfeoff	Convey land
Enfeoffment to use	Conveyance of land to trustees (feoffees) for a third party/designated purpose (use)
Entail	Settlement of land on recipient and heirs or on designated individuals. Could be limited to descendants of either sex (tail general), descendants in male line (tail male), or specific individuals (remaindermen)
Escheat	Forfeiture of land in default of heirs to original donor or his heirs
Escheator	Official appointed annually in rotation by the crown to administer feudal rights in a particular county
Exchequer	Government finance department that received income from wardships and administered their estates

Extent	Detailed description and valuation of a property
Fealty	Oath due from feudal tenant on succession to estate
Fee simple	Simple tenure of land that was neither entailed nor enfeoffed
Feodary	Estate official who administered feudal rights of a lord
Feoffee	One of panel of trustees granted property by donor (feoffor) to hold it to his use
Feudal aid	Obsolete royal levy on all knights fees on particular occasions
Final concord or fine	Fictitious lawsuit that enabled land to be transferred
Frankpledge, view of	Type of court (usually manorial and often private) that exercised low-level criminal jurisdiction
Gavelkind	System of partible inheritance in Kent and parts of Middlesex
Homage	Formal act of submission to a feudal lord, especially the king
Honor	Feudal grouping of estates and knights fees
Jointure	Land held jointly by husband and wife for life, usually from marriage, often entailed on offspring of the match
Knight's fee	Military service from a manor or other property due to superior lord. Also implied other service
Livery	Formal delivery of seisin to property
Manor	Self-contained estate that had a court and jurisdiction, often held by military service of lord
Marriage portion	Dowry or payment due from father/brother of a bride to father/bridegroom at marriage
Mesne lord	Tenant of tenant-in-chief who exercised lordship over others
Mortmain	Land held by the church for ever. Since the church could not die, literally in its 'dead hand'
Onomast	Place-names specialist (strictly a scholar of any names)
Oyer and terminer commission	Special judicial commission in criminal cases
Prerogative wardship	Royal right to wardship of heir and all lands of an heir to property held in knight service of the crown regardless of who was lord of the other components

Primer seisin	Royal right to revenues of an estate between death of tenant and livery of the heir
Primogeniture	Normal system of inheritance, by which males take precedence in order of birth over females of the same generation, the direct line takes precedence over collaterals, and sisters inherit equally
Proof of age	Formal process whereby under-age heirs were adjudicated of age and hence able to take up their inheritance
Relief	Nominal payment of £5 per knights fee on entry to inheritance
Remainder	Designated next heir
Scutage	Obsolete tax in lieu of feudal military service
Seisin	Physical possession of land
Serjeanty	A type of free tenure for particular designated service
Sheriff	Official appointed by the crown annually in rotation to administer ancient revenues (county farm), judicial and electoral business
Socage	A type of estate tenure, usually solely for rent
Tail general	Entail of property on donor's (feoffors) heirs of whatever sex
Tail male	Entail of property on male heirs of donor (feoffor)
Tenant-in-chief	Landowner who held land directly of king
Use	A trust
Ward	Under-age heir of a feudal tenant whose wardship (guardianship) and marriage belonged to superior lord
Wardship	A lord's right of custody of lands and heir of a feudal tenant
Will	Instructions (usually written) regarding use of lands after death (the modern will of moveable goods was called the testament)
Writ	Written Latin instruction from central government to local officials. Formulaic: different writs for different occasions

Abbreviations

Unless otherwise stated, all works are published in London and all documents are in The National Archives (TNA) and are cited by call numbers only.

Citations from the *Calendars of Inquisitions Post Mortem* (CIPM) refer to document numbers, not pages. All other references are to pages.

