

## Feudal Baronies and Manorial Lordships

The seven years of the Baronage operation on the Internet have seen two messages stressed repeatedly — first, that the only feudal baronies still held *in baroniam* and capable of being sold with their status intact are those of Scotland, and, second, that genuine manorial lordships are not titles of nobility, and their holders are not qualified to be styled “Lord” (as in “Lord Blogges” or “Lord Bloggeston”).

Now as new Scottish legislation is intended to separate baronial titles from the land to which they have been tied for, in some cases, close to 900 years, and thus to allow them, in essence, to be traded in a manner similar to English manorial lordships (with all the risks that entails), many readers have written to ask for an explanation of what is happening and for our views on what will happen in the future.

In response, this special edition of the Baronage magazine examines the nature of feudal baronies and manorial lordships.

### **Feudalism and the Barony**

The feudal system was developed in the territories Charlemagne had ruled, and it was brought to Britain by the Norman Conquest. Under feudalism all land belongs to the King. He grants parts of it to his closest advisers and most powerful warriors, these being known as tenants-in-chief, and they in turn grant parts of their lands to others who could in turn let parts of their holdings. There is thus a chain – King, tenants-in-chief, tenants, sub-tenants.

The basic unit of feudalism is the manor – which had existed in Britain before the Conquest but was readily absorbed into the feudal system. The Lord of the Manor was a tenant who held it of (i.e. from) a superior who might be a baron or earl or even the King. He owed fealty to that superior, and could be summoned to fight for him and to give him counsel. In return, for feudal relationships are reciprocal, the superior would give his tenants, his vassals, the protection of his military power and his law.

In England earls were barons who ruled counties and received one-third (“the third penny”) of the revenues destined for the King. Barons held many manors, often in several different counties, and some of these they granted to their followers. Earls and barons, as tenants-in-chief, owed their fealty to the King, provided him with knights and foot soldiers from those who owed fealty to themselves, and gave him counsel, initially in

private and at councils, later in Parliament. The right to be summoned to Parliament came to be interpreted in England as the distinguishing feature of the baron.

The manorial lordships were held by the King and his immediate family, by earls, barons, knights, and by those who later were ranked as gentlemen. These were all of the nobility, in the original meaning of that word, so manorial lordships were held by men of rank. Manors were possessions that men of rank possessed. Manorial lordships did not confer rank. A Lord of the Manor might be a lord, but that rank was owed to his noble status, not to his ownership of the manor. (In the early days of feudalism only a noble could hold a manor.)

William the Conqueror introduced feudalism to England and King David I took it north in 1124 when, after having lived in England as Earl of Huntingdon, he succeeded to the Scottish throne. For a while feudalism operated in the same way in both countries, but in England King Edward I, a great centraliser, believed it diminished royal authority and with the statute of *Quia Emptores* in 1290 he began to reduce baronial power. Subsequently the concepts of personal dignity and of the peerage replaced the feudal baronies as the source of the English King's counsellors, and Parliament became more an assembly of the King's placemen.

In Scotland the geophysical structure of the country militated against centralisation, and baronial power, which over much of the land was integrated successfully into the tribal traditions of the clans, remained strong. Baronies here were erected or confirmed by Crown Charter (an essential element) and held *in baroniam*, which meant that the legal powers and loyal duties of each baron were clearly defined and understood, as was the succession to their baronies.

Sir John Skene in 1597 defined a Scottish baron – “*In this Realme he is called ane Barrone quha haldis his landes immediatlie in chiefe of the King and hes power of pit and gallows*”. (The pit was a pool for drowning women; the gallows was for men only.) All barons had the duty to attend the King's court, which was Parliament, and this continued after King James I returned from captivity in England to introduce an English style of peerage, but in 1587 the minor barons, effectively those who did not have peerage titles, were excused their compulsory attendance at Parliament (although they could attend Parliament if they wished).

Scottish feudal barons today are not summoned to Parliament, but their baronies are recognised by virtue of the Crown Charters that erected them. It is important to understand that although a barony was based on

the possession of land, it was separate from the land. The Crown Charter that erected the barony (and without which it could not be a barony) always referred to “the lands and barony of .....

” One part of the land was always nominated as the “head” of the barony, the *caput*, and until now that has always had to be transferred with the barony for the barony to avoid extinction. As will be explained below, the new legislation has changed this.

A feudal baron who is not a peer uses the style of, for example, “John Smith, Baron of Smithfield” or “John Smith of Smithfield”. His wife is known as “Lady Smithfield”. His status is much misunderstood, especially in England, and in continental Europe there appears to be a tendency to assume that Scottish feudal barons are somehow inferior to those of Germany or France. That this is not so has been admirably demonstrated by Sir Iain Moncreiffe of that Ilk.

