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England and Sicily in the Twelfth Century

III

IN judicial organization some contact between the Sicilian and the Anglo-Norman kingdom is suggested by the existence of officials who in both countries bear the title of justiciar. In Sicily, as in the north, the immediate judicial authority of the sovereign was at first exercised in gatherings of the *curia*, composed of the principal officers of the household and a varying contingent of lay and ecclesiastical lords, and acting in some instances collectively and in others through certain of its members set apart to give judgement in the particular case. Examples of decisions of this sort occur throughout the reign of Roger II⁸³ and again in the trial of the count of Molise in 1168.⁸⁴ While, however, the greater barons constituted a class which could not be ignored in the royal administration of justice, the professional element was present in the south from the outset, as an inheritance from the Byzantine government, in the local judges of the cities and the higher group of imperial *κριταί*,⁸⁵ and it early makes its appearance in the royal *curia*. The *κριτής* Nicholas of Reggio, who participates in the decision of a case in 1123,⁸⁶ may not have been a regular member of the *curia*, but William of Pozzuoli, who appears twice in 1142,⁸⁷ is called *μέγας κριτής* in 1143,⁸⁸ and is

⁸³ Caspar, nos. 42, 66, 80, 81, 145, 150, 156, 158, 198, 210, 211, 214, 224.

⁸⁴ Hugo Falcandus, p. 140. For the sorts of cases which came before the *curia* see Chalandon, ii. 641-4.

⁸⁵ Gay, *L'Italie méridionale et l'Empire byzantin*, pp. 555-60; Mayer, *Italienische Verfassungsgeschichte*, ii. 129 f., 157, 319.

⁸⁶ Caspar, no. 42. Mayer (ii. 396) makes him the supreme judge of Calabria.

⁸⁷ Cusa, ii. 558; Caspar, no. 150.

⁸⁸ Caspar, no. 156.

found acting as justice in 1145 and later.⁸⁹ In 1143 Rogerius filius Boni *iustificator curialis* attests judgements of the *curia* rendered at Salerno and at Capua,⁹⁰ and in 1150 the local justices Lampus de Fasanella and Florius de Camerata and the chamberlain Alfano are members of the *curia* at Salerno.⁹¹ In 1158 we meet with three master justices of the royal *curia*, Rainaldus de Tusa, Avenel de Petralia, and 'iudex de Tarento',⁹² and Rainaldus is found acting alone in the following year.⁹³ Abdenago filius Hannibalis appears with this title in 1168,⁹⁴ and in the same year he and the *iudex* Tarentinus sit together in the larger *curia*.⁹⁵ In 1171 we again find three master justices, Tarentinus, John Burdonis, and Bartholomew de Placia;⁹⁶ and in 1173, the two last-named with the addition of the judge Persicus.⁹⁷ In 1173⁹⁸ and 1176 Persicus, Rainaldus de Monteforti, and Fredericus are master justices;⁹⁹ in 1183, William Malcovenant;¹⁰⁰ in 1185, Sanctorus;¹⁰¹ in 1186, William Malcovenant and Geoffrey de Maturano;¹⁰² in 1188, Geoffrey alone.¹⁰³ In none of these

⁸⁹ See below, p. 644, n. 119.

⁹⁰ Caspar, nos. 158, 159.

⁹¹ *Ibid.*, no. 224. In 1153 Romualdus mentions the justiciars as members of the *curia*. *Mon. Germ. Hist., Scriptores*, xix. 427. Compare below, in p. 660, n. 231, the notice of a *curia* held in 1147 by the king's son, Roger, duke of Apulia, where Henricus de Olgia, who is known to have been a justice from 1141 to 1153 (see below, p. 644 and notes), is among the witnesses.

⁹² 'In nomine Patris et Filii et Spiritus sancti amen. Anno incarnationis dominice millesimo centesimo quinquagesimo octavo, mense ianuarii, indictione .VII., regni vero domini W. Dei gratia gloriosissimi regis Sicilie, ducatus Apulie et principatus Capue anno viii^o, ducatus vero domini R. gloriosi ducis Apulie karissimi filii sui anno iii^o, feliciter amen. Nos Raynaldus de Tusa et Avenellus de Petralia et iudex de Tarento regalis curie magistri iusticiarii per hoc presens scriptum memorie mandamus qualiter ex precepto domini Ma[ionis] magni ammirati ammiratorum] audivimus et intelleximus quasdam controversias que versebantur inter Gisulfum de Siclis regium iusticiarium et Robertum Brittum et eas subscripto fine terminavimus. Videlicet predictus Gisulf[us] deposuit querimoniam adversus Robertum Brittum quod ipse tenebat quosdam duos villanos quos platea sua de Siclis continebat. . . . Scripsit Sanctorus domini regis notarius anno, mense, et indictione predictis. ✠ Signum proprie manus Raynaldi de Tusa regalis curie iusticiarii. [torn off] μεγάλης κύρης κριτῆς ὁ ταραντίνος ἐπέγραψα προσομοίως κύρω οἰκεία χεῖρ. . . . Matheus domini regis notarius. ✠ [] Burgundis regis iusticiarii.' Original in collection of charters from Messina in the Bibliothèque Nationale, MS. Lat. nouv. acq. 2581, no. 1a. Burgundis is likewise justiciar in 1168 (Hugo Falcandus, p. 146), but in neither case is anything said of a connexion with the *magna curia*.