AgHR	<i>Agricultural History Review</i>
Armburgh Papers	<i>The Armburgh Papers: The Brokholes Inheritance in Warwickshire, Hertfordshire and Essex c.1417–c.1453</i> , ed. C. Carpenter (Woodbridge, 1998)
Bean, <i>Decline</i>	J.M.W. Bean, <i>The Decline of English Feudalism 1215–1540</i> (Manchester, 1968)
BIHR	<i>Bulletin of the Institute of Historical Research</i>
BL	British Library
Bodl	Bodleian Library
CAD	<i>A Descriptive Catalogue of Ancient Deeds in the Public Record Office</i> (6 vols, HMSO, 1890–1915)
Campbell, ESA	B.M.S. Campbell, <i>English Seigniorial Agriculture 1250–1450</i> (Cambridge, 2000)
Campbell & Bartley, <i>Atlas</i>	B.M.S. Campbell and K. Bartley, <i>England on the Eve of the Black Death: An Atlas of Lay Lordship, Land, and Wealth, 1300–49</i> (Manchester, 2006)
Carpenter, 'Introduction'	C. Carpenter, 'General Introduction', CIPM, xxii
Carpenter, <i>Locality & Polity</i>	<i>Locality and Polity: A Study of Warwickshire Landed Society 1401–1499</i> (Cambridge, 1992)
CCR	<i>Calendar of Close Rolls</i>
CFR	<i>Calendar of Fine Rolls</i>
CIM	<i>Calendar of Inquisitions Miscellaneous</i>
CIPM	<i>Calendar of Inquisitions post mortem and other analogous documents preserved in the Public Record Office</i> , i–xix (HMSO (1904–92); xx–xxiii (Woodbridge, 2002–3); xxiv–xxvi (Woodbridge, 2009–10); 2nd ser. [Henry VII] i–iii (1898–1955))
CP	G.E.C[okayne], <i>Complete Peerage of England, Scotland, Ireland, Great Britain and the United Kingdom</i> , ed. H.V. Gibbs et al. (12 vols, 1910–59)
CPR	<i>Calendar of Patent Rolls</i>
EETS	Early English Text Society
EHR	<i>English Historical Review</i>

<i>EcHR</i>	<i>Economic History Review</i> , 2nd series
EPNS	English Place Name Society
<i>Feudal Aids</i>	<i>Inquisitions and Assessments Relating to Feudal Aids</i> (6 vols, 1890–1920)
Hicks, ‘Between Majorities’	M.A. Hicks, ‘Between Majorities: The “Beauchamp Interregnum” 1439–49’, <i>HR</i> lxxii (1999)
Hicks, <i>Richard III & Rivals</i>	M.A. Hicks, <i>Richard III and His Rivals: Magnates and Their Motives during the Wars of the Roses</i> (1991)
Holford, ‘Testimony’	M. Holford, ‘Testimony (to Some Extent Fictitious): Proofs of Age in the First Half of the Fifteenth Century’, <i>HR</i> lxxxii (2009)
<i>HPT</i>	<i>The House of Commons, 1386–1421</i> , ed. J.S. Roskell, L. Clark and C. Rawcliffe (4 vols, Stroud, 1993)
<i>HR</i>	<i>Historical Research</i>
Kosminsky	E.A. Kosminsky, <i>Studies in the Agrarian History of England in the Thirteenth Century</i> , trans. R. Kisch (Oxford, 1956)
McFarlane, <i>England</i>	K.B. McFarlane, <i>England in the Fifteenth Century: Collected Essays</i> (1981)
<i>McFarlane Legacy</i>	<i>McFarlane Legacy: Studies in Late Medieval Politics and Society</i> , ed. R.H. Britnell and A.J. Pollard (Stroud, 1995)
McFarlane, <i>Nobility</i>	K.B. McFarlane, <i>The Nobility of Later Medieval England: The Ford Lectures for 1953 and Related Studies</i> (Oxford, 1973)
ODNB	<i>Oxford Dictionary of National Biography</i> (64 vols, Oxford, 2004), www.oxforddnb.com
<i>Paston L & P</i>	<i>Paston Letters and Papers of the Fifteenth Century</i> , ed. R. Beadle, N. Davis and C. Richmond, 3 vols, Early English Text Society supplementary series 20–22 (2004–5)
<i>Paston Letters</i>	<i>The Paston Letters, 1422–1509</i> , ed. J. Gairdner (6 vols, 1904)
Payling, <i>Nottinghamshire</i>	S.J. Payling, <i>Political Society in Lancastrian England: The Greater Gentry of Nottinghamshire</i> (Oxford, 1991)
Payling, ‘Social Mobility’	S.J. Payling, ‘Social Mobility, Demographic Change and Landed Society in Late Medieval England’, <i>EcHR</i> xlv (1992)
<i>Plumpton L & P</i>	<i>Plumpton Letters and Papers</i> , ed. J. Kirby, Camden 5th ser. viii (1997)
Pollock & Maitland	F. Pollock and F.W. Maitland, <i>The History of English Law</i> (2 vols, Cambridge, 1968)
PROME	<i>The Parliament Rolls of Medieval England 1275–1504</i> , ed. C. Given-Wilson (16 vols. Woodbridge, 2005)
Pugh & Ross, ‘Baronage’	T.B. Pugh and C.D. Ross, ‘The English Baronage and the Income Tax of 1436’, <i>Bulletin of the Institute of Historical Research</i> xxvi (1953)
Rawcliffe, <i>Staffords</i>	C. Rawcliffe, <i>The Staffords, Earls of Stafford and Dukes of Buckingham, 1394–1521</i> (Cambridge, 1978)
Richmond, <i>Hopton</i>	C. Richmond, <i>John Hopton: A Fifteenth-Century Suffolk Gentleman</i> (Cambridge, 1981)
RO	Record Office

