

C. THE POLSTEAD SAGA

INTRODUCTION

This is a series of extracts from the plea rolls of 1198 X 1209 with various other documents that push us back to c. 1178 and forward to 1243. I got interested in these people quite by chance because of the church court case described in no 2. I stuck with them because they seem to illustrate virtually every vicissitude of the legal system of late 12th and early 13th century England. This is legal history “from the bottom up.”

As historians we frequently have the advantage of knowing how the story came out. In this case it is best to start at the end with nos 72–79. From this we learn that in the years 1242–43 one Hugh de Polstead holds:

(1) Two and three-quarters knights’ fees in Polstead (and the 1232 X 1233 entry suggests that we should add one and quarter fees in Prittlewell as well) of the honour of Rayleigh, which is in the king’s hands;

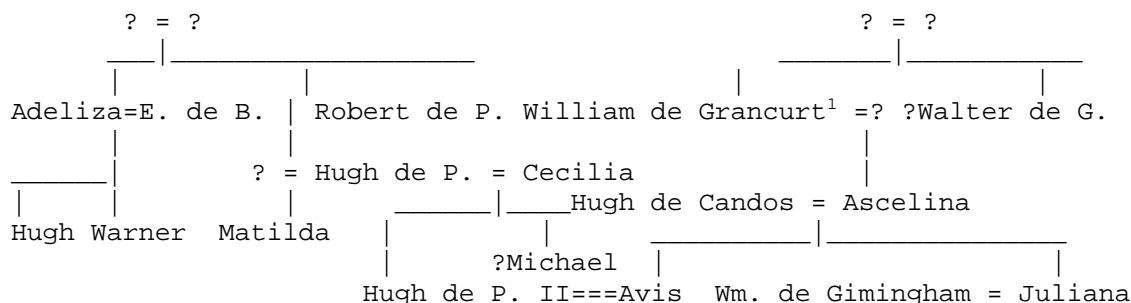
(2) Two and a half fees (?actually one and one-quarter) in Burnham and Burnham Sutton together with William de Giminingham, partially of the Haughley honour, which we learn earlier in the story originally belonged to the count of Perche in Normandy, and partially of the honour of the earl of Warenne, which was in the king’s hands because the earl was a minor; and

(3) One-half a fee in Compton of the Eton honour, which is described as the honour of William de Windsor.

That gives a total of between four and a half and seven knights’ fees, which puts him well of the line of respectability, but certainly does not make him a great lord.

The map on p. 32 shows us that the holdings, though scattered, make some sense geographically. Burnham (and Burnham Sutton) are on the north coast of Norfolk, near King’s Lynn. Polstead is in south Suffolk near Bury; Prittlewell in Essex near the mouth of the Thames. Compton, on the other hand, is in Surrey, west and south of London, and Christian Malford, which we’ll also be hearing about, is far to the west (if you’re going by horse), in the western part of Wiltshire.

The various entries in the cases can be used to develop a genealogy of the people involved:



Now the only problem is to figure out who was doing what to whom when. Of the numerous cases mentioned or reported, we will focus on four in class:

(1) Christian Malford and Winterbourne Stoke: nos 3, 4, 6, 8, 9.

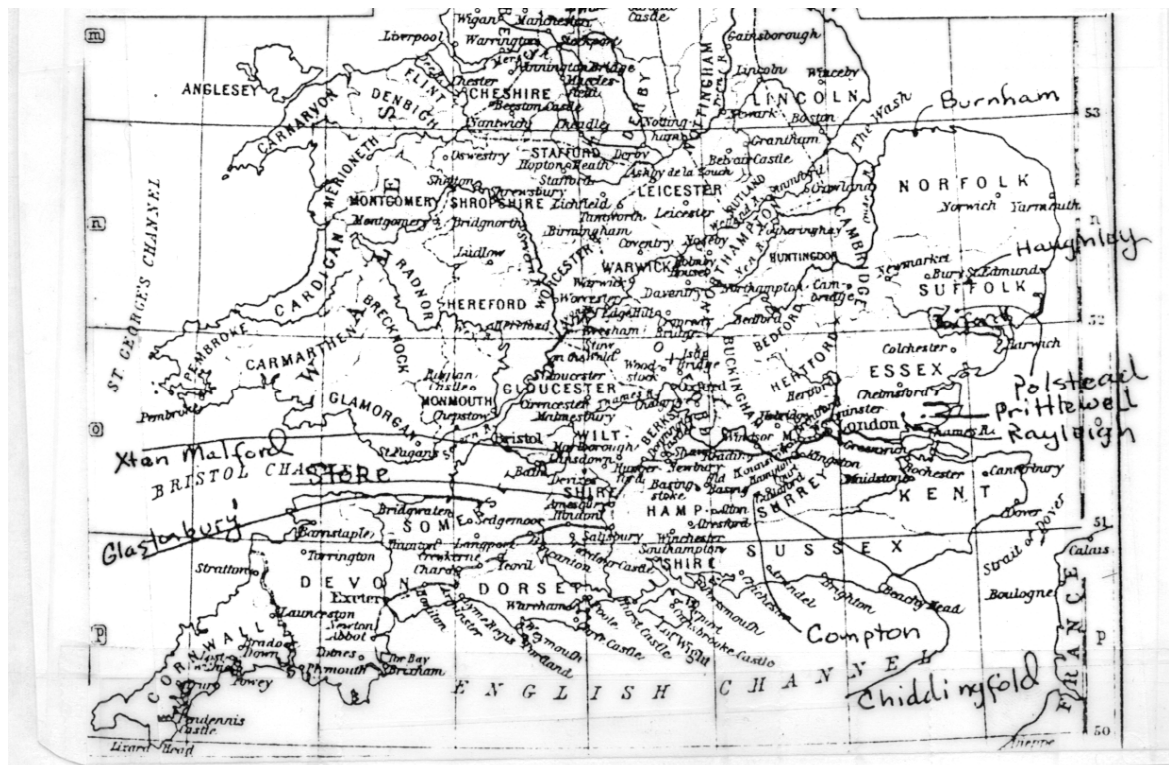
(2) Compton and Chiddingfold: nos 5, 32, 37, 42, 47, 48, 53, 54, 57–8, 64, 65.

