

Conquered England: Kingship, Succession and Tenure, 1066-1166

Review Number:

633

Publish date:

Wednesday, 31 October, 2007

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ISBN:

9780198207931

Date of Publication:

2007

Price:

£65.00

Pages:

401pp.

Publisher:

Oxford University Press

Publisher url:

<http://ukcatalogue.oup.com/product/9780198207931.do>

Place of Publication:

Oxford

Reviewer:

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This impressive study examines the consequences for land tenure in England of William of Normandy's conquest of the country, glossed by his claim to have succeeded to the throne by the bequest of King Edward. Yet he believed, in line with French practice, that he became king at the moment of consecration, after which he could legitimately grant lands to his followers. Adjudication of tenurial rights was based on the situation on the day of King Edward's death, but the great volume of evidence heard by the Domesday commissioners was simplified and from this there emerged a new pattern of dependent tenurial lordship. William, as the heir of King Edward, was regarded as lord of all - which his English predecessors had not been.

The case for William's conquest of England, Garnett suggests, was justified by Lanfranc, drawing on Canon 75 of the Fourth Council of Toledo, while William of Poitiers wrote a vindication of the Conqueror's claim to the throne, not a history of the Conquest era. English and part-English writers began to cast doubts on William's case for the Conquest only in the earlier twelfth century.

For Eadmer, the most significant of the new practices introduced by the Conqueror was the requirement that anyone taking up office as bishop or abbot must first 'become the man' of the king by doing homage. He then received the pastoral staff from the king's hand, and obtained control of his lands. The bishops and abbots were now tenants in chief. From 1066 onwards, vacant abbacies and bishoprics were in the king's hand. Servitia debita were imposed, Garnett suggests, when English clerics acknowledged the lordship of William I, and obtained confirmation of the lands of their churches. Servitia debita were not imposed on some pre-

Conquest houses, even though Domesday Book records that they held in chief, nor were they imposed on post-Conquest foundations. The obligation fell on the individual tenant in chief, rather than bearing any relation to the extent of his lands, which reinforced Eadmer's view that in most cases bishops and abbots now held their lands 'on the king's nod'.

The act of homage, unknown in Normandy, was exacted both from the surviving Englishmen and from the Frenchmen introduced by King Edward when they 'redeemed' their lands and submitted to William. Garnett thinks it unlikely that the incoming laymen among the Normans did homage when receiving lands. The tradition was inaugurated in the ceremony held at Salisbury on 1 August 1086, when both tenants in chief and subtenants rendered homage to the king, an indication that all tenure depended ultimately upon him. The lord's acceptance of someone as his 'man' established the bond between them whereby the man held land of the lord in return for service. The charter evidence, which largely survives only from the early twelfth century onwards, indicates that a lord would normally, but not invariably, 'restore' a landholding to the son of a deceased tenant, sometimes on harsher terms.

The Coronation Edict of Henry I acknowledged that a tenant could have an heir. Its statement that reliefs would now be 'just and lawful' gave the impression that these would no longer be arbitrary exactions, and that heirs would therefore have some security of succession, but a 'just and lawful' relief was not defined. In Clauses 12 and 14 of the Edict, Henry extended his firm peace over his whole kingdom, and confirmed the possessions both of those who now became his barons and also, apparently, of subtenants and others, reflecting the homage done to William the Conqueror at Salisbury in 1086. The Edict assumes that Henry I succeeded to all revenues, including fines, farms and payments for the inheritances of others, which had been agreed with William II, or which were due to him.

During the Norman era, the decisive factor in determining the royal succession was not the theoretical claim of the successful candidate but the speed with which he could move. In pre-Conquest Normandy, the designation of the duke's eldest son as heir, to the exclusion of claims by his male kinsmen, kept the duchy undivided. Lineal succession was broken when Nicholas, the young son of Richard III, was excluded, and Robert the Magnificent succeeded. His son William succeeded in turn, despite being younger than Nicholas had been at Richard's death, and no more legitimate. William's position was stronger, though, since the leading men had pledged fidelitas to him during his father's lifetime. Even so, his supporters struggled to protect him and to maintain his status until he reached adulthood.

Robert Curthose, the designated heir of the Conqueror in respect of Normandy, and of Maine on a different basis, repeatedly rebelled because he was not allowed to rule 'his' county of Normandy. The Norman nobles had pledged fidelitas to him, and these oaths could not be rescinded. Since England was an acquisition, the Conqueror could determine the succession as he chose, and he adapted the Norman custom of partition between sons by his deathbed bequest to William Rufus.