Ross & Pugh, 'Materials'	C.D. Ross and T.B. Pugh, 'Materials for the Study of Baronial Incomes in Fifteenth-Century England', <i>EcHR</i> 2nd ser. 6 (1953)
Saul, <i>Knights & Esquires</i>	N. Saul, <i>Knights and Esquires: The Gloucestershire Gentry in the Fourteenth Century</i> (Oxford, 1981)
SR	<i>Statutes of the Realm</i> (www.heinonline.org)
Stonor L & P	<i>Stonor Letters and Papers of the Fifteenth Century</i> , ed. C.L. Kingsford, Camden 3rd ser. xxix, xxx, xxxiv (1919–24)
TNA	The National Archives
VCH	<i>Victoria County History</i>
Waugh, <i>Lordship</i>	S.L. Waugh, <i>The Lordship of England, Royal Wardships and Marriages in English Society and Politics 1217–1327</i> (Princeton, NJ, 1988)

Counties

Beds.	Bedfordshire
Berks.	Berkshire
Bucks.	Buckinghamshire
Cambs.	Cambridgeshire
Ches.	Cheshire
Corn.	Cornwall
Cumb.	Cumberland
Derbs.	Derbyshire
Dur.	Durham
Glos.	Gloucestershire
Hants.	Hampshire
Here.	Herefordshire
Herts.	Hertfordshire
Hunts.	Huntingdonshire
Lancs.	Lancashire
Leics.	Leicestershire
Lincs.	Lincolnshire
Middx.	Middlesex
Norf.	Norfolk
Northants.	Northamptonshire
Northumb.	Northumberland
Notts.	Nottinghamshire
Oxon.	Oxfordshire
Rut.	Rutland
Salop.	Shropshire
Som.	Somerset
Staffs.	Staffordshire
Warks.	Warwickshire
Westmor.	Westmorland
Wilts.	Wiltshire
Worcs.	Worcestershire
Yorks.	Yorkshire

Introduction

MICHAEL HICKS

What Were Inquisitions *Post Mortem*?

Inquisitions *post mortem* (IPMs) were the product of sworn inquiries by local jurors into the landholdings after death of feudal tenants. Initiated by the crown, they survived from 1235–6 until 1660, when feudal tenures were abolished. Feudalism was a system of land tenure universal in England in which land was held in return for service, all of it ultimately from the king, whether directly by tenants-in-chief or through intermediate lords (*mesne* tenants). Henry III and later kings wanted to keep track of their feudal rights and to exploit any potential profits or feudal incidents.¹ Inquisitions *post mortem* were one of the mechanisms. *The Book of Fees* and returns of feudal aids recorded feudal tenancies at infrequent intervals, whereas IPMs captured the situation when tenants died and the transfer of tenure offered opportunities to the crown.² When inquisitions were first devised, knight service was still a military reality, but it had become obsolete long before 1400. Nevertheless landholding remained feudal. Feudal tenure was still an important medium of authority for the crown over the landed aristocracy and of revenue both to the king and, less certainly, to the *mesne* lords. Inquisitions therefore continued to be held and many thousands of IPMs were composed by local jurors and were returned to chancery. These are now filed in the National Archives, those for Henry VI in TNA class C 139; they are supplemented by exchequer versions (classes E 149–52), and many of them have been calendared in twenty-nine massive volumes covering the years from 1236 to 1447 and from 1485 to 1509. The volumes for 1422–47 most recently published are the most complete and to the highest academic standards. They are the principal foundation for this book and for which it is intended as both a *Companion* and a guide.³

¹ See esp. J.M.W. Bean, *The Decline of English Feudalism 1215–1540* (Manchester, 1968); Waugh, *Lordship*; *Liber Feodorum. The Book of Fees commonly called Testa de Nevill* (1198–1293), 2 vols (1920–31); *Feudal Aids*.