⁹³ Garufi, *Documenti*, p. 81.

⁹⁴ Vatican MS. Lat. 8034, f. 30.

⁹⁵ Hugo Falcandus, p. 140; cf. p. 135, where the master justices are likewise members of the larger *curia*.

⁹⁶ *Doc. stor. sic.*, xvi. 2, p. 31.

⁹⁷ Cusa, i. 327; Gregorio, *Considerazioni*, bk. ii, ch. 2, n. 32.

⁹⁸ Garofalo, *Tabularium regiae Capellae*, p. 34.

⁹⁹ Among the witnesses to Queen Joanna's marriage settlement. Rainaldus and Persicus witness a sale to the *duana baronum* in the same year: *Doc. stor. sic.*, xix. 165; Siragusa, *Il Regno di Guglielmo I*, i. 193.

¹⁰⁰ Garufi, *Documenti*, p. 191.

¹⁰¹ Vat. MS. Lat. 8201, ff. 11 v, 102 v, 163. Probably Sanctorus is the royal notary of this name who attests from 1156 to 1169: *supra*, n. 92; *Historiae patriae Monumenta*, vii. 202; Siragusa, *loc. cit.*, ii, p. xxxiii. Cf. Kehr, pp. 55, 58.

¹⁰² Garufi, *Documenti*, p. 207.

¹⁰³ *Arch. stor. sic.*, xxiii. 150.

instances after 1168 is anything said of other members of the *magna curia*; apparently its judicial functions have passed to a body of professional justices.¹⁰⁴

The intermediate place between the *magna curia* and the city judges was occupied by a body of provincial justiciars which constitutes one of the best illustrations of the organizing ability of Roger II. The title *iusticiarius* does not appear in the south until 1136, many years after it was in current use in England and Normandy, and is in all probability of Norman origin;¹⁰⁵ but the institution of provincial judges may well be connected with the *κριταὶ θεματικοί* of the Byzantine administration, as perpetuated in the 'judge of all Calabria' who is found in 1099 and later.¹⁰⁶ The extension of this arrangement to other parts of the kingdom seems to have taken place about 1135, in which year King Roger commissioned the bishop elect of Capua and Haymo de Argentia, lord of Cicala,¹⁰⁷ to administer justice to all complainants in the newly acquired principality of Capua.¹⁰⁸ In May 1136 we find royal justiciars, apparently three in number, at Trani,¹⁰⁹ and in November of the same year three other justiciars at Taranto.¹¹⁰ Then comes a period when, doubtless as a result of the invasion of southern Italy by Lothair, we lose sight of all such officers, and they reappear only with the re-establishment of royal authority and the development of administrative organization in 1140 and the years immediately following.¹¹¹ The records which have reached us from these years, though fragmentary, show justiciars at work in all parts of the kingdom. In 1142 William, archbishop of Salerno, and Lampus de Fasanella appear at Salerno,¹¹² and in 1144 we find Hugh, count of Molise, at Trivento¹¹³ and Gibeles de Loria and Robert Kletzes in Calabria.¹¹⁴ In 1146 the

¹⁰⁴ Cf. Chalandon, ii. 632.

¹⁰⁵ Cf. Stubbs, *Constitutional History*, i. 378; Niese, p. 104. The earliest form in Sicily would, however, seem to be *iustificarius* or *iustificator*. See above, p. 642, and the references below, 110, 112, 122.

¹⁰⁶ Montfaucon, *Palaeographia graeca*, pp. 394, 401. Cf. Caspar, pp. 309-11; Mayer, ii. 396-8.

¹⁰⁷ Haymo is mentioned in 1136(?), Naples archives, Fondo Monte Vergine, xxxix. 1; in 1143, Caspar, no. 159, archives of Cava, xxv. 69; and in 1145, *ibid.* xxvi. 21.

¹⁰⁸ Alexander Telese, iii. c. 31 (Del Re, p. 144). Cf. Caspar, p. 307.

¹⁰⁹ Garufi, *Documenti*, p. 33.

¹¹⁰ Gattola, *Accessiones*, i. 254; cf. Chalandon, ii. 677.

¹¹¹ Cf. Caspar, pp. 308-12. The constable can likewise be traced beyond the reorganization of 1140: Paganus 'comestabulus domini regis Montis Fusculi' witnesses a charter of November 1137 (Naples archives, Fondo Monte Vergine, xlvi. 19).