(3) Burnham: nos 12, 15–18, 20–4, 39–41, 43–6, 49–52, 55–6, 59–63, 66–70, 71. Of these nos 18 and 45–6 tell most about the story, and no 71 tells probably more than you really wanted to know about how it all came out.

(4) Prittlewell: nos 28–30, 35, 38.

In all cases the question to ask is why was there trouble? What did the king’s courts do about it? And what light does this shed on what Henry II was trying to do?

¹ There is some ambiguity as to whether William or Walter was Ascelina’s father. See Nos. 18, 45–6. William seems the more plausible.



DOCUMENTS

1. 1163 X 1178. Hugh and Robert de Polstede [Polstead, Suff], brothers of Adeliza, mother of Hugh son of Everard de Boxted [?Boxted, Essex (there's also one in Suff)], consent to the grant of Hugh son of Everard of the church of Boxted along with Warner his brother to the monks of Colchester. S.A. Moore (ed), *Cartularium monasterii ... de Colecestria* 1, Roxburghe Club 131 (London 1897) 151, summarized in W. Farrer, *Honours and Knights' Fees* 3 (London 1925) 276.
2. 1175 X 1181. One R. promised to marry (or perhaps he married) Maria the daughter of Gilbert de St. Leger. Sued before the archbishop of Canterbury because he was suspected of wanting to marry another woman, he nonetheless married Matilda, daughter of Hugh de Polstead. The case was ultimately appealed to the pope who delegated it to the bishops of Winchester, Bath and Hereford in a letter which has survived in the *Decretals of Gregory IX* (X 4.16.2; JL 14311). (A parallel decretal in the same case [X 4.1.7; JL 13793] suggests that Maria and R. were quite young at the time.)
3. Michaelmas, 1195. "Item about new promises through the archbishop of Canterbury: Geoffrey de 'Maisi' [? Mayfield, Sussex] owes one mark for right about four hides of land in Winterbourne [Winterbourne Stoke, Wilts]. And about a half a hide of land in Christian Malford [Wilts] against Hugh de Polstead." D.M. Stenton (ed), *The Great Roll of the Pipe for the Seventh Year of the Reign of King Richard the First*, Pipe Roll Society [PRS] ns 6 (London 1929) 141.
4. 4 May 1196. "This is a final concord made in the court of the lord king at Westminster on the Saturday after the Invention of the Holy Cross in the seventh year of the reign of King Richard before H[ubert] archbishop of Canterbury, R[ichard fitz Neal] of London, G[ilbert Glanvill] of Rochester, bishops, H[enry] of Canterbury, R[alph ?Foliot] of Hereford, R[ichard Barre] of Ely, archdeacons, G[eoffrey] fitz Peter, William de Warenne, Ric[hard] de Herriard, Osbert fitz Hervey, Simon de Pattishall, Thomas de Hurstbourne and other barons and faithful of the lord king then present, between Hugh de Polstead demandant and Geoffrey de 'Maisil' tenant, about four hides of land with its appurtenances in Winterbourne and a half a hide of land with its appurtenances in Christian Malford which are of the fee of the abbot of Glastonbury about which there was a plea between them in the court of the lord king, to wit:

that the same Hugh de Polstead granted to the aforesaid Geoffrey de ‘Maisil’ and his heirs all the aforesaid land with its appurtenances to hold of him and his heirs for the service of one knight. And for this grant and concord the aforesaid Geoffrey de ‘Maisil’ gave forty marks of silver to the aforesaid Hugh de Polstead and did him homage for the aforesaid land.” *Feet of Fines of the Reign of Henry II and the First Seven Years of the Reign of Richard I*, PRS 17 (London 1894) 112, no 126 (Wiltshire no 8).

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

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

7. 4 December 1196. “This is a final concord made in the court of the lord king at Westminster in the eighth year of the reign of King Richard before H [ubert] archbishop of Canterbury, William de Sainte-Mère Eglise [became bishop of London in 1198], Thomas de Husseburne, Richard de Heriet, Simon de Pattishall, Oger fitz Oger, justices of the lord king then there present, between William de Hay demandant and Hugh de Polstead tenant concerning the advowson of the church of Stifford [Essex] about which there was a plea between them in the aforesaid court to wit: that the aforesaid Hugh quitclaimed and remised for himself and his heirs the advowson of the aforesaid church forever to William de Hay and his heirs by the grant and consent of Robert de Stifford who previously claimed the advowson by John le Manant put in the place of this Robert for gain or losing about the advowson of the aforesaid church. And for this quitclaim, fine and concord the aforesaid William gave the aforesaid Hugh fifteen marks of silver.” *Feet of Fines of the Seventh and Eighth Years of the Reign of Richard I*, PRS 20 (London 1896) 47, no 67 (Suffolk no 30).

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

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

10. c. October, 1198. Roll of the assizes taken at Stratford [Essex] by Geoffrey fitz Peter and his associates: “These twelve knights Roger de ‘Ginnes’, Robert de ‘Bounton’, Pain de ‘Stanford’, Hugh de Polstead [and seven others with a space for a name the clerk didn’t get] ... were chosen to make a recognizance between Roes daughter of Roger and Simon de ‘Bures’ tenant about a half a hide of land and fifteen acres of land with appurtenances in Mucking [Essex] and Tilbury [Essex] about which the aforesaid Simon, tenant, puts himself on the grand assize of the lord king and asks that a recognizance be made about it whether she has greater right in that land or this Simon.” F. Palgrave (ed), *Rotuli curiae regis* [RotCR] 1 (Record Comm’n, London 1835) 198.