² Waugh, *Lordship*, 171–2.

³ *CIPM*, xxii–xxvi (Woodbridge, 2003–10).

Inquisitions *post mortem* were first valued by antiquarians for the information that they provided on landholding, the aristocracy and their genealogies, and the inheritance of manors. Those interests determined the form of the four summary volumes published by the Record Commission in 1828 and the sequence of calendars that commenced in 1899.⁴ Had IPMs confined themselves to tenants-in-chief they would have been valuable, but actually they covered much other landholding held of lesser lords both by tenants-in-chief and also by many others. Such information is the essential foundation for the manorial descents that are the core of every parish history published by the *Victoria County Histories*. It has underpinned the postwar studies, inspired by K.B. McFarlane, of late medieval politics, the nobility and gentry, and county communities.⁵ Yet the information supplied by the juries to the crown extended further, into the nature of the tenure and the services due, into the value of the property and any incumbrances, and into details of its extent, composition, structures and other assets that were itemised in the extents that accompany (very approximately) a third of the inquisitions. The extents are the largest collection of medieval land surveys. Such details did not interest the Victorians – economic history had scarcely been invented – and were therefore not calendared, but they are now much more highly appreciated. Inquisitions are ‘the single best source for reconstructing both the institutional and economic geography of the country’, wrote Professor Campbell.⁶ He analysed electronically the uncalendared material for 1300–49 to produce a remarkable *Atlas* that sets on a firm footing, comparable to *Domesday Book*, the land use and rural society on the eve of the Black Death.⁷

Although less detailed, indeed one product of the Black Death itself, the fifteenth-century IPMs can also be used in this way. Extents and valuations appear in the calendared volumes for 1399 to 1447 and 1485 to 1509. Moreover historians have now progressed beyond the elite and national politics to the study of ordinary people, rural society and local government, for which the lists of jurors – those actively engaged in running the hundreds and manors – are a key resource.⁸ When inquisitions were contested between rival claimants, the

⁴ *Calendarium Inquisitionum sive Escaetarum*, ed. J. Caley et al., 4 vols, Record Commission, London, 1828; iv (1828); CIPM, i–xix (HMSO, 1904–92); xx–xxiii (Woodbridge, 2002–3); xxiv–xxvi (Woodbridge, 2009–10); 2nd ser. i–iii (London, 1898–1955).

⁵ *McFarlane Legacy*, 11–13; see e.g. Carpenter, *Locality & Polity*; M.A. Hicks, *Warwick the Kingmaker* (Oxford, 1998); Payling, *Nottinghamshire*; C. Rawcliffe, *The Staffords, Earls of Stafford and Dukes of Buckingham 1394–1521* (Cambridge, 1978); see also Chapter 3.

⁶ B.M.S. Campbell, review of E. Miller (ed.), *Agrarian History of England and Wales*, iii, 1348–1500, *AgHR* 41 (1993), 60–70; see also P. Coss, review of Campbell & Bartley, *Atlas*, 828.

⁷ Campbell & Bartley, *Atlas*.

⁸ J. Masschaele, *Jury, State and Society in Medieval England* (2008); P. Larson, ‘Village Voice or Village Oligarchy? The Jurors of the Durham Halmote Court, 1349 to 1424’, *Law and History Review* 28 (2010), 675–709; Chapter 11 below.

role of the escheator could be crucial. The names of both jurors and escheators are now included, in preparation for future projects yet to be devised. Even the writs that ordered the IPMs, which appeared so uninteresting and unimportant for so long, now demand attention and have been calendared in full. Professor Christine Carpenter has explained the editorial decisions behind these improvements.⁹ IPMs are thus a vast resource with far more potential than hitherto appreciated. To exploit them fully requires digitisation. This volume records the discoveries and achievements of the recent calendars. It surveys some of the uses of the material and identifies some of the areas most fertile for future study.