¹¹² 'In curia quam dominus (Guilielmus archiepiscopus istius civitatis et dominus Lampus de Fasanella regie iusticie iustificatores tenebant per iudicium baronum et iudicum recuperavit,' January 1142: archives of La Cava, xxv. 3, 38, 40.

¹¹³ Archives of Monte Cassino, caps. 102, no. 2, printed in Gattola, *Historia*, i. 246; cf. Di Meo, *Annali*, x. 131.

¹¹⁴ *Rivista storica calabrese*, 1898, p. 390; Marc, *Plan eines Corpus der griechischen Urkunden*, p. 79, no. 3.

king's justice holds court with the catepan of Barletta.¹¹⁵ In 1148 four justiciars sit in a case at Pescara¹¹⁶ and two others at Aquino.¹¹⁷ In many instances the same judges can be followed year after year. Thus in Sicily, William Valerius and Avenel de Petralia are found in 1145, 1150, 1151, and 1153, as well as in an undated record of this reign,¹¹⁸ while Avenel, as well as William of Pozzuoli and Rainaldus de Tusa, who appear as members of the same court in 1145, can be traced under William I.¹¹⁹ At Bari William de Tivilla and Robert the seneschal are mentioned in Roger's reign and again in 1155;¹²⁰ and in the region of Salerno Florius de Camerata, justice with Lampus de Fasanella in 1150 and 1151, is in office as late as 1178.¹²¹ In the distant Capitanata Henry de Ollia, justice as early as 1141,¹²² sits with Bohemond Britto at Dragonara in 1148¹²³ and at Vieste on the coast of Monte Gargano in 1153.¹²⁴ Evidently a group of justices was assigned to a par-

¹¹⁵ 'Presentibus Sansone regali iustitiario et Petro de Salmuro regio catapano eiusdem civitatis necnon Bisantio et Gadelaito iudicibus,' January 1146: archives of Monte Cassino, pergameno di Barletta, no. 53.

¹¹⁶ Archives of Monte Cassino, caps. 120, fasc. 10 A, no. 114 (1), printed in Gattola, *Historia*, i. 198.

¹¹⁷ 'Dum ego Machabeus iudex Aquinatis civitatis essem in curia quam Atenulfus Casertanus et Hector Atini regales iusticiarii [tenebant] in palatio Aquinensis episcopi pro iusticia facienda et ibi adesset dominus Guarinus eiusdem urbis pontifex alique quamplures homines:' Archives of Monte Cassino, *Privilegia S. Mathei Servorum Dei*, p. 42. Atenulfus was chamberlain in 1145-6; *infra*, p. 659.

¹¹⁸ Garufi, *Documenti*, pp. 57, 62, 118; Kehr, *Urkunden*, p. 431.

¹¹⁹ *Supra*, p. 642, n. 92; Garufi, *Documenti*, pp. 81, 118; Cusa, i. 74. 317.

¹²⁰ *Codice diplomatico barese*, v. 190. Robert appears as justice with the catepan Leo in October of the same year: Monte Cassino, pergamene di Barletta, no. 75.

¹²¹ See below, p. 649.

¹²² Crudo, *La Santissima Trinità di Venosa*, p. 240. In 1144 we also find, '✠signum manus Henrici de Ollia iustificarii domini nostri magnifici regis:' Naples archives. *Monasteri soppressi*, i. 40.

¹²³ 'Anno dominice incarnationis millesimo centesimo quadragesimo nono mense octubris indicione duodecima, regnante domino nostro Roggerio invictissimo rege, breve recordacionis factum a nobis Guillelmo Draconarie iudice et Delecterio Florentinensi iudice, qualiter nobis presentibus aliisque viris ydoneis inferius annotatis dompnus Iohannes Dei gratia ecclesie sancti Leonardi prior, que sita est inter Sipontum et Candelarium in Lama Volari, et dompnus Attenulfus eiusdem ecclesie prepositus et dompnus Petrus sacerdos et alii fratres prephate ecclesie venerunt Draconariam eorum querimoniam preponentes coram domino Enrico de Ollia et Acboamundo [sic] Bructone regis iusticiariis ibidem curiam regentibus de episcopo Campo Draconarie qui quasdam terras eorum monasterio pertinentes indebite molestabat:' *ibid.*, i. 60.