11. *Ibid.* “These four knights, Hugh de Polstead, Laurence de ‘Plumberg’ Julian de ‘Lefteneston’, Robert de ‘Trindeia’, summoned to choose twelve knights to make a recognizance between Christopher de ‘Berking’ and Worthina de Hockley [Essex] about forty acres of land with its appurtenances in Hockley about which Worthina who is the tenant put herself on the grand assize of the lord king and asked for a recognizance [as to] who of them has greater right in that land, chose these: [six names given] A day is given to them at Greenwich and in the meantime let there be a view. The sheriff was ordered that he summon the knights to be present there at that time.” *Id.* 201.
12. c. 9 May 1199. Essoins for sickness on the way to court. “Norfolk. Hugh de Polstead against William de Grantcurt about a plea of land [ms. illegible] ... which was of his gift. By Robert Po....” *Id.* 290.
13. ?Easter, 1199. Essex. Hugh de Polstead is one of the twelve chosen to make the grand assize. *Id.* 314.
14. *Id.* Essex. Hugh and the rest of the jurors fail to appear on the day given in no 11, nor do they essoin themselves. “Therefore let them be attached because the lands are there.” *Id.* 377–8.
15. 14 X 20 June 1199. “[Badly damaged.] A day is given to Walter de Grancurt and Hugh son of Hugh de Polstead concerning a plea why ... Juliana daughter of Hugh de Candos against a covenant made ... of the lord king ... on the quindene of St. Michael [13 Oct.] and Hugh de Polstead and Hugh de ‘Tabari’ ... are there” *Id.* 394.
16. Michaelmas, 1199. Essoins for sickness in coming to court. “Suffolk. Hugh de Polstead against Walter de Grancurt about a plea why he made his granddaughter a nun by Robert son of Adam. To the octave of St. Martin [18 November]. He has sworn. Hugh his son about the same by Robert Poor. To the same term. He has sworn.” D.M. Stenton (ed), *Pleas before the King or his Justices* [PKJ], Selden Society [SS] 67 (London 1953) 187, no 2148.
17. c. 8 November 1199. “Norfolk. Suit concerning Walter de Grancurt and Hugh de Polstead.” RotCR 2:124.
18. *Id.* “Norfolk. Walter de Grancurt complains that Hugh de Polstead, when Juliana his granddaughter and his heir was in the custody of the same Hugh by the lord of Canterbury and he before him and the other justices faithfully promised that he would not marry her without the assent of this Walter and of his progeny, he [Hugh] of his own will made her a nun unjustly. Hugh came and defended that she was never made a nun by him but he says that the steward of the count of Perche [Normandy], as is said, sent for her to his house, and he doesn’t know what he did with her. Walter says that this Hugh against the will of the same Juliana and while she was under age [in margin: before the archbishop] made her take up the habit of religion so that he might obtain the portion of the inheritance of this Juliana along with her first born sister whom he took to wife. Hugh proffered a charter of the count of Perche and of M[____] his countess which testified that they had given the same Hugh Avis the first-born with her inheritance and that this Juliana before this count and countess and many others asked if she could with their permission take up the habit of religion. And Walter says that this could not be because she never crossed [the Channel] nor spoke with the count or the countess. A day was given, one month after St. Hilary [13 February] to hear their judgment.” *Id.* 126–7. (Geoffrey the count of Perche was lord of the honour of Haughley [Suff] from 1187 to his death in 1202. King John then gave the honour to Geoffrey, the count’s bastard son, who died in 1205. Thomas count of Perche tried to regain the honour but died at the battle of Lincoln in 1217 while fighting for Louis of France. Thenceforth the honour was in the king’s hands. I.J. Sanders, *English Baronies* (Oxford 1960) 121. See below no 74.)
19. 1198 X 1199. Roll of the inquest of the justices in eyre into, i.a., “serjeanties of the lord king”. Norfolk. “Hugh de Polstead owes [guard] to the castle at Dover; he owes twenty shillings from the land of Burnham.” *Liber Feodorum: The Book of Fees* 2 (PRO 1923) 1329.
20. Hilary, 1200. “Suffolk. Juliana de Candos puts in her place Walter de Grantcurt against Hugh de ‘Tubari’ and Hugh de Polstead about a plea why they made her a nun to gain or lose.” CRR 1:118.

21. *Id.* Essoins for sickness in coming to court. “Norfolk. Avis wife of Hugh de Polstead against Juliana de Candos about a plea of land by Robert son of Walter. One month from Easter. He has sworn. The same day was given to Hugh her husband in the bench.” PKJ 1:261, no 2799.

22. *Id.* “Norfolk. Day is given to Walter de Grancurt and Hugh de Polstead to hear their judgment one month after Easter [9 May].” CRR 1:165.

23. Easter, 1200. At Nottingham. “Norfolk. Walter de Grancurt essoins himself for sickness in coming to court against the count of Perche in a plea of a certain girl whose custody he claims by Eustace son of Richard. The essoiner is awaited until his fourth day, and the count neither comes nor essoins himself. Let the judgment go without day.” RotCR 2:160.

24. Michaelmas, 1200. “Norfolk. Avis wife of Hugh de Polstead puts Hugh her husband in her place against Juliana her sister about a plea of a portion of land to gain or lose.” CRR 1:302.

25. Michaelmas, 1201. Hugh de Polstead is one of two members of a Suffolk grand assize who appears. Ten default and are attached. CRR 2:30.

26. Michaelmas, 1202. Essoins for bed sickness. “Essex. Hugh de Polstead against Henry de ‘Taidem’ about a plea of land by Robert Ketell’.” This entry was crossed out. PKJ 2 (SS 68, 1949) 334, no 1194.

27. Easter, 1203. “Essex. The jury of twenty-four knights to convict the twelve jurors who made the assize about the church of ‘Langedon’ adjourned until three weeks after Trinity [22 June] because [17 names listed including Hugh de Polstead] ... , did not come, etc. Let them be attached, etc. The same day is given to those who did come, etc.” CRR 2:236. (Similar entries from here on are omitted.)

