

I. THE PIPE ROLL OF 31 HENRY I (all of these texts are in the *Mats.*, starting on p. III–45, but it may be easier to follow them here. I have made some small changes on the basis of a more recent translation.)

1. Coinage and units used in the Pipe Roll of 31 Henry I

- a. Pound (£) = 20 shillings = 240 pence (pennies) (d)
- b. Shilling (s) = 12 pence
- c. mark (m) = 13 shillings 4 pence (2/3 of a pound = 160 pence)

Warwickshire. Geoffrey de Clinton renders account of 44s. 8d. blanch from the old farm. He has paid it into the treasury. And he is quit.

And the same man renders account of the new farm. In the treasury £100 4s. 4d. by weight. And he owes £32 9s. 4d. blanch.

And the same Geoffrey renders account of 310m. of silver for an office in the treasury at Winchester. In the treasury 100m. of silver. And he owes 210m. of silver.

Osbert of Arden renders account of £10 for a plea [or ‘the pleas’] of William Hubold. In the treasury 40s. And he owes £8.

And the same sheriff renders account of 100s. from old pleas and murders. In pardon by the king’s writ to the earl of Warwick 100s. And he is quit.

William Fitz-Ralph renders account of 113s. 4d. and one war-horse that he may have the land of his father. In the treasury 30s. And he owes £4 3s. 4d. and one war-horse.

Robert Fitz-Ralph renders account of £4 for his portion of his father’s land. In the treasury 20s. And he owes 60s.

Norfolk. Benjamin renders account of £4 5s that he may keep the pleas that belong to the king’s crown. In the treasury 56s 8d. And he owes 28s 4d; and [guarantees] to make a profit of 500m for the king. ...

Yorkshire and Northumberland. Roger de Flamenvilla renders account of 20m silver from pleas of G[eo]ffrey de Clinton and his companion at Blyth. ...

And the same sheriff [of Yorkshire, Bertrand de Bulemer] renders account of 31m silver from 9 “judicators” (*judicatoribus*, perhaps ‘lawmen’ or ‘doomsmen’) of the county from the same pleas. ...

And the same sheriff renders account of 335m silver, 5s 6d from the lesser judges and jurors of the county (*de minutis iudicibus et juratoribus comitatus*, perhaps ‘small doomsmen and jurors’) from the same pleas. ...

William fitz Rannulf, sheriff (perhaps *vicomte*, i.e., a Norman title), renders account of 20m silver from the same pleas. ...

William de Albamara renders account of 154m silver from the same pleas from his land of Holderness. ...

Robert Fossard renders account of 10m silver from the same pleas and of 40m silver that he be resealed of his land.

Godereda, daughter of Gospatric son of Aldret, owes 10m silver for right of the land of her father.

...

Walter Espec renders account of 200m silver from pleas of the stag. In the treasury 50m silver. And he owes £100 pounds. ...

And the same renders account of one gold ring of 5–penny weight from a certain finding. He has paid to the treasury. And he is quit.

Grento of York renders account of 10m silver for a plea of the land of his wife.

Nigel of Doncaster renders account of 20m silver for the forfeiture of his sons who killed a man. In the treasury 5m silver. And he owes 15m silver. ...

William fitz Hugh renders account of 10m silver that he may hold in peace the land of Sulinga. In the treasury £5 [*sic* this would be 7m 6s and change]. And he owes 4m. ...

Turbert fitz Gamel renders account of 40m [this must be 50] silver that the king might make him have seisin of his land from William de Albamara. In the treasury

Pleas of W. Espec and Eustace fitz John ...

The judges and jurors [*judices et juratores*] of Yorkshire owe £100 that they may no longer be judges and jurors. ...