¹²⁴ 'Breve recordationis adque convenientie factum a me Martino de Avalerio, qualiter habui altercationem cum domino Romano abbate Tremitanensi de quodam loco sancti Andree qui dicitur in Saccione, unde regali precepto stetimus in civitate Vesti coram domino Henrico de Ollia et Boamundo Brettono regalibus iusticiariis et Riccardo de Ollia et Gentile de Caniano et Guilielmo de Gradonzone et Ionathas de Ischitella et Uberto de Cavello comestabulo ac Sindolfo Alfano et Petro iudicibus Vestie.' Among the witnesses, 'signum sancte crucis feci manibus meis ego Boamundus Brittone regalis iusticiarius:' Cartulary of Tremiti in the Vatican, MS. Lat. 10657, f. 68; and in the Biblioteca Nazionale at Naples, MS. xiv. A. 30, f. 29 v. Gentilis de Caniano was justiciar at Bari in 1177: Crudo, *Venosa*, p. 255.

ticular region for a series of years, but, except in Calabria,¹²⁵ they do not seem as yet to have received the title, which we find under Roger's successors, of justice of the district.¹²⁶ For the reigns of William I and William II the evidence is somewhat more abundant, but does not indicate any fundamental changes in the institution. The professional element is more clearly discernible,¹²⁷ but the influence of the great lords continues to make itself felt in the administration of royal justice, and in some cases we know that the office of justiciar was an hereditary dignity in certain families.¹²⁸ *Magistri iusticiarii* now make their appearance in the provinces in the person of men of the rank and station of the counts of Andria,¹²⁹ Catanzaro,¹³⁰ Caserta, Loritello, and Lecce; and, accompanied by other justices, they preside, singly or in pairs, over a court which includes barons and ecclesiastics of high rank and is evidently more important than the ordinary justiciar's court.¹³¹ The court of the ordinary justiciar, or justiciars, is still composed of certain local judges and a number of barons or *boni homines*.¹³² Generally the chamberlain¹³³ of the district is a member, with or without the title of justiciar; he may also hold a court of his own,¹³⁴ but beyond the fact that the

¹²⁵ *Rivista storica calabrese*, 1898, p. 390. Compare the assize of 1150, Caspar, no. 223.

¹²⁶ Chalandon, ii. 680. For Val di Crati see also Vat. MS. Lat. 8222, f. 60 (1175); and for Calabria, Vat. MS. Lat. 8034, f. 30 (before 1166); Trinchera, *Syllabus graecarum Membranarum*, p. 294.

¹²⁷ Especially where we can find a local *index* acting as royal justiciar. So Amerusius, *Cod. dipl. barese*, v. 219, 223, 229, 233, 234, 241, 245, 249, 298; and Maior de Botonto, *ibid.* v. 191, 232, 280, *Catalogus Baronum*, p. 571a, *infra*, p. 647, n. 148.

¹²⁸ Thus Henricus de Ollia was succeeded by his son Geoffrey, who grants as 'Goffredus Ollie divina providente clementia comes Alesine et regalis iusticiarius domini Henrici Ollie bone memorie heres et filius': Cartulary of Tremiti (Naples MS. xiv. A. 30), f. 60 v. Compare archives of La Cava, I, 7; and Muratori, *Scriptores*, ii. 2, col. 1010.

¹²⁹ *Mon. Germ. Hist., Scriptores*, xix. 443.

¹³⁰ 'Contra pacem regiam et contra quod iussum fuerat ab illustri comite Hugone Catanzarii magistro iusticiario et comestabulo totius Calabriae:' Vat. MS. Lat. 8034, f. 30 v.

¹³¹ Cf. Chalandon, ii. 681-4. For other instances see Di Meo, x. 347; Muratori, ii. 2, col. 903; *Quellen und Forschungen*, ix. 245; archives of Monte Cassino, caps. 101, no. 61 (1172); archives of La Cava, xxxviii. 34 (1182).

¹³² e.g. Gattola, *Accessiones*, i. 262; Di Meo, x. 347; *Cod. dipl. barese*, v. 260; Crudo, *Venosa*, p. 255; and in the Naples archives, pergamenae di Matera, no. 16 (ca. 1175), *Monasteri soppressi*, ii. 99 (1175), iii. 216, 217, 218 (1180), 242 (1182). Compare also Niese, *Gesetzgebung*, p. 134, n. 6; and on the *boni homines*, Gay, *L'Italie méridionale*, p. 560 f.

¹³³ Or frequently the constable: *Atti della R. Accademia di Archeologia* (Naples), iv. 367; Crudo, *Venosa*, 264 (where the Vat. MS. Lat. 8222, f. 58 v, has 'regius iusticiarius et comestabulus'); archives of La Cava, I, 41; Naples archives, Fondo Monte Vergine, xlvi. 28 ('ante dominum Hectorem Montisfusculi comestabulum et regium iusticiarium', in 1174); *Rassegna pugliese*, xvii. 57; *Archivio storico per le Province napoletane*, ix. 346; Ughelli, vi. 552.