28. Michaelmas, 1204. Essoins probably for sickness in coming to court. “Essex. Cecilia de Polstead against Hugh Butler concerning a plea of the assize by Robert son of Martin. To the octave of St. Martin [17 November]. He has sworn. And all the recognitors do not come. Therefore let them all be attached.” PKJ 3 (SS 83, 1967) 178, no 1057.

29. Michaelmas 1204. Essoins probably for sickness in coming to court. “Suffolk. Hugh de Polstead against Hugh Butler about a plea of homage by Simon de Polstead. To the octave of St. Martin [17 November]. He has sworn.” PKJ 3:177, no 1048.

30. Michaelmas, 1204. “Essex. The assize comes to recognize if William Butler father of Hugh Butler was seised in his demesne as of fee of forty acres of land with appurtenances in Prittlewell [Essex] on the day on which he died and if he died, etc., which land Cecilia de Polstead holds, who comes and says that she claims nothing except her dower in that land, and she calls to warrant Hugh de Polstead her son. And let her have him on the octave of St. Hilary [20 January], and she prays aid of the court. The same day is given to the recognitors who were present and who essoined themselves and to Robert ‘Pointell’.” CRR 3:226.

31. *Id.* Essoins for sickness in coming to court. “Suffolk. Hugh de Polstead against Robert de Coddendam about a plea of land by Simon son of Peter. The same Robert against the same Hugh about the same by Richard. Two weeks after St. Martin [24 November]. They have sworn.” PKJ 3:185, no 1137.

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

33. *Id.* “Robert de Coddendam [Suffolk] demands against Hugh de Polstead fourscore acres of land with appurtenances in Boxford [Suffolk] as his right and heredity of which Thomas his father was seised as of fee and right and in his demesne in the time of Henry the father of the king, etc., taking from it esplees to the value of half a mark, etc.; and this he offers to deraign by his free man named Ralph Picot who offers this, etc., as of his sight. And Hugh comes and defends his right and says that in the court of the abbot of St. Edmunds a duel was waged between them about the same land, and afterwards he essoined himself for sickness in coming to court and afterwards for bedsickness, and he lay in a county other than Suffolk. And

since the same abbot did not have the power to have the view of him held by his knights, the same Robert obtained a writ of lord G. that he might be viewed by lawful men of the county of Surrey in which he lay and that they might give him a day at the first county of Suffolk. Hugh came to this county with his champion, and Robert essoined himself, and the four viewer knights of his sickness essoined themselves, and a day was given to them at the next county. And then Hugh came with his champion and Robert did not come or essoin himself, and by consideration of the court he withdrew without a day and about this he puts himself on the county of Suffolk. Robert, on the other hand, says that it is true that they were given a day at the first county and that he, Robert, essoined himself, and at the second county both of them appeared with their champions, and because the county did not have a record of the duel that had been waged, both of them were told to look after themselves as best they could, and thus they withdrew without a day. And he did not make any default, and on this he puts himself on the county. Afterwards Hugh said as he had previously said, that he appeared at the first county with his champion, and Robert essoined himself. And at the other county Robert made default because he did not come nor did his champion. And a day was given for a third county to hear their judgment, and then Robert came and his champion, and they were told to come to a fourth county unarmed to hear their judgment. And then they came, and by consideration of the county Hugh withdrew without a day. On the other hand, Robert asked that it be allowed him that Hugh previously said that he withdrew at the second county without a day and afterwards he acknowledged that at the fourth county he withdrew without a day. A day was given to them in the octave of St. Hilary [21 January].” *Id.* 240.

34. Michaelmas, 1204. New offerings. Norfolk and Suffolk. “Robert de Coddensham owes half a mark for having the suit which is between him and Hugh de Polstead about fourscore acres of land with appurtenances in Boxford before the justices at Westminster.” D.M. Stenton (ed), *The Great Roll of the Pipe for the Sixth Year of the Reign of King John*, PRS ns 18 (London 1940) 244.

35. Hilary, 1205. Essoins for sickness in coming to court. “Suffolk. The bishop of Norwich claims his court about this. Hugh de Polstead against Robert de Coddensham about a plea of land by Samson son of Ralph. To the same term [Easter]. The same Hugh whom Cecilia his mother calls to warrant against Hugh Tailor [*parmentarium*] about a plea of the assize by the same Samson.” PJK 3:214, no 1416.

36. Easter, 1205. “Suffolk. J[ohn] by the grace of God, etc., to the justices of the bench at Westminster. Postpone the suit which is in our court before you at Westminster between Robert de Coddensham demandant and Hugh de Polstead tenant concerning a plea of land in Boxsted until we order otherwise.” CRR 3:274.

37. Michaelmas, 1205. New offerings. Surrey. “Cecilia de Polstead owes a half a mark for having a recognizance of novel disseisin at Westminster over Hugh de Horsley about her free tenement in Chiddingfold.” S. Smith (ed), *The Great Roll of the Pipe for the Seventh Year of the Reign of King John*, PRS ns 19 (London 1941) 155.

38. *Id.* Amercements by Geoffrey fitz Peter. “Hugh de Polstead renders account of a half a mark for the same [disseisin]. In the treasury a pound. And he is quit.” *Id.* 251.

39. Easter, 1206. “Norfolk. Assize of novel disseisin between William de Gimingham demandant and Hugh de Polstead of a free tenement of this William in Burnham is postponed until Sunday before the Ascension [7 May] for default of the recognitors because none of them came or essoined themselves. Let them be attached, etc.” CRR 4:124.

40. *Id.* 7 May. “The assize comes to recognize if Hugh de Polstead unjustly and without judgment disseised William de Gimingham of his free tenement at Burnham within the assize. The jurors say that he did not disseise. Judgment. William is in mercy for a false claim.” *Id.* 141.