What Does an Inquisition *Post Mortem* Mean?

IPMs were Latin documents that used technical language. They have been translated and shortened in the calendars, which cut out repetitive verbiage and record all the essential information. Each was initiated by a writ, usually of *diem clausit extremum* (Latin for 'he has closed his last day', or died), which recorded the death of a feudal tenant and ordered the escheator in a particular county to take his lands into royal custody and to hold an inquisition. Writs were issued to all counties where the tenant was believed to hold property and separate IPMs were held in each shire. Sometimes the writ indicated the domicile of the deceased or the source of his/her land: widows for example were often identified by reference to the deceased husband whose lands they occupied, not necessarily the latest. The description does not always indicate whether her spouse was living. The jurors were asked:

- ✦ The date when the tenant died
- ✦ What land was held in demesne (occupied directly by the tenant) in fee simple or entail by the dead tenant on the day of death and by what service
- ✦ What land was held of the king
- ✦ What land was held of others
- ✦ What was its annual value
- ✦ Who was the heir to the deceased and how he/she was related to him/her
- ✦ Whether the heir was of age or not¹⁰

Writs did not specifically ask how the heir was entitled to the property or what had happened to the issues since the death of the tenant, but this information was normally included in the IPM.

⁹ Carpenter, 'Introduction', 42–9.

¹⁰ Based on *CIPM*, xxii–xxvi. For full discussion, see Chapter 10. For an example, see C 139/127/5 m.3 edited by Holford: www.winchester.ac.uk/academicdepartments/history/research/inquisitions/Pages/TheInquisitionsPost-MortemProject.aspx (accessed 11 May 2011).

These questions governed what the inquisition contained. It ought to be obvious to us in our age of questionnaires and carefully phrased referenda that the questions asked by the writs determined the nature of the responses received. If information was not requested, it was not supplied. If the question was not framed carefully, the answer provided might not be that desired. Jurors were not asked and did not systematically state whether the deceased had left a widow or a widower who was entitled to a life estate in part or all of the property by dower or courtesy, though this was actually an important matter to the crown. Although most male tenants were surely married at death, only 13 per cent had their own widows recorded in their own IPMs.¹¹ If land was not held in demesne by the deceased but by his feoffees (trustees), it was of little interest what happened to it subsequently. Although most trusts operated as directed by the deceased in his last will, remarkably few wills feature in the inquisitions: only four in volume xxii and eight in volume xxvi, most only in passing. Inquisitions did not record who the next heir would be if the current heir died. A major problem for the king's officials and for historians is that jurors often answered the question of who was the heir to the deceased by stating exactly that – even if the deceased held property only for life and there was thus nothing to inherit – and did not identify the heir of the properties themselves, who was perhaps the kin of a former spouse or the beneficiary of an entail. Where distant kin were concerned, jurors traced the relationship back and forward with reference to forenames only, often ignoring surnames and changes of surnames. Some detective work is needed, for instance, to establish that Alice Cavendish's two elder daughters were surnamed Lathe,¹² and yet more to establish her maiden name. Yet this was definitely information that the clerks in chancery needed. On the other hand, jurors frequently added a full survey (extent) of the property and details of the title supported by title deeds shown to them. Such information was surely tendered by the agents of the family, the heir or rival claimants.¹³ Sometimes these had an interest in concealing the property or mental state of the heir from the jury.¹⁴

The vast majority of inquisitions were held in response to writs of *diem clausit extremum*.¹⁵ The escheator was obliged to hold the inquisition and return it to chancery within a year. Sometimes he did not, due to loss or inadvertence – numerous re-issued writs refer to these legitimate excuses tendered by escheators who do not wish to be penalised – or because the term of office had ended, which resulted in the issue of a new writ of *amotus* to the current holder. There are only twenty-two such writs over the period 1422–47. If no inquisition arrived within a year, a more strongly-worded writ of *mandamus* was issued: there are only

¹¹ Based on CIPM, xxii–xxvi.

¹² CIPM, xxiii.63; xxiv.652–4.

¹³ Carpenter, 'Introduction', 20–2.