¹³⁴ See, for example, the notices of the courts held by the master chamberlain of Apulia and the Terra di Lavoro Bersacius in 1158 (Del Giudice, *Codice diplomatico*, i. app., xxiii; Naples archives, pergamenae di Corato, no. 37) and in 1163 (Ughelli,

chamberlain is particularly concerned with the king's rights and the king's officials,¹³⁵ the evidence is not sufficient to enable us to draw with precision the line separating his jurisdiction from that of the justices.¹³⁶

According to an assize which probably goes back to Roger II's reign, the justices have jurisdiction over robbery, house-breaking, assaults on the highway, rape, homicide, ordeals, *calumnie criminum*, arson, and all forfeitures which place the offender at the mercy of the *curia* as regards his person or his property; while lesser offences were subject to the control of the *baiuli*.¹³⁷ A similar distinction between the higher and lower jurisdiction is drawn in various royal grants to ecclesiastical lords in which the regalian pleas are carefully reserved.¹³⁸ The list of offences

vii. 406), and by his successor John in 1167 (Gattola, *Accessiones*, i. 262). The chamberlain may also call himself justiciar: 'Sammarus regius camerarius et iustitarius,' at S. Clemente and Sulmona in 1163 (Bibliothèque Nationale, MS. Lat. 5411, f. 256); 'coram domino Achille regio iusticiario terre Idronti et camerario Basilic[ate].' in 1175 (Naples archives, Monasteri soppressi, ii. 99). Robert, chamberlain of Val de Segni and justiciar, below, p. 654, n. 191; cf. Vat. MS. Lat. 8222, f. 60.

¹³⁵ Mayer, ii. 410. For other instances see Caspar, no. 128, and the preceding note.

¹³⁶ The following illustrates the regular nature of the chamberlain's jurisdiction: 'Dum dominus Guilielmus Angeri filius suprascripti domini nostri regis camerarius curiam in Sarnum secundum mandatum regium iusticiam omnibus sue baiulationis facturus teneret, et nos Enricus et Iohannes iudices Sarni et Iohannes et Riccardus iudices Nucerie in eadem curia ex mandato ipsius camerarii iuris dicendi causa sederemus, . . . audivimus sacras regias litteras ipsi domino camerario trasmissas a regia maiestate ut omnia negotia de camerariatu principatus Salerni et cause que ante eum venirent iuste et rationabiliter determinarentur. ut pro defectu iuris ipsa magnifica curia que arduis et magnis negotiis intenta esset non defatigaretur.' Archives of La Cava, xxx. 34 (1185). In the following case the chamberlain of the count of Lesina may well have been acting as subordinate to the count in the count's capacity as justiciar (see above, p. 645, note 128): the abbot of Tremiti, suing in 1157 the abbot of S. Giovanni in Plano, 'fecit proclamacionem Ruberto Malfridi filio tocius terre comitis Goffredi Alesine camerario ut de me ei iusticiam faceret, quo audito prefatus camerarius me ex parte domini regis et domini nostri comitis Goffredi summonuit ut ad terminum constitutum preparatus essem ad iusticiam faciendam prefato Tremitane ecclesie abbati in loco illo unde litigium erat. Unde termino constituto adveniente curia domini nostri regis ordinata ambo a[d] supradicti litigii causam diffiniendam in curia supradicto loco advenimus.' Original in the Chigi library at Rome, E. 6. 182, f. 55; copies in the Vatican, MS. Lat. 10657, f. 94, and at Naples, MS. xiv. A. 30, f. 42 v. We find justiciars delegating their authority: 'Residentibus nobis iudicibus Raone milite et iudice filio Hugonis ypati et Iacobo milite et iudice filio Andree iudicis qui ypati dicitur et precipue Hectore milite et iudice filio Rogerii a rege iudicis in civitate Cusentie per iusticiariorum preceptum ad iusticiam optinendam pro nostri sensus capacitate inter Iohannem gravarettam Messine et Iohannem notarium Paterni' (1170, Naples archives, pergamene Baffi, no. 144). This was, probably later, forbidden: *Const. Sic.*, i. 48, 58, in Huillard-Bréholles, iv. 52, 178; cf. Niese, p. 170.

¹³⁷ No. 36 of the Monte Cassino collection (ed. Brandileone, *Il Diritto romano nelle Leggi normanne*, Turin, 1884, p. 136). Cf. Caspar, p. 312; Niese, *Gesetzgebung*, pp. 104-6. Certain additions were made to this list, probably under William II: Niese, pp. 166-8. On the jurisdiction of the *baiuli* over lesser crimes, see *Constitutiones Siciliæ*, i. cc. 65 f. (ed. Huillard-Bréholles, iv. 37 f.); and compare Chalandon, ii. 669; Niese, p. 166; and Genuardi, 'L'ordinamento giudiziario in Sicilia sotto la monarchia normanna e sveva,' in *Circolo giuridico*, xxxvi (1905).