41. Easter, 1206. Essoins for sickness in coming to court. “Norfolk. Hugh de Polstead essoins himself [with regard to the matter] that is before the king against William de Gimingham and Juliana his wife about a plea of land by William Bastard. Sunday before the Ascension [7 May]. He has sworn. Avis wife of the same

Hugh for sickness in coming to court against the same against [*sic* for 'by'] Robert of Wales. Juliana wife of William de Gimingham about the same by Philip de 'Berton'." PKJ 3:253, no 1794.

42. Easter, 1206. Essoins probably for sickness in coming to court. "Surrey. Cecilia de Polstead against Hugh de Horsley about a plea of rent by Roger de 'Reindon'. To the day after the octave of St. John [2 July] He has sworn. Ralph de 'Hodeng' asks for his court about it. Let him not have court by consideration of the court." *Id.* 282, no 2082. See below no 76.

43. Easter, 1206. 7 May. Essoins for sickness in coming to court. "Suffolk. Hugh de Polstead against William de Gimingham and Juliana his wife about a plea of rent by Stephan. Fifteen days after Trinity."

[18 June]. "And Juliana puts her husband in her place, etc. The same day is given to Avis wife of Hugh, etc." *Id.* 265-6, no 1913.

44. Easter, 1206. Essoins for sickness in coming to court. "Norfolk. Avis wife of Hugh de Polstead about a plea of land against William de Gimingham and Juliana his wife by Samson de 'Groten'." *Id.* 279, no 2054.

45. Easter, 1206. "Norfolk. Hugh de Polstead and Avis his wife by Hugh de 'Ylleg' demand against Walter de Grant Curt one carucate of land with its appurtenances in Burnham, of which Ascelina de Candos, whose daughter and heir the aforesaid Avis is, died seised as of her *maritagium* given by William de Grancurt and in which he intruded himself by force and arms while Ascelina lay in the infirmity of which she died, and he held it thus violently after her decease and by that intrusion² he took from it chattels which were on that land to the value of twenty marks, and that Ascelina thus died seised of that land as of her *maritagium* and that Walter so intruded himself in that land he [*sic*] offers to deraign by consideration of the court. And Walter defends his right, and he says that Avis has a sister who is not named in the writ and therefore he does not wish to reply without her unless the court shall have considered, and since there was mention in the writ of intrusion and he does not know if the sister wanted to follow. It was considered that he reply because Hugh and Avis offer the lord king forty shillings for having a jury by lawful men [on the question] whether this Ascelina died seised of that land as of a *maritagium* given her by the aforesaid William and whether this William [*?sic*] intruded himself in that land by force and while she lay in the infirmity of which she died, or not, and the offering is received. And Walter offers forty shillings for the same, that knights and other lawful men who better, etc. And let there be a recognition one month after Easter Monday at London and let the jury come, and let William de Gimingham [Norfolk] and Juliana his wife, the sister of the aforesaid Avis be summoned to come to follow the jury if they will. And the sheriff so much and so many, etc. Walter gives twenty shillings; William gives twenty shillings." CRR 4:81.

46. *Id.* "Norfolk. The jury comes to recognize if Ascelina de Candos, mother of Avis, wife of Hugh de Polstead, was seised on the day on which she died of one carucate of land with its appurtenances in Burnham as of her *maritagium* which was given to her by William de Grancurt, father of the aforesaid Ascelina, and if Walter de Grancurt with force and arms intruded himself on that land while this Ascelina was in her sickness of which she died and though that intrusion remained on that land after the decease of this Ascelina. The jurors say that William de Grancurt gave the aforesaid land to Hugh de Candos in *maritagium* with the aforesaid Ascelina, and she held that land as her *maritagium* all her life; and while she lay in her infirmity of which she died, fifteen days before her death Walter came with a multitude of people and put himself on that land and thus he held it from then to now. It was considered that Hugh de Polstead and Avis his wife and William de Gimingham and Juliana his wife have seisin of that land of which Avis and Juliana are the heirs of this Ascelina. And Walter is in mercy." *Id.* 102.

² In later law an "abator" was sometimes distinguished from an "intruder" in that the latter was a stranger who got onto the land after the ancestor had died and before the heir could take seisin, while the former was a relative who did the same thing. The distinction does not seem to be being made here.

47. Trinity, 1206. "Surrey. Ralph de 'Hodeny' and Duncan de 'Lacell' asked for their court on the third day before the pleas in the suit which is between Hugh de Horsley and Cecilia de Polstead about the land of the Walds [probably in Chiddingfold, Surrey]." *Id.* 181.

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

49. Trinity 1206. "Norfolk. Hugh de Polstead puts in his place Thomas de 'Goding' against William de Gimingham and Juliana his wife about a plea of rent, etc." *Id.* 171.

50. Trinity, 1206. "Norfolk. William de Gimingham for himself and Juliana his wife offers himself on the fourth day against Hugh de Polstead and Avis his wife about a plea why they intruded themselves in a rent of five shillings with its appurtenances in Burnham about which they were ?arguing [*deadvocaverunt*] in the court of the lord king and which was taken in the hands of the lord, as is said. And Avis wife of Hugh did not come or essein herself, and she had a day in the bench two weeks after Holy Trinity, and she did not come then, etc. Wherefore it is considered that she be attached to be present on the octave of St. Michael to reply, because the sheriff returned that she was not found, and to show, etc. The same day is given to Thomas de 'Gedding' Hugh's attorney in the bench." CRR 4:184.

51. Michaelmas, 1206. Essoins for sickness in coming to court. "Norfolk. Juliana wife of William de Gimingham against Hugh de Polstead and Avis his wife about a plea of land against Robert de 'Birston'." Entry is canceled followed by: "It was not received." PKJ 3:304, no 2300.