*The Scoto-Norman Bosvilles or Boswells were a baronial family from the twelfth century. David Boswell, the then Baron of Balmuto (living 1492), married secondly Lady Margaret Sinclair, daughter of William, last Jarl of Orkney and first Earl of Caithness, Lord High Chancellor of Scotland, and by her was father of Thomas Boswell, who was granted the Barony of Auchinleck by his kinsman, King James IV, on 20 November 1504 and who fell with his King at Flodden. James Boswell himself (the writer) was son and heir of Lord Auchinleck (the judge), who was 8th Baron of Auchinleck and whose wife was an Erskine of the great comital house of Mar. James Boswell’s grandfather, James Boswell, 7th Baron of Auchinleck, had powers of life and death in his barony until 1747 (whether he exercised them or not) and was married to Lady Elizabeth Bruce, daughter of the 2nd Earl of Kincardine. The Boswells of Auchinleck, as barons whose ancestors had sat in Parliament by hereditary right until 1594, were entitled to supporters (an honour only accorded heritably in England to peers). In Scotland, the “old laird” and the “young laird”, or the “old baron” and the “young baron”, were recognised characters vested in the baronial parent and heir. It is improbable that many, if any, of the German barons whom young Auchinleck met were of so high a lineage or so ancient a baronial status (nor with so recent a jurisdiction of life and death). Yet the surprising belief is often to be met with in the South, that a great Scottish baron like Lochiel is in some way less of a baron than the cadet of a cadet of some paper baron created by the sovereign of some nineteenth century German duchy.*

## The Barony in England

In Scotland recognition of a barony is easy. If it was erected by a Crown Charter and if every subsequent transfer of ownership has been lawful and has been explicitly of “all and whole the lands and barony of .....” then it is a barony. In England it is and has always been different. Indeed, “in 13th century England neither the crown nor the tenants-in-chief had any clear conception either of the origin of tenure *per baroniam* or of the reason why a tenant-in-chief was considered to be a *baro*.” (I.J. Sanders *English Baronies: a study of their origin and descent 1086-1327*, Oxford 1963)

Accordingly, to distinguish those who held their English lands *in baroniam* from those who did not, it is necessary to ascertain what obligations and privileges they had, and of these the most significant, the most critical, was the payment of baronial relief (the fine paid to the overlord on coming into possession of the barony) recorded on the fine rolls and pipe rolls. Initially the relief appears to have been variable (although £100 in many cases), but it was finally set at £100 for all in 1215. Additionally, to rank as barons the tenants-in-chief had to hold their baronies by knight service, for this was the source of the majority of the royal feudal army.

As in Scotland, the barony, although based on land, was separate from the land. Today, apart from such obvious exceptions as Arundel and Bergavenny about which historians will never cease to argue, such baronies as may be claimed to exist consist only of the lands on which those baronies were once based. Their owners no longer hold them by knight service, nor do they pay baronial relief, nor do they exercise judgement in their own law courts. By the standards scholars apply to identifying mediæval baronies these owners do not qualify as barons.

It is indisputable that if a man did not hold his lands *in baroniam* then he was not a baron, so how, today, can any man who does not hold lands *in baroniam* be judged a feudal baron in England? The answer is that he cannot. And yet “baronies” in England are sold and their new owners plead their right to be called “Baron” or “Lord”, and on the basis that these transactions give credibility to their trade, fraudulent Internet merchants offer “baronies” and “lordships” that are merely registered trademarks of the names of lands that may or may not have once been baronies. (These comments here apply to Ireland too, with the addition that the term “barony” is sometimes used there also for an administrative district — supplying more possibilities for misrepresentation.)

Today, as we write, we have in Scotland feudal baronies, erected by Crown Charter and held *in baroniam*, recognised on behalf of the Crown by the Lord Lyon (who acknowledges their legitimacy with the heraldic additament of a feudal chapeau). We have also in England and Ireland “baronies” being sold as such which are not held *in baroniam* and which satisfy none of the other requirements for recognition as baronies. (There is also a vibrant trade in French baronies claimed by their vendors to transmit nobility. This error has been examined in detail in [an earlier paper](#).)