In 1087, the English subjects of William II regarded him as their undoubted king, but his Norman barons, with lands on both sides of the Channel, were in a dilemma. Robert, as the designated duke of Normandy, was theoretically in a stronger position than William, who apparently received pledges of fidelitas only after his coronation. The Conqueror's solution to the question of inheritance contained contradictions. He treated England as an acquisition, despite claiming to hold it by hereditary right. In Normandy, he held the traditional ducal designation ceremony for Robert, yet omitted the custom of binding the younger brothers to the successor. The resulting instability at the highest level permeated down throughout society, hence the speed with which William Rufus obtained consecration. Whereas in France the ruler's eldest son was consecrated in his father's lifetime, this was never Norman practice, nor was it introduced into England. The designation ceremony was the substitute.

The king's sole control over tenures in England, because of the Conquest, made his position stronger than it was in Normandy, but an interregnum gave scope for the redress of grievances, whether against the late ruler or others, both in England and in Normandy. A new king, in 1100 or in 1135, quickly made deals with influential magnates and obtained speedy consecration, so that his power was secure before news of his

predecessor's death became widespread. Successive rulers continued to treat England as an acquisition, and the alleged last wishes of the late king on the succession constituted an acceptable claim to the throne, when reinforced by the co-operation of the archbishop of Canterbury. Henry I's accession was the exception to this on both counts.

Henry in turn designated his son William as his successor. The lay baronage did homage to him without becoming tenurially dependent on him, and the higher clergy took a solemn oath to transfer the kingdom and crown to him on his father's death. Following the death of William in the White Ship disaster, and the lack of a son by Henry's second marriage, Henry insisted in 1127 that oaths be taken to accept Matilda as his heir, but no homage was done, since these oaths were conditional upon there being no son by his present wife.

Matilda probably took the style of Anglorum domina when she arrived in England in 1139, but used it inconsistently, and dropped it after her withdrawal from England. Most of the Norman barons, who had not done homage to her, and were hostile to Anjou, accepted Stephen until Geoffrey of Anjou extended his power over Normandy, where he was regarded as duke from April 1144. Matilda's supporters accused Stephen of perjury, since he had taken an oath to her in 1127, but most people accepted that his consecration wiped out any rival claims. He remained king even when in prison. In order to avoid mention of Stephen, the draughtsmen of the young Henry's charters, and of some of those of his mother, implied the existence of 'the Crown' as distinct from the person of the king, although the abstract concept of 'the Crown' lay well into the future.

As stated in Stephen's Charter of Liberties of Easter 1136, he was consecrated by the papal legate and subsequently 'confirmed' by the pope. Acts which Stephen expected to legitimise his rule in fact weakened it, and papal prohibition thwarted his attempt to evade control over the succession by trying to have his son Eustace anointed as co-king during his own lifetime.

The settlement between the rivals, proclaimed late in 1153, showed that while Henry did not owe his status as duke of Normandy to Stephen, the latter, as king of the English, appointed Duke Henry to succeed him after his death. Henry did homage to Stephen in return for the expectation of becoming king in due course. His oath to be faithful to Stephen and to protect his life and honour was matched by Stephen's oath to maintain Henry as his son and heir. Henry, in accepting these terms, owed his eventual right to England to Stephen's grant.

Garnett examines the inconsistency between these terms and the accounts of the settlement given by the chroniclers. Robert of Torigni wrote that Stephen acknowledged the hereditary right which the duke had in the kingdom of England, and that Henry had 'graciously conceded that the king might hold the kingdom for the rest of his life, if he wished'. William of Newburgh, who largely followed Henry of Huntingdon, adapted a sentence of his to indicate that it was by virtue of the settlement that Stephen became legitimate ruler, secured possession of the kingdom for the first time, and was now truly king, whereas previously he held only the title. Henry II's coronation charter owed much, unacknowledged, to Stephen's first Charter of Liberties. Its distinctive features included the provision that both the king's current vassals and their heirs would enjoy the 'concessions and grants and liberties and free customs' which Henry I had given and conceded.

Henry II refused to acknowledge grants made by King Stephen, as whose heir he had succeeded to the throne, but he occasionally 'conceded' lands which Stephen had granted, usually to religious houses. An inquest into the royal demesne was intended to establish its extent in Henry I's day for revenue purposes. Subsequent alienations might be confirmed, at a price, or else resumed. The royal demesne lands were increased, and revenues were enhanced, both by the success of this inquest, and that of one into the royal forest.