2. Summary of the Pipe Roll of 31 Henry I

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|--------------------------------------------------------------------------------------------------------------|---|---------------------------------------------------------------|
| a. sheriff's farm | = | sheriff |
| b. profits of justice from <i>justiciarii</i> (eyre and local),
<i>judices, minuti homines, juratores</i> | = | itinerant justices, local royal courts,
?presenting bodies |
| c. payment for writs by individuals | = | civil cases |

3. Courts in the time of Henry I

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|----------------------------------|---|------------------------------------------------------------------------------------------------------------|
| a. Anglo-Saxon survivals | = | shire, hundred, borough (ancient public) |
| b. More recent lordly | = | palatinate, franchisal, communal in private hands, “feudal” (leet, baron, manorial) (private jurisdiction) |
| c. Royal justices in the country | = | local, <i>locius Anglie</i> = eyre <– iter –> itinerant justices |

GLANVILL

1. Not by Ranulf de Glanvill, who was chief justiciar of Henry II at the time. Written almost certainly between 1187 and 1189, just before the death of Henry II.
2. Prologue:
 - a. “Not only must royal power be furnished with arms against rebels and nations which rise up against the king and the realm, but it is also fitting that it should be adorned with laws for

the governance of subject and peaceful peoples; so that in time of both peace and war our glorious king may so successfully perform his office that, by crushing the pride of the unbridled and ungovernable with the right hand of strength and tempering justice for the humble and meek with the rod of equity, he may both be always victorious in wars with his enemies and also show himself continually impartial in dealing with his subjects.”

Justinian’s *Institutes*: “The imperial majesty should be armed with laws as well as glorified with arms, that there may be good government in times of both war and of peace, and the ruler of Rome may not only be victorious over his enemies, but may show himself as scrupulously regardful of justice as triumphant over his conquered foes.”

- b. “No-one doubts how finely, how vigorously, how skilfully our most excellent king has practised armed warfare against the malice of his enemies in time of hostilities, for now his praise has gone out to all the earth and his mighty works to all the borders of the world. Nor is there any dispute how justly and how mercifully, how prudently he, who is the author and lover of peace, has behaved towards his subjects in time of peace, for his Highness’s court is so impartial that no judge there is so shameless or audacious as to presume to turn aside at all from the path of justice or to digress in any respect from the way of truth. For there, indeed, a poor man is not oppressed by the power of his adversary, nor does favour or partiality drive any many away from the threshold of judgment. For truly he does not scorn to be guided by the laws and customs of the realm which had their origin in reason and have long prevailed; and, what is more, he is even guided by those of his subjects most learned in the laws and customs of the realm whom he knows to excel all others in sobriety, wisdom and eloquence, and whom he has found to be most prompt and clear-sighted in deciding cases on the basis of justice and in settling disputes, acting now with severity and now with leniency as seems expedient to them.”
- c. “Although the laws of England are not written, it does not seem absurd to call them laws—those, that is, which are known to have been promulgated about problems settled in council on the advice of the magnates and with the supporting authority of the prince—for this is also a law, that ‘what pleases the prince has the force of law.’ For if, merely for lack of writing, they were not deemed to be laws, then surely writing would seem to supply to written laws a force of greater authority than either the justice of him who decrees them or the reason of him who establishes them.”
- d. “It is, however, utterly impossible for the laws and legal rules of the realm to be wholly reduced to writing in our time, both because of the ignorance of scribes and because of the confused multiplicity of those same laws and rules. But there are some general rules frequently observed in court which it does not seem to me presumptuous to commit to writing, but rather very useful for most people and highly necessary to aid the memory. I have decided to put into writing at least a small part of these general rules, adopting intentionally a commonplace style and words used in court in order to provide knowledge of them for those who are not versed in this kind of inelegant language.”
- e. “To make matters clear, I have distinguished the kinds of secular cause in the following manner: Pleas are either civil or criminal. Some criminal pleas belong to the crown of the lord king, and some to the sheriffs of counties. The following belong to the crown of the lord king:” (1.1)

“The crime which civil lawyers call lèse-majesté, namely the killing of the lord king or the betrayal of the realm or the army; fraudulent concealment of treasure trove; the plea of breach of the lord king’s peace; homicide; arson; robbery; rape; the crime of falsifying and other similar crimes: all these are punished by death or cutting off of limbs.”