¹⁴ CIPM, xxii–xxvi; see Chapter 4 below.

¹⁵ Based on CIPM, xxii–xxvi. When not extant, writs are presumed to be *diem clausit extremum*.

195, 8 per cent of the total, in the same period. If there were obscurities in the inquisition *post mortem*, a new writ *de melius inquirendo* was issued demanding a further inquisition to answer certain questions better. There are 141 such writs. If more property had been uncovered or was thought to exist, a writ *que plura* was issued. There are sixty-eight of these: sometimes the assertion was firmly rebuffed. Finally if the heir had died whilst a minor and in the king's wardship, a further writ *devenuerunt* was issued to establish who was the next heir, the relationship, and whether a royal ward or not. (The patterns of appearance of some of these writs are discussed in Chapter 10.) The escheator could also by virtue of his office (*de virtute officii*) hold an inquisition on his own authority. There are 190 (8 per cent) such inquisitions.¹⁶ On a handful of occasions inquisitions were held by commissions: these either related to properties or individuals in whom the crown took a particular interest, such as those of Edward IV's attainted brother George Duke of Clarence in 1478, or were held because someone wished to influence the result by choosing themselves who presided.¹⁷

The Inquisition Process

For over a century the printed calendars have been pillaged or systematically researched by historians via the indexes of places and personal names. They are generally treated as mere data. That is to neglect some of their potential, but also some of their limitations. It is important to realise that the inquisitions do not stand alone. They are the results of a process and the starting point for other processes that are recorded elsewhere in the royal archive. The inquisition files and therefore the latest published calendars contain five types of document: the IPMs themselves, including extents of property; proofs of age; assignments of dower; partitions of property between coheirs; and the writs that initiated almost all these transactions. They can be related to the writs, grants of livery, assignments of dower, grants and custodies of wardship recorded on the chan-cery patent, close and fine rolls (TNA C 54, C 60, C 66, now calendared), to the payments for fees for writs and fines in the hanaper (E 101), the certificates of homage (PSO 1), the files and accounts of the escheators (E136, E 153, E 357), the memoranda rolls of the exchequer (E 159, E 368) and the records of the king's courts. All these sources may contain duplicate or supplementary material, which can sometimes reveal the original IPMs to be incomplete, inaccurate or erroneous to varying degrees.

The death of the feudal tenant was the starting point of the process. It was usually a writ that initiated the inquisition. Adult heirs of tenants-in-chief were given livery of their estates, swore fealty (once only) to an escheator or other

¹⁶ Based on *CIPM*, xxii–xxvi. For the different types of writ, see Carpenter, 'Introduction', 10–12; Chapter 10 below.

¹⁷ C 140/67, /68; *CPR 1476–85*, 108–11.

royal nominee, and did homage, apparently to the king in person. Homage was often deferred (respite) for a modest fine: several files of original certificates of homage survive among the warrants for the privy seal. A highly unusual memorandum records that on 22 October 1440, William, the new earl of Arundel, appeared in person in the royal chancery and sued for livery of Arundel Castle in the presence of, among others, Lord Chancellor Stafford, Richard Earl of Salisbury, Walter Lord Hungerford, and the lord chief justice.¹⁸ Is the memorandum a rare record of the commonplace or an exceptional event?

If the heir was a tenant of the crown and under-age, he/she became a royal ward and was taken into royal custody. His/her guardianship and marriage and the issues of the property passed to the crown for the duration of the minority. These could be administered by escheators who were liable for the annual value stated in the inquisition, but usually the crown could do better than this. Either the exchequer leased the lands or the king appointed a custodian, as recorded on the fine roll (C 60). Such grants could include the wardship and obligation to support the heir and indeed often the marriage of the heir also. Such grants were normally from heir to heir, 'until the marriage was duly effected', so the custodian kept the wardship if the ward died leaving younger siblings to succeed. Generally an additional sum was paid for rights of marriage, which lasted until the marriage was fulfilled.¹⁹