¹³⁸ Caspar, p. 307; Mayer, ii. 406; Besta, in *Miscellanea Salinas*, pp. 295 f.

which belong to the king's justices presents curious resemblances to the *consuetudines* held by the duke in Normandy,¹³⁹ while the principle of forfeiting person or property to the *curia*, confirmed by an actual example related by Hugo Falcandus,¹⁴⁰ suggests the Anglo-Norman system of amercement which divides offences into three classes, according as the penalty is forfeiture of movables, of lands and rents, or of life and limb.¹⁴¹ The competence of the justiciars also extended to civil and administrative cases. King Roger is careful to notify the judges of Calabria of his legislation relative to the law of succession,¹⁴² and most of the decisions of which we have record concern disputed claims over lands or villeins and complaints of the exactions of royal officers.¹⁴³ The determination of boundaries was, particularly in Sicily, a frequent duty of the justices, and in such matters considerable use was made of local inquests of old men of the neighbourhood.¹⁴⁴ As the *baiuli* had cognizance of such civil cases as did not relate to fiefs or feudal tenures,¹⁴⁵ it would seem that the civil jurisdiction of the justiciars was concerned with the disputes between feudal tenants; indeed, the specific statement to this effect in the legislation of Frederick II may well go back to a constitution of William II. Unless the reservation to the *curia* of cases concerning baronies and *feuda quaternata* can be similarly carried back,¹⁴⁶ no difference can be discerned between the matters which were brought before the *magna curia* and those submitted to the provincial justices, so that it seems probable that these were simply two forms of the same royal jurisdiction;¹⁴⁷ but the complaint would seem to have been lodged in the first instance with the *magna curia*,¹⁴⁸ and the justices regularly act by virtue

¹³⁹ *Ante*, xxiii. 504; *American Historical Review*, xiv. 461 f.

¹⁴⁰ p. 141. Compare also the forfeiture of movables in 1144, *Rivista storica calabrese*, 1898, p. 390; and on penalties against persons, Kehr, p. 286 n.

¹⁴¹ *Ante*, xxiii. 504 f. On this principle in Sicilian legislation, see Niese, pp. 29 f., 35, 57 f., 103, 105.

¹⁴² Caspar, no. 223.

¹⁴³ Besides the cases cited by Chalandon, ii. 677-9, see Gattola, *Accessiones*, i. 258; and p. 642, note 92, p. 644, notes 123 f., above.

¹⁴⁴ Caspar, nos. 9, 128, 145, 232; Garufi, *Documenti*, pp. 33, 57, 81, 118, 152; Cusa, i. 326; *Regii neapolitani archivii Monumenta*, v. 245 (1098); Ughelli, x. app., 368-9; Tromby, *Storia dell'Ordine cartusiano*, iv, p. clxi; Minieri Riccio, *Saggio*, i. 283.

¹⁴⁵ *Const. Sic.*, i. c. 65 (William), in Huillard-Bréholles, iv, p. 37; cf. Niese, p. 166.

¹⁴⁶ *Const. Sic.*, i. c. 44; Niese, pp. 168 f., where attention is called to the limitation, by the Assize of Northampton, of the jurisdiction of the itinerant justices to cases involving no more than half a knight's fee.

¹⁴⁷ So when the legislation of William I or II directs that unclaimed serfs should be turned over to the *magna curia*, it evidently means not that they are all to be sent to Palermo, but that they are to be held subject to the order of the king's court: *Const. Sic.*, iii. cc. 34, 35 (ed. Huillard-Bréholles, iv. 142); cf. *infra*, n. 191.

¹⁴⁸ 'Nos Guillelmus de Mansellera et Clarissa vir et uxor de civitate Horee pariter declaramus quoniam domina Eustochia olim venerabilis abbatisa monasterii sancte Marie de Brundisio detulit sacras litteras ex parte sancte regie maiestatis domino Oliverio terre Idronti regio iusticiario et domino iudici Maiori de Botonto terre Bari

of a royal writ. The small number of extant writs, and particularly the absence of any such treatise as that of Glanvill, precludes a comparison with the procedure in contemporary England, where the writ-process had evidently reached a much higher point of development.

To the student of Anglo-Norman institutions, the most interesting aspect of the judicial organization of the Sicilian kingdom is the question whether there existed a system of itinerant justices. Mayer, the only writer who has seen the significance of this point, asserts that there was a connecting link of this sort between the central and the local courts; but, unfortunately, little of the evidence he cites in support of this statement will bear examination,¹⁴⁹ and the problem must be attacked anew. It should be observed at the outset that the local justices whom we have been considering were not necessarily itinerant justices in the English sense; they are, or tend to become, justices for a particular district, and while they hold court in different towns of the region,¹⁵⁰ their functions did not in themselves involve any closer relations with the central *curia* than is implied in the transmission of the royal writs under which they acted. On the other hand, the Sicilian kingship was less ambulatory than the Anglo-Norman,¹⁵¹ so that there was greater need of some system of provincial visitation by officers of the central government. Can we follow justices through different parts of the kingdom, or, better yet, can we

regio iusticiario, in quibus continebatur quod ipsa venerabilis abbatissa in sacra regia curia conquesta fuerat de nobis quod nos dissagiveramus prenominatum monasterium de terris que sunt in loco Ovidule' (1175 ?): Naples archives, Monasteri soppressi, ii. 99. For other cases brought before the *magna curia* see Ughelli, vi. 812, x. app., 371, 377; Tromby, *loc.cit.*, iv, p. cxlviii; Del Giudice, *Codice diplomatico*, i. app., li, liii; *Doc. stor. sic.*, xvi. 2, p. 121.