## **The New Scottish Legislation**

The recently re-inaugurated Scottish Parliament sustains a government formed from a coalition of the Labour and Liberal Democrat parties, and this partnership is emphatically Socialist in its inclinations. Accordingly, feudalism (an emotive word conjuring images of exploited serfs), being the basis of Scottish land law, was an obvious target from its first days in power. Although Scotland freed her serfs in 1320 (and was probably the first country in Europe to do so), the terms “vassal” and “superior” appearing in feudal land law were sufficient in themselves to ensure that a system that had worked well for nine centuries, and continued to do so in our modern industrial society, was doomed.

The recently passed Abolition of Feudal Tenure (Scotland) Act states that “*the feudal system of land tenure, that is to say the entire system whereby land is held by a vassal on perpetual tenure from a superior, is, on the appointed day, abolished.*” The “appointed day” is November 28th, 2004. How this will affect the status of the rank of feudal baron is, in our view, arguable, but Parliament appears to have had no doubts about its intention ~

*“Any jurisdiction of, and any conveyancing privilege incidental to, barony shall on the appointed day cease to exist; but nothing in this Act affects the dignity of baron or any other dignity or office (whether or not of feudal origin).*”

*“When, by this Act, an estate held in barony ceases to exist as a feudal estate, the dignity of baron, though retained, shall not attach to the land: and on and after the appointed day any such dignity shall be, and shall be transferable only as, incorporeal heritable property.”*

It is thus intended that a barony will become an incorporeal right and dignity which may be inherited or transferred, but it will no longer be protected by the formalities used for the ownership and transfer of land. It



The precise wording of the Act prompts a suspicion that the nature of a barony has not been fully understood by the Parliament that passed it. “*When, by this Act, an estate held in barony ceases to exist as a feudal estate, the dignity of baron, though retained, shall not attach to the land .....*” “ Many baronies have ceased to be attached to their lands for many years, but the “dignity of baron” has continued to exist because the “head” of the barony, its *caput*, has remained attached to the title. What is the “head” of a barony? Often it is the principal hearthstone of the principal residence. Sometimes it is a nominal acre or two. This, the *caput*, has been held to represent the original lands in the phrase “all and whole the lands and barony of .....” — but a hearthstone or a couple of acres can hardly have been what was envisaged as “the land” by those who drafted this Act, or by the Members of the Scottish Parliament who nodded it through into law.

To appreciate the full significance of this, it is necessary to return to the recent proposals of the Lord Lyon. From November 28th, 2004, he proposes to “no longer officially recognise a person as a feudal baron .....” Why not? His predecessors have recognised as feudal barons all those who have lawfully acquired by inheritance, assignment or purchase “all and whole the lands and barony of” a feudal barony. The Act has separated the title from the land, perhaps even from the hearthstone, but if a new baron owns both a separated title and its separated hearthstone, where is the significant change in the traditional position?

Well, the only change is the existence and consequences of the new Act, but the Act specifically states that “..... *nothing in this Act affects the dignity of baron .....*” — an inclusion doubtless intended to avoid claims for compensation from barons who would otherwise lose that dignity on November 28th, 2004. In recent years most baronies have been sold for between £50,000 and £100,000 plus the value of lands and buildings. Baronies of the higher degrees (feudal lordships and feudal earldoms) have sold for more: one earldom, that of Arran, fetching £250,000. A reasonable claim then, by the owners of Scotland’s 1,100 feudal baronies (some of whom possess twenty or more), would be above a hundred million pounds — sufficient to make anyone pause before taking any action that might devalue the dignity of barony or destroy its marketable value. (In respect of marketable value it should be noted that the Act specifically states that “*‘dignity’ includes any quality or precedence associated with, and any heraldic privilege incidental to, a dignity*” — so no loss such as that of baronial additaments may be attributed to the Act.)

What then do we believe will be the eventual consequences of the Act and of the actions the Lord Lyon will take in its respect? First, we

believe the dignity of the Scottish feudal barons will continue. When the Lord Lyon makes his final judgement, either the possession of the *caput* together with the “*personal dignity*” of the title will be sufficient for the traditional practice to continue, or barons will put the ownership of the baronial title into a trust (of long life) and take a liferent on the title, such liferent descending, while the trust continues to exist, to heirs and assigns in accordance with the law. An alternative for a new baron might be to dispoise his barony to his son or grandson, and to retain a life interest in the title – there thus being an “old baron” and a “young baron”, a situation not unknown in Scots society.

The second consequence of the Act, depending on the eventual decision of the Lord Lyon, may be that, as has been mentioned above, the door to deception and fraud is kicked wide open. Today, English and Irish “baronies”, some with a claim to historic authenticity, others that are wholly fictitious, are traded freely. In Scotland the authority of the Lord Lyon, expressed through the grant of baronial additaments, has ensured that only genuine Scottish baronies are offered for sale. The views of the Lord Lyon on a barony are a touchstone. If the Lord Lyon continues to grant baronial additaments to barons who possess the *caput*, the fraudulent trade, despite the Act separating the title from the land, will not have a chance to operate.