Whenever wards died under-age, another writ (*devenerunt*) was issued and another inquisition was held to establish who was the next heir.²⁰ When the heir came of age, a further writ *de etate probanda* was issued to the escheator of the county of the heir's birth and the date of birth was proved by oath of witnesses. Proofs of age offer fascinating insights into social customs and the use of churches.²¹ Males came of age at 21 and females at 14. Bean states that majority at 14 applied only to heiresses who were married or betrothed at their ancestor's death, otherwise the age of majority was 16,²² but this rule was seldom applied to heiresses who were married as wards. The custodians or their heirs were invited to attend the proof of age and to object, but seldom attended. We cannot tell whether their objections were ever successful. Almost invariably heiresses were already married at majority and their husbands were included in the proceedings;²³ proofs of age normally ignore the marital status of male heirs. Where there were multiple heirs, coheiresses or the descendants of coheiresses, chancery writs enrolled on the close rolls (C 54) ordered the escheators to partition the property between the coheirs on a county by county basis in the presence of the heirs, their representatives, or custodians. A handful of partitions

¹⁸ CIPM, xxv.369.

¹⁹ E.g. CFR 1422–29, 233; CCR 1422–30, 68.

²⁰ CIPM, xxii.12.

²¹ Holford, 'Testimony', 635–54.

²² Bean, *Decline*, 8.

²³ E.g. CIPM, xxvi.142, 350, 352.

were filed with the IPMs. Some estates, generally the largest ones, were partitioned centrally.²⁴

Also after the inquisition, widows were entitled to dower of a third part of their deceased husband's property for life. It was presumably on the dowager's initiative that writs of dower were issued by chancery to the escheators of all counties where the deceased tenant had held land. These were enrolled on the close roll. Dower was carved out of the expectations of the heir, who was often said to have endowed the widow. Heirs themselves or the custodians or farmers of land in wardship were invited to the assignment of dower. This may imply some say in what was assigned by the escheator as dower for each county. Writs ordering such assignments specified that the 'king's widows' should swear not to remarry without royal assent.²⁵ When remarried without a licence, a fine was normally exacted.²⁶

Survival of the Archive

The main series of IPMs cover England and the Welsh marches of the three counties of Gloucester, Hereford, and Shropshire. They do not include the three palatine counties of Chester, Durham, and Lancaster, which have their own separate series. Even without these, the IPMs represent a huge archive. Survival however is a key issue that has never been addressed and cannot be fully answered here. How complete are the surviving inquisitions?²⁷ Certainly there have been losses over the past six centuries – some obvious, where returns noted by the early nineteenth-century record commissioners are not extant – yet these appear to be few in number. Some bigger issues need to be addressed. Were the instructions in the writs systematically carried out? How many writs failed to result in inquisitions or assignments of dower? Secondly, how many returns failed to reach the surviving files? The calendars record some cases of writs without inquisitions and many inquisitions without writs. Two inquisitions are calendared for Henry Duke of Warwick that are not now in chancery and were perhaps never returned there.²⁸ It is possible that nil returns were sometimes discarded. Thirdly, how many evaded the process altogether? Professor Bean identified three tenants-in-chief in 1433–8 for whom there are no inquisitions.²⁹ Many inquisitions, moreover, failed to record landholdings that are known to exist, either because of evasion or because the lands were held in trust. Other categories of record survive much less frequently than inquisitions: there are far

²⁴ E.g. *CFR* 1422–30, 66, 68, 71–2, 81, 135; *CIPM*, xxvi.65–6, 125, 497–9; *DL* 26/69.

²⁵ *CCR* 1422–9, 3, 4, 9, 30, 92; *CIPM*, xxv.300, 356, 365.

²⁶ *CFR* 1422–9, 32; *CCR* 1422–9, 107, 157, 298; *CP* ii.72; xi.104; *CIPM*, xxv.124.

²⁷ See below Chapter 10.

²⁸ *CIPM*, xxvi, p. x.

²⁹ Bean, *Decline*, 213.

more writs surviving than actual assignments of dower and those that exist relate to a tiny fraction of the writs issued. Similarly most partitions are lost (but can be reconstituted from later inquisitions).