¹⁴⁹ When this evidence (ii. 399-408) is separated from other matter and sifted, Mayer's conclusion as to the existence of itinerant justices is found to rest on three instances. The first of these (p. 400, n. 107) is the presence of seven or eight justices at a judgement of the curia at Palermo in 1144, a number which he considers explicable only on the theory that most of them were provincial justices. The document from which this is taken is, however, in this form, a forgery (Kehr, pp. 321 ff.; Caspar, no. 156), and in the original version but one judge appears, William of Pozzuoli, who is found regularly at Palermo. In the second case (p. 400, n. 113), for some unaccountable reason Mayer places at Capua a transaction, witnessed by two judges of the *magna curia*, which plainly occurred at Palermo (*Doc. stor. sic.*, xix. 165). The third example is the presence of Florius de Camerata as a member of the curia at Messina in 1168, which is discussed below, p. 649. Mayer's power of jumping at conclusions is illustrated by his assertion that the circuits established by the Assize of Northampton, the first 'Bildung fester Bezirke für die iusticiarii', were borrowed from Sicily, where, if we count the *camerarius*, the number of justices was regularly three—quite ignoring the instances where the number of justices in the south was not three, and overlooking the fact that the English circuits were in a constant state of change throughout Henry II's reign. Mayer's results are accepted by Niese, p. 104.

¹⁵⁰ That the justices made regular visits to certain places in their district appears from a document of 1170 which fixes certain boundaries for S. Filippo d'Argirò (Garufi, *Documenti*, p. 119): 'et diffinit in feram ubi iustitiarum solebant figere tentoria.'

¹⁵¹ This is plain from the royal itineraries.

see justices of the *magna curia* also holding local courts? The evidence is not abundant, but it is clear, and so far as it goes seems sufficient to establish the existence of such a connexion of the *magna curia* with the local administration.

In 1168 the decision of a dispute between the monasteries of St. Eufemia and Bagnara in a court held by the archbishop of Reggio and the bishop of Anglona, Malta, and Mazzara, is attested by Abdenagus, master justice of the royal *curia*.¹⁵² As the court was held at Messina where the king then was, this is not conclusive, but in 1185 we find Sanctorus, master justice of the *magna curia*, holding court at Messina 'as was his custom'.¹⁵³ It may, however, be urged that in Sicily the judges of the *magna curia* may have performed the functions which elsewhere fell to the ordinary justices; so let us turn to Pescara, at the other extremity of the kingdom. Here in 1175 Robert, count of Loritello and master justice, holds court with the judges of the *magna curia* and others, and the charter reciting the judgement is signed by two members of the *magna curia*, Master Peter and Master Thomas de Carbonara.¹⁵⁴ Another example is that of Florius de Camerata, who is found as justiciar in the region of Salerno between 1150 and 1178.¹⁵⁵ Now in 1168, as Mayer has pointed out, he is present at the *magna curia* at Messina and, possibly as master justiciar, is one of those who render judgement against the count of Molise;¹⁵⁶ and his relations to the royal court are so close that the king sends him as one of the emissaries to fetch Princess Joanna in 1176.¹⁵⁷ In 1172 we find him holding court, with the justice Lucas Guarna, at Larino, Eboli, and Salerno, and in the interval visiting the *magna regia curia*, where he receives

¹⁵² 'Ego Abdenagus filius Anibalis regie curie magister iustitarius interfui et subscripsi.' Vat. MS. Lat. 8034, f. 31v.

¹⁵³ 'Εμοῦ Σαντόρου μεγάλου κριτοῦ τῆς μεγάλης ῥηγικῆς κόρτης ἐν τῇ πόλει Μεσσήνη κατὰ τὸ ἡμῶν σύνηθες κόρτης κρατοῦντι: Vat. MS. Lat. 8201, ff. 163, 102 v. The Latin version (*ibid.*, f. 11v) has: 'Dum nos Sanctorus magne regie curie magister iustitarius in urbe Messana more solito curiam teneremus.' Both are witnessed: '✠ Sanctorus magne regie curie magister iustitarius.'