“The crime of theft is not included because this belongs to the sheriffs, and is pleaded and determined in the counties. If lords fail to do justice, then sheriffs also have jurisdiction over brawling, beatings, and even wounding, unless the accuser states in his claim that there has been a breach of the peace of the lord king.” (1.2)

“Pleas concerning baronies; pleas concerning advowsons of churches; the question of status; pleas of dower, when the woman has so far received none; complaints that fines made in the lord king’s court have not been observed; pleas concerning the doing of homage and the receiving of relief; purprestures; debts of laymen. All these pleas concern solely claims to the property (*proprietas*) in the disputed subject-matter: those pleas in which the claim is based on possession (*possessio*), and which are determine by recognitions, will be discussed later in their proper place.” (1.3, p. IV-7)

3. The distinction between procedure and substance won’t do for Glanvill’s time though he does make some attempts at substance in books 6–8, family property and in book 9 lay debts. The former discussion has much of the quality of a 13th c. French *coutumier*, the latter is suffused with Roman law.
4. Since this is a book principally about procedure, let me ask a procedural question. Suppose your client claims a virgate of land in Puddle Parva in 1200. What more do you need to know and how would you go about suing for it?
 - a. Where’s Puddle Parva?
 - b. Free vs. serf
 - c. Of whom do you claim to hold? Of whom does the tenant claim to hold?
5. What are the principal actions concerning land that Glanvill describes?
6. Who seem to be the real parties at interest in those actions?

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

(12.3, p. IV–20, Baker p. 613 (A.i)): “The king to Earl William, greeting. I command you to do full right without delay to N. in respect of ten carucates of land in Middleton which he claims to hold of you by the free service of one hundred shillings a year for all service (or by the free service of one knight’s fee for all service, or by the free service appropriate when twelve carucates make up one knight’s fee for all service; or which he claims as pertaining to his free tenement which he holds of you in the same vill or in Morton by the free service, etc., or by the service, etc.; or which he claims to hold of you as part of the free marriage portion of M. his mother, or in free burgage, or in frankalmoin; or by the free service of accompanying you with two horses in the army of the lord king at your expense for all service; or by the free service of providing you with one crossbowman for forty days in the army of the lord king for all service): which Robert son of William is

withholding from him. If you do not do it the sheriff of Devonshire will, that I may hear no further complaint for default of right in this matter. Witness, etc.”

(13.2–12, pp. IV–26): “The king to the sheriff, greeting. If G. son of O. gives you security for prosecuting his claim, then summon by good summoners twelve free and lawful men from the neighbourhood of such-and-such a vill to be before me or my justices on a certain day, ready to declare on oath whether O. the father of the aforesaid G. was seised in his demesne as of his fee of one virgate of land in that vill on the day he died, whether he died after my first coronation, and whether the said G. is his next heir. And meanwhile let them view the land; and you are to see that their names are endorsed on this writ. And summon by good summoners R., who holds that land, to be there then to hear the recognition. And have there the summoners and this writ. Witness, etc.”

(13.32–39, p. IV–31): “The king to the sheriff, greeting. N. has complained to me that R. unjustly and without a judgment has disseised him of his free tenement in such-and-such a vill since my last voyage to Normandy. Therefore I command you that, if N. gives you security for prosecuting his claim, you are to see that the chattels which were taken from the tenement are restored to it, and that the tenement and the chattels remain in peace until the Sunday after Easter. And meanwhile you are to see that the tenement is viewed by twelve free and lawful men of the neighbourhood, and their names endorsed on this writ. And summon them by good summoners to be before me or my justices on the Sunday after Easter, ready to make the recognition. And summon R., or his bailiff if he himself cannot be found, on the security of gage and reliable sureties to be there then to hear the recognition. And have there the summoners, and this writ and the names of the sureties. Witness, etc.”

7. What is the difference between ‘upward-looking’ claims and ‘downward-looking’ claims?
8. Why might a lord bring a downward-looking claim in the central royal courts rather than simply dealing with the matter in his own court?

Glanvill 10.9 (Hall ed., p. 125): “The king to the sheriff, greeting. Command N. to restore, justly and without delay, so much land (or, certain specified land) in such-and-such a vill to R., of a term which is now past, as R. alleges; and to accept payment from him (or, which he alleges he has redeemed by payment). If he does not do so, summon him by good summoners to be before me or my justices at a certain place on a certain day to show why he has not done so. And have there the summoners and this writ. Witness, etc.” This can lead to a recognition whether gage or fee.

9. Why do the lords’ courts regularly default in actions on the writ of right?

3.1 (p. IV–18): “The presence of the third party ... is required ... if the tenant says [the land] is his, but that he has in respect of it a warrantor from whom he got it as a gift, or by sale, or in exchange, or some other such way.” In the situation where the warrantor defaults *escambium* (p. IV–19).