### **Buying a Barony Now**

There are already signs that the bogus “title” merchants are preparing to exploit the advantages they believe the Act will bring them if feudal baronies may be misrepresented as easily as can manorial lordships (as they will without the protection of Lord Lyon’s disciplines). Accordingly we urge all potential buyers to observe every possible precaution if they are offered a Scottish feudal barony, and especially so if the offer is accompanied by an amateurish exegesis of the new Act and a forecast of the Lord Lyon’s intentions.

As a matter of policy we have always declined to recommend any dealers, but we believe the dangers justify a change in this approach. We do now recommend that any potential purchasers direct their enquiries to [Scottish Barony Titles](#), recently in the news with its offer of the [Barony of MacDonald](#) (for which the owner seeks a million pounds). Mr Hamilton currently has a selection of authentic baronies for sale, together with some superiorities that will appeal to non-Scots seeking, for sentimental ancestral reasons, a right to petition for a grant of arms.

## **Manorial Lordships**

Although history books tend to describe a typical manor as consisting of a village and a parish church governed by a Lord of the Manor who lived in the nearby manor house, this is a misleading simplification. A manor might consist of several villages or, in a few cases, none at all. It might include several parishes, each with its own church, or it might have only part of one parish. Its boundaries did not necessarily coincide with the village boundaries or the parish boundaries. And its lord could be a relatively poor knight, or a powerful baron holding many manors (Robert de Bruce, Lord of Cleveland, owned 94 in Yorkshire alone), or the King.

However, despite the variations, down through the centuries the manor has played an important and irreplaceable rôle in English country life. Its lord has usually been the richest and most influential man in the district, latterly a magistrate in the local law courts, and he has maintained his own manorial court, the Court Baron (for administration), and perhaps also the Court Leet (which tried petty criminal offences committed within the manorial boundaries). But what is the “Lord of the Manor” today, in the 21st century?

It is convenient to categorise manorial lordships according to four classifications. First, there are the historic lords whose ancestors have fulfilled their duties to a greater or lesser extent over several generations, and who continue the family traditions. Second, there are the dupes who have bought worthless paper masquerading as manorial charters for an extinct or even a totally fictitious manor. (Such documentation sometimes includes, in an amateurish attempt to add credibility, a land registration deed or the registration of a trademark) Third, there are the genuine manorial lords who bought their manors at an auction (of which there are at least a couple of well-publicised ones every year), and did so only because they wanted a “title” to boost their self-esteem and impress their acquaintances.

Fourth, there are those who bought genuine manorial titles and take an active interest in the history of their manor and the welfare of its inhabitants. The Manor of Stanbury recently caught the attention of the newspapers when the Local Education Authority in Bradford recognised that by selling the village school and its land there, and then transporting the children by bus to another school, it would profit with an attractive capital gain. The residents of Stanbury were horrified, but what could they do? Then the Lord of the Manor, an American living in Michigan, intervened. He informed the Local Education Authority that the Schools Sites Act of 1841, which encouraged manorial lords to donate land for the building of

schools, provided that when such schools were closed the land and buildings reverted to the ownership of the original donor of the land. That saved the school.

[The Manor of Stanbury](#) is based on 1,900 acres of West Yorkshire immediately to the west of Haworth and has a Court Baron (listed in the Courts Leet Directory 2000) reactivated to deal with the school problem. The Court's original purpose was to care for the administration of the manor and to control its tenants, but its future sittings will monitor the manor's educational and recreational facilities and the general well-being of the manor's inhabitants. When asked about the manor's future and the possibility of its ownership changing, the current lord stated that while it was possible he might sell it at some time, he would do so only to one who was as enthusiastic about Stanbury's literary fame and long history as he is, and who would keep the Court Baron alive.

The views of this online magazine in respect of genuine baronies and manorial lordships may, in the light of the new legislation, be briefly summarised. Because they are an inseparable part of our history, genuine baronies and manorial lordships deserve to be kept alive. Acts of Parliament and heraldic bodies (the College of Arms and the Court of the Lord Lyon) should support their continuation. However, they should be redundant in the 21st century as aids to self-glorification. With their inheritance or purchase their owners acquire obligations to involve themselves in the life of their baronies or manorial lordships, and to contribute enthusiastically to the research into their history. We applaud those that do (and will be pleased to publish their histories as they are completed).