52. Michaelmas, 1206. "Norfolk. A day is given to William de Gimingham and Juliana his wife by their attorney and to Hugh de Polstead about a plea of rent and about a jury for convicting the twelve on the octave of St. Hilary by the request of the parties. And let it be known that all twenty-four are to be attached. And Hugh removed his attorney and wishes to prosecute in his own person." CRR 4:230.

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

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

55. Hilary, 1207. "Norfolk. The countess of Perche demands her court by William 'Pache' her bailiff on Thursday before the octave of St. Hilary [18 January] about the suit between William de Gimingham and Juliana his wife demandants and Hugh de Polstead and Avis his wife tenants about land in Burnham." CRR 5:1.

56. Hilary, 1207. Essoins for sickness in coming to court. "Norfolk. Avis de Polstead against William de Gimingham and Juliana his wife about a plea of land by Peter son of Elias. It is nothing because we did not have the writ." PKJ 4 (SS 84, 1967) 7, no 2546.

57. Hilary 1207. Essoins for sickness in coming to court. "Surrey. Walter de 'Groten' attorney of Michael de Polstead against Hugh of Windsor about a plea of land by Ralph de 'Slifeld'. He has sworn." PKJ 4:12, no 2601.

58. Michaelmas, 1207. Essoins for sickness in coming to court. "Michael de Polstead against Hugh de Windsor about a plea of land by Ralph de 'Slifeld'. After the view. Two weeks after St. Hilary. He has sworn." *Id.* 37, no 2842.

59. Michaelmas, 1207. "A day is given to William de Gimingham and Hugh de Polstead about a plea of convicting the twelve and about a plea [of land] on the octave of St. Martin [17 November] at the request of the parties. The same day is given to certain recognitors; let the others be attached." CRR 5 :88.

60. Michaelmas, 1207. Essoins for bed sickness. "Norfolk. William de Cuningham (*sic* for 'Gimingham') attorney for his wife against Hugh de Polstead and his wife about a plea of land by Adam de Tilbury [Essex]. To the octave of St. Martin [17 November]. He has sworn." PKJ 4:29, no 2766.

61. Michaelmas 1207. Essoins for bed sickness, 18 November. "Norfolk. Hugh de Polstead at Polstead against William de Gimingham and Juliana his wife about a plea of land by Peter Megresause and Adam son of Alvin. It is taken as sickness in coming [because of] the jury for convicting the twelve." PKJ 4:39, no 2861.

62. *Id.* Essoins for sickness in coming to court, 12 November. "Hugh de Polstead against William de Gimingham and Juliana his wife about convicting the twelve about a plea of land ... to the octave of St. Hilary." Entry deleted. *Id.* no 2863.

63. Easter, 1208. Essoins for sickness in coming to court. "Norfolk. Hugh de Polstead against William de Gimingham and Juliana his wife about a plea of land by Peter Long. Sunday before the Ascension. He has sworn. The same day is given to Avis wife of Hugh in the bench." *Id.* 51, no 2980.

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

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

66. Easter 1208. "Norfolk. Hugh de Polstead gives the lord king one mark for leave to make concord with William de Gimingham about a plea of land by the pledge of Robert de Hastings. The same William gives the lord king one mark for the same by the pledge of Nicholas Butler [*Pincerne*]. Avis wife of Hugh puts Walter de 'Groten' in her place for taking the chirograph, etc. A day is given for taking their chirograph on the octave of Holy Trinity [8 June] and let the first jury be summoned that they be [there] on the arrival of the justices, etc." *Id.* 196.

67. Trinity, 1208. "Norfolk. A day is given to William de Gimingham and Juliana has wife by the same William her attorney and to Hugh de Polstead and Avis his wife by her attorney to take their chirograph on the arrival of the justices and let the sheriff then have the bodies of the tenants to recognize what service they owe for their tenements." *Id.* 300.

68. Trinity, 1208. Essoins for sickness in coming to court. "William de Gimingham demandant against Hugh de Polstead and Avis his wife in plea of land and for taking a chirograph by Warin son of Hermann. To the octave of St. John. He has sworn. The same day is given to his attorneys, etc." PKJ 4:60, no 3073.

69. January X February, 1209. Pleas and assizes taken at Norwich. "Eloise de Wendeval, summoned to acknowledge what service she owes to William de Gimingham and Hugh de Polstead for her tenement in Burnham" The roll breaks off here. *Id.* 282, no 4463.

70. Hilary, 1209. Essoins for sickness in coming to court taken at Norwich. "William Russel against Hugh de Polstead and Avis his wife about a plea of land by Bartholomew his son." *Id.* 152, no 2890.

71. May 1209. Norfolk. "This is the final concord made in the court of the lord king at St. Edmunds two weeks after Easter in the 10th year of the reign of King John before Gerard de Camville, William de H[untingfield], Master Eustace de Faucunberg, James de Potterne, Walter de Creeping, Robert de Aumari, William de Furneaux, itinerant justices, and other faithful men of the lord king there present, between William de Gimingham and Juliana, his wife, demandants, by the same William placed in the place of the same Juliana for gain or for loss, and Hugh de Polstead and Avis, his wife, tenants, by Walter de Groten',