The restoration of lands to the rightful tenants who held in Henry I's day, or often to their rightful heirs, gave rise to conflicting claims to estates. In some cases Henry himself heard and adjudged the case. Hearings in his presence were much in demand, but he could not hear every dispute in person. Tenurial disputes were

often complicated and varied in their nature, hence the evolution during the reign of procedures designed to resolve one or another type.

Garnett states that the 'writ of right' which gradually evolved over the reign into the form found in Glanvill had its antecedents in the reign of Henry I. The lord or the sheriff was ordered 'to do full right', to render justice. Such writs were issued at the instigation of plaintiffs, and were initially experimental in form. It was implied that the recipient would be enabled to hold the land as at the death of Henry I, the final moment at which an ancestor could have been legitimately seized of the land. The 'right' to be done to the plaintiff therefore echoed that of Henry II's own title to his kingdom from the moment of his coronation. In effect, the settlement of 1153 was reinterpreted as the author of the *Gesta Stephani*, Robert of Torigni, and later William of Newburgh understood it. Once again, procedures for settling conflicting claims to land defined legitimate tenure by reference to the king's own title, which was rooted in an official interpretation of past events. The basis on which the king's title rested shaped claims to land because all tenure depended ultimately on the king.

Novel disseisin was a procedure applied to deal with arbitrary dispossession of incumbents of churches which occurred after the king's crossing overseas in August 1158. It was a quick remedy for those who had recently been dispossessed, but it did not deal with ultimate right. Taking the king's first Channel crossing as the cut-off point avoided the complications arising from the many compromises which had been made since his first coronation.

Underlying all the legislation of Henry II's reign was a dependence on the king, which Garnett sees as one of the most striking consequences of the Conquest. In the case of disseisin, the issue was originally the king's presence or absence from the kingdom. In every other case, it was the title by which he claimed England as his 'right' or by his accession as king. The justification of the Norman Conquest, which gave rise to the unique role of the king in England, therefore underlay the emergence of the Common Law and its transformation of the tenurial system. All landholders succeeded to the titles of their ancestors. These ultimately depended on that of the king who, by right of conquest, had enjoyed sole title and had originally distributed the land. William of Malmesbury, in his *Gesta Regum*, has William Rufus pointing out to the wavering Roger de Montgomery, during the rebellion of 1088, that in contesting his title the rebels would also contest their own.

William Rufus had been chosen by the Conqueror to succeed him, but neither Henry I nor Stephen was the choice of his immediate predecessor. Even the Conqueror's claim to have been Edward's chosen successor was rejected by the Battle chronicler, who followed the writer of the *Brevis Relatio* in emphasising that he acquired the English kingdom by military victory, abandoning the fiction of continuity with the Old English past.

While the events of the period from 1066 to the earlier part of Henry II's reign are familiar to medievalists, Garnett's interpretation provides a new perspective on them. His work, he tells the reader, gestated over many years, and he readily acknowledges the inspiration of Walter Ullmann and Jim Holt on its formative stages. The validity of the argument presented in the book is upheld by the great care with which Garnett has studied both the chroniclers and the charters of the period. Eadmer's *Historia Novorum* is a major source for the early part of the work, and the interpretation of the Angevin settlement makes use of Robert of Torigni and William of Newburgh - the latter in preference to Henry of Huntingdon who had lived through the turbulent events of the long years which followed the death of Henry I, and on whose work William of Newburgh drew heavily.

The writs which Garnett dates back to the reign of Henry I had in fact even earlier origins. Sir Richard Southern pointed out many years ago, in his essay 'Ranulf Flambard', reprinted in his *Medieval Humanism and Other Studies* (Oxford, 1970), p. 189 (citing R. C. Van Caenegem, *Royal Writs in England from the Conquest to Glanvill* (Selden Society, 77, London, 1959), esp. pp. 406-515), that the judicial processes of writs of right, novel disseisin (and praecipe) all had their prototypes in the reign of William Rufus.

Garnett's work will now find itself in all bibliographies on the Anglo-Norman period. The judiciously-worded prose makes no concessions to students looking for a quick read in order to meet an essay deadline, but the book repays careful reading for those in search of a fresh outlook on a well-known period .

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