Systems of Tenure

Several systems of land tenure operated in late medieval England: *villeinage*, which tenants-in-chief did not occupy, and *frankalmoign* (free alms), which occurs only occasionally and incidentally; freehold tenure in towns (*burgage*) and country (*free socage*); and *knight service* and *serjeanty*, tenure in return for military service or other specified services, which apply far more generally. There are a few references to *gavelkind*, a system of partible inheritance in Kent, but in every other case the system of inheritance was primogeniture. This gave precedence to the direct line of descent and to males over females in the same generation: thus a son or daughter came before a brother, a brother before a sister, a son's daughter before a brother. Men inherited by seniority: the eldest son before the second, the second before the third, and so on. Women of the same generation inherited equally: thus if there were three sisters, there were three coheiresses.³⁰ This was a system therefore that did allow women to inherit. Those related in the whole blood, those who shared both parents, were often preferred to their half-siblings. Bastards, those born outside wedlock, had no rights of inheritance and no next of kin either. Provision was also made for widows of deceased tenants, the common law of *dower*, and for husbands who had fathered a child by a deceased heiress (*courtesy*): both are discussed more fully in Chapter 2.

Feudal tenants did not hold their lands absolutely, but subject to their lords, who had legitimate interests both in preventing alienation into the dead hand of the church (*mortmain*) or to others whom they had not chosen. Tenants ought therefore to have secured licences from the king if tenants-in-chief or from their immediate lords if not. There were more than two thousand licences granted by the king to alienate in mortmain after 1279.³¹ Whilst such alienations undoubtedly diminished in number, benefactors often ceased to have their alienations licensed not long after the last amnesty in 1392.³² Alienations to others could constitute gifts or sales, but far more often involved the resettlement of estates. Lands were granted (*enfeoffed*) to others, two or more feoffees or trustees, who might then settle them on individuals, often a husband and wife jointly, in tail, or hold them to the use of the grantor. Ideally all such transactions should have

³⁰ For a recent exposition, see M. Hicks, *Wars of the Roses* (2010), 34.

³¹ S. Raban, *Mortmain Legislation and the English Church 1279–1500* (Cambridge, 1982), *passim*.

³² A. Kreider, *English Chantries: The Road to Dissolution* (Cambridge, MA, 1979), 72–5. The penalty however remained and was still sometimes exacted.

been licensed by the superior lords, but there was no compulsion.³³ The new calendars follow the original IPMs in scrupulously recording wherever royal licences had been secured and when they had not been (rather less regularly). Sometimes IPMs also state that alienations had been pardoned by the crown in arrears. Such licences and pardons from the crown are itemised in the patent rolls. Whilst unlicensed alienations might be seized or abrogated, offenders fined for pardon for the offence. The absence of a licence seldom seems to have made much difference: not enough certainly for licences invariably to be secured or registered in inquisitions.³⁴

Property that descended according to common law principles of primogeniture was said to be held in *demesne* as of fee: in *fee simple*. By the fifteenth century, however, much of it had been resettled in more sophisticated tenures. Apart from sales of property, such transactions fall into two main types: those that modified the descent of property in future (*entails*) and *enfeoffments* to use (*trusts*).

An entail resettled the property on a particular set of heirs. These might be any descendants of the original donor (*tail general*), which did not alter the line of descent, but limited the freedom of future generations. Each successive current holder was reduced to a tenant for life, alienation was made more difficult, and the estate was kept together. Alternatively the entail could benefit a more restricted subgroup, most commonly the male line (*tail male*) to the exclusion of females. K.B. McFarlane argued for a progression from universal fee simple to entails in tail male as a norm by the fifteenth century.³⁵ Simon Payling has demonstrated entails to be less common and less frequently in the male line than McFarlane had supposed.

Tail male settlements remained the exception rather than the rule.... The great preponderance of general entails meant that families threatened with extinction in the main male line but with a suitable male collateral found so much of their property tied by such entails that they could not, even if they had wished, legally disinherit their female heirs with any guarantee of success.

Payling attributes his surprising finding to the desire of fathers, failing all else, that their daughters should inherit – ‘marriage jointures were thus more often settled in tail general than in tail male’ – and a ‘general doubt about the equity of the disinheritance of heirs general’.³⁶ Another reason for this discrepancy, perhaps more cogent, is that the practices of the highest nobility studied by McFarlane and the title of royal endowments after 1337, which did prioritise the male line, departed from the customary practices of the aristocracy as a whole who preferred primogeniture. Entails were commonly used to settle lands on

³³ Bean, *Decline*, 86.

³⁴ But see below Chapter 11.

³⁵ McFarlane, *Nobility*, 271–4.

³⁶ Payling, ‘Social Mobility’, 60–1.