put in their place for taking the chirograph, about forty acres of land with its appurtenances in Burnham about which there was a plea between them in the aforesaid court, to wit: that the aforesaid Hugh and Avis recognize all the aforesaid land with its appurtenances to be the right of the same William and Juliana as Juliana's reasonable part which comes to her of the free tenement which belonged to Hugh de Candos, father of the aforesaid Juliana and Avis, and of Ascelina, wife of the aforesaid Hugh, and they remitted and quitclaimed for themselves and their heirs to the aforesaid William and Juliana and the heirs of this Juliana forever. And be it known that the aforesaid William and Juliana and Hugh and Avis will divide the entire tenement among themselves which used to belong to the aforesaid Hugh and Ascelina, his wife, in Burnham and in [Burnham] Deepdale in the lands, services, rents, liberties and advowsons of churches, to wit: that to the aforesaid William and Juliana remains all the service of Eloise de Vendeval, to wit, twelve pence; half of the service of Robert, son of Hugh, to wit, a fifth part of one knight and of the service of John, son of Ralph, to wit, thirty pence; all the service of Hugh over Hill and Alexander Pingincus, to wit, twelve pence and for scutage of a mark, three obols; all the service of John, the priest, to wit, four pence, [half] of the service of Roger Sprigy, to wit, thirty pence and for scutage of a mark, three pence; all of the service of Richard, son of ?Luthe, to wit, two pence; of the service of Robert de Brancaster [Norfolk], to wit, twelve pence; of the service of William, son of Roger, to wit, twelve pence, and for scutage of twenty shillings, three pence; of William Despan for scutage of twenty shillings, three pence; of the service of William ?Sisladin, to wit, three pence, and for scutage of twenty shillings, one farthing; of the service of Steven Francigenis, to wit, twelve pence, and for scutage of a mark, two pence one obol; of the service of Matthew le Curteis, to wit, three pence, and for scutage of twenty shillings, three farthings; and of the service of Philip de Norton [Norfolk], to wit, two shillings, and for scutage of a mark, four pence, one obol; of the service of William Russell to wit, ten pence; Reginald, Henry and Walter, the sons of the merchant of Deepdale, with their entire tenement and their entire household; Matilda, daughter of Sisich, with her entire tenement and her entire household; Ralph, son of Nonyve with his entire tenement and his entire household; William, son of Richard, with all his entire tenement and his entire household; Ralph, son of Yrich, with his entire tenement and his entire household; of Goda, the widow, four pence from one acre of land which she holds of William and Juliana in the same vill; Elfled Peps with his entire tenement and his entire household; Simon Turk with his entire tenement and his entire household; Simon Rust with his entire tenement and his entire household; Richard Snais with his entire tenement and his entire household; Liviva, daughter of the priest, with her entire tenement and her entire household; Clement Popi, with his entire tenement and his entire household; Hugh, son of Brun, with his entire tenement and his entire household; Robert Salle with his entire tenement and his entire household; William ?Coyiun with his entire tenement and his entire household; Robert Rei with half of his tenement and half of his household; Ulviva, his mother, with half of her tenement and half of her household; Elviva, Liviva and Avis, daughters of Blench, with half of their tenement and half of their household; Matilda, daughter of Stirger, with half of her tenement and all of her household; Hoimund, son of Adelwold, with his entire tenement and his entire household; Goda, who was the wife of Harvey Dusing, with her entire tenement and her entire household; Matilda, daughter of Mannessune, with her entire tenement and her entire household; Alice, daughter of Algar, with her entire tenement and her entire household; Wlfwan, daughter of Robert, with her entire tenement and her entire household; Alice daughter of Goldwin, with her entire tenement and her entire household; Roger, son of Thedwar, with his entire tenement and his entire household; Robert le Neuman with his entire tenement and his entire household; Sunnild Purre with her entire tenement and her entire household; Simon, son of Lefwin, with his entire tenement and his entire household; Walter Bus with his entire tenement and his entire household; William Haid ... with his entire tenement and his entire household; the entire croft of the chief messuage with half of the two parcels which abut on the aforesaid croft toward the west; half of 'Wlfuriches' croft toward the west; half of the meadow which abuts on the aforesaid croft toward the north; and a half of the moor which abuts on the aforesaid croft toward the north; half of the entire field which is called 'Turf', to wit, half of the ploughland of 'Oldesties' toward the west, half of the four acres next to the ploughland of 'Oldesties' toward the north, and half of eight acres which abuts on the aforesaid four acres toward the south, half of the pasture of 'Linghill' toward the south, half of the ploughland of ten and a half acres on 'Linghill' toward the west, half of the fifteen acres which lie nearer the vill of Docking [Norfolk] toward the north, half of three perches

which abut on the aforesaid fifteen acres toward the north, half of 'Blacchill' next 'Turfdic' toward the west, half of the pasture which abuts on 'Doccingat' toward the west, and half of 'Guthruneswong' toward the north, and a half of the ploughland which lies next to the road to Docking toward the west, and a half of the ploughland of 'Hevekerescrundl' toward the west, half of the pasture next 'Hevekerescrundl' toward the north, a half of 'Langedun' toward the north, half of 'Turf'... toward the north; half of 'Benedictesdal' toward the north; half of 'Knithtes Hevedland' toward the west; half of little 'Strungelh' toward the north; half of greater 'Strungelh' toward the north; half of little 'Langedun' toward the north; half of greater 'Langedun' toward the north; half of 'Cheshohill' toward the north; at Deepdale down a perch of land toward the west; half of 'Tirne' toward the west; half of 'Westhill' toward the west; half of three perches which belonged to Matilda Brust toward the north; half of 'Berdemere' toward the west; half of the entire marsh which abuts on 'Westhill' and on 'Berdemere' toward the west; half of the marsh before the gate of Bonde Gris toward the north; half of all the land which belonged to Harvey the priest toward the north; a half of the land which belonged to Magot toward the west; half of 'Grimescroft' toward the west; the entire croft of 'Edwen' next to the house of Roger the clerk; half of the messuage which belonged to Ascelina de Candos toward the west; half of 'Tuncroft' toward the west; half of 'Pintellescroft' toward the north; half of 'Calcedic' toward the west: half of the water at the church of St. Andrew toward the west; half of the three furlongs of 'Hildeslawes' toward the west; half of 'Docconnicwong' toward the west; half of 'Tornhill' toward the north; and a half of 'Blacters' toward the north; half of ... Uweshel' toward the west; half of 'Crocumdal' toward the west; a half of 'Foxloth' toward the west; half of 'Blacchill' toward the west; half of 'Thirsedol' toward the west, half of one parcel of land at 'Sidesternegat' toward the west; all the land which belonged to Acke, the entire croft which belonged to Ralph Hulloc; half a rod of land and four feet at 'Harnesho' toward the west; half of the advowson of the church of St. Margaret Burnham; half of the advowson of the church of All Saints in the same vill; half of the mill at the river with half of the liberty of the water and with all the other appurtenances of the same mill; a quarter of the whole market of Burnham with a half of the other liberties pertaining to the aforesaid lands; half of the entire mill at Winegot with half of the croft of the same mill toward the west; half of the meadow and marsh on both sides of the water of same mill toward the north. Let it be known that the aforesaid William and Juliana granted to the aforesaid Hugh and Avis and the heirs of Avis, Hubert de Deepdale with his entire tenement and his entire household and in exchange for this Hubert the aforesaid Hugh and Avis granted to the aforesaid William and Juliana, Reginald Cod with his entire tenement and his entire household. Furthermore let it be known that [if] the aforesaid two mills, which are of the same fee, should at any time fall down, by the default of William and Juliana, it shall be allowed to Hugh and Avis to repair the aforesaid mills out of the common of the aforesaid mills and [if] by the default of Hugh and Avis the aforesaid mills fall down, it shall be allowed to the aforesaid William and Juliana to repair the aforesaid mills out of the common profit of the aforesaid mills. To have and to hold to this William and Juliana and the heirs of Juliana of the capital lords of this fee by the service which pertains to the aforesaid lands." B. Dodwell (ed), *Feet of Fines for the County of Norfolk, 1201-1215*, PRS ns 32 (London 1958) 100-3, no 210.

72. 1211 X 1212. "*Inquisitions about escheated honours at any time, made in the thirteenth year of King John, concerning their knights' services Honour of Henry of Essex of the Honour of Rayleigh Hugh de Polstead, four knights Land of the same Henry of the Honour of Haughley Hugh de Polstead, one knight. William de Gimingham, one knight,*" H. Hall (ed), *The Red Book of the Exchequer* 2, Rolls Series 99 (London 1896) 595, 596. (Henry of Essex, accused of treason, forfeited his land when he was defeated in trial by battle in 1163. Sanders, *English Baronies* 121. See above no 18.)

73. 1232 X 1233. Names of knights holding of the honour of Rayleigh. "Hugh de Polstead [holds] four fees in Polstead in Suffolk and Prittlewell in Essex." *The Book of Fees* 2:1463. (This roll was made up in connection with the fall of Hubert de Burgh in 1232. See below no 74.)

74. *Id.* Names of the knights holding of the honour of Haughley. "Hugh de Polstead [holds] one fee in Burnham in Norfolk." *Id.* 1465. (See above no 73. The presence of this list in these documents suggests that Hubert may have held the honour of Haughley as well. See above no 18.)

75. ?1236. “*The fees of those who hold of the lord king in chief within the liberty of St. Edmunds to whom the lord king does not write....* Hugh de Polstead holds two fees and two parts of a fee in Polstead of the honour of Rayleigh [Essex].” *The Book of Fees* 1:600. (This document is probably connected with what is variously called an ‘aid’ or a ‘scutage’ which was levied on the occasion of the marriage of Isabella, Henry III’s sister, to the Emperor Frederick II in July of 1235. The lord of the honour of Rayleigh was Hubert de Burgh, Henry III’s justiciar, from 1215 until his downfall in 1232. The honour was in an ambiguous status in 1236; from 1237 it was in the king’s hands, as it was from 1163 to 1215. Sanders, *English Baronies* 139.)

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

77. *Id.* Fee of the earl Warenne. Norfolk. “Hugh de Polstead and William de Gimingham [have] a half a fee in Burnham Sutton of the same.” *Id.* 905. (The ‘earl Warenne’ is probably John de Warenne, earl of Surrey, who was a minor at the time. Sanders, *English Baronies* 129. This part of the great Warenne honour had been assigned to the countess Matilda as her dower. *Close Rolls 1237–1242* (PRO 1911) 214.)

78. *Id.* Fees of the honour of Haughley. “Hugh de Polstead [and] William de Gimingham [hold] two knights’ fees in Burnham of the same.” *Id.* 909. (For the honour see above no 18.)

79. *Id.* Suffolk. Inquisition made in the liberty of St. Edmunds. Fees of the honour of Rayleigh. “Hugh de Polstead holds two fees in Polstead and three parts of one fee of the same honour.” (See above no 75).

D. THE FEUDAL FRAMEWORK OF ENGLISH LAW

Robert C. Palmer, in *MICHIGAN LAW REVIEW*, 79 (1981) 1130–1164[†]

THE LEGAL FRAMEWORK OF ENGLISH FEUDALISM. By S.F.C. Milsom. New York: Cambridge University Press. 1976. Pp. xi, 201. \$28.50.

The legal changes during the reign of Henry II (1154–1189) are the foundation for the study of Anglo-American legal history; their characterization is a major issue in constitutional history. More than eighty years ago, F.W. Maitland propounded as the basis for the standardized twelfth-century writs a set of decisions to provide protection to property rights on both a proprietary and possessory level.¹ Maitland’s vision has dominated legal and constitutional thought on the subject since then. In *The Legal Framework of English Feudalism*, S.F.C. Milsom provides a different vision. Where Maitland saw property rights to be protected, Milsom sees only contractual obligations to be enforced. Where Maitland saw purposeful, farsighted innovation, Milsom sees limited innovations magnified by juristic accident. His ideas are thus strikingly different; and his book, exceptionally important for those interested in legal and constitutional history or in the early law of property and obligations. Because of the book’s philosophical component, those who are interested in the development of law will find here, although hidden behind the strange technicality of late twelfth-century law, a very important contribution to the conceptualization of legal change.

It is therefore regrettable that the book, although carefully written, is almost impossible to understand. It is true that with a bit of fortitude and some knowledge of Maitland’s version of the development of the

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¹ F. POLLOCK & F. MAITLAND, *THE HISTORY OF ENGLISH LAW* (1895).