¹⁵⁴ 'Nos Robertus palatinus comes Rotelli magister iustitarius . . . cum apud Aternum curiam regeremus . . . cum iudicibus magne curie, nobiscum habentibus in prefata curia . . . decrevimus . . . ✠ Ego magister Petrus magne curie iudex qui hanc sententiam dictavi et in hac cartula me scripsi. ✠ Ego Thomas de Carbonara qui huic sententie interfui et me in hac cartula scripsi.' Early copy in archives of Monte Cassino, caps. 111, fasc. 3, no. 28, printed in Gattola, *Historia*, i. 142, and *Accessiones*, i. 265. While Thomas de Carbonara does not sign as justiciar, he and Peter appear together as *iudices* in the preamble.

¹⁵⁵ Caspar, no. 224; Del Giudice, *Codice Diplomatico*, i. app. liii-lvi; archives of La Cava, I, 8 (1174); Romualdus, in *Mon. Germ. Hist., Scriptores*, xix. 460.

¹⁵⁶ Hugo Falcandus, p. 140; Mayer, ii. 400. Mayer is, however, wrong in identifying him with the iudex Tarentinus, who is otherwise known (see above, p. 642), and the passage of Falcandus does not necessarily mean that Florius was one of the master justices.

¹⁵⁷ Romualdus, *loc. cit.*, p. 442; Benedict of Peterborough, i. 115.

instructions to have the customs of Corneto reduced to writing.¹⁵⁸ The association of justice and finance was less close in Sicily than under the Anglo-Norman system; nevertheless we are justified in illustrating the nature of the connexion between central and local administration by examples drawn from the administrative jurisdiction of the *duana*. Geoffrey de Moac, *σεκρετικός* of the *duana* in February and October 1172, appears in the interval as master justice of the Val di Noto.¹⁵⁹ Two years earlier gaytus Richard, of the *duana*, left Palermo to investigate losses of royal property in the region of Messina.¹⁶⁰ In 1174 Eugene, master of the *duana baronum*, assembles a *curia* at Salerno to hear complaints against royal officers;¹⁶¹ in 1178 he holds court at Minori and Nocera to decide a dispute between the citizens of Amalfi and those of Ravello. Walter Moac, master of the *duana baronum* and the *duana de secretis*, had considered a phase of the same dispute at Minori and Atrani; in July 1177 he is at Messina;¹⁶² in May 1178, at Salerno;¹⁶³ in February 1179, at Barletta.¹⁶⁴

How much of regularity and system entered into these local visitations on the part of justices and fiscal officers the surviving evidence does not make clear, nor do we know whether any special class of matters was reserved for their consideration; but while the institution may have differed in many points of detail from its Anglo-Norman parallel, it is hard to see what else could have suggested its establishment. The name *justiciar* points clearly to Norman influence, and while, as we have seen, the provincial justices may well have grown out of the Byzantine officials which preceded them in the south, no such explanation is possible for the itinerant officers of the *curia*. Nothing of the kind is found in the government of the Byzantine themes or the Lombard principalities;¹⁶⁵ nor can a connexion be established with the Frankish *missi* or with the royal judges of Pavia who went about holding court in various parts of Lombardy and the Romagna in the

¹⁵⁸ Del Giudice, *loc. cit.* On the other hand, the presence of local justices such as Haymo de Argentia or Florius in the *curia* of the king at Salerno (Caspar, nos. 159, 224) is not conclusive with respect to their being itinerant justices.

¹⁵⁹ Garufi, in *Archivio storico italiano*, fifth series, xxvii. 248; Chalandon, ii. 683.

¹⁶⁰ Τὸν δικέμβριον μῆνα τῆς ἰνδικτιῶνος δ' ἀπεσχωμένον τοῦ εὐδοξοτάτου καίτου Ῥικάρδου καὶ μεγάλου σεκρέτου ἐκ τοῦ Πανόρμου καὶ ἐξετάζοντα κατὰ ἀρπαχθέντα πράγματα τοῦ κραταιοῦ βηγὸς ὁμοίος καὶ τὰ τῶν Βελλάνων, κατηντίσε εἰς τὴν χώραν χάκι: Vat. MS. Lat. 8201, ff. 226 f. The indiction corresponds to 1170, the year (6680) to 1171. On gaytus Richard see Garufi, *loc. cit.*, p. 247.

¹⁶¹ *Arch. stor. napoletano*, ix. 346.

¹⁶² Camera, *Memorie di Amalfi*, i. 364-7.

¹⁶³ Archives of La Cava, xxxvi. 26, printed above, p. 445; Romualdus, in *Mon. Germ. Hist., Scriptores*, xix. 460.

¹⁶⁴ *Studi e Documenti di Storia e Diritto*, xxii. 275 (1901).

¹⁶⁵ Mayer, ii. 400; Poupardin, *Étude sur les Institutions des Principautés lombardes de l'Italie méridionale* (Paris, 1907), pp. 50-9.

period of the Saxon emperors, for in the twelfth century these officers have become localized and the judicial authority of the emperors in Italy reaches its lowest point under King Roger's contemporaries, Lothair and Conrad III.¹⁶⁶ In England and Normandy, on the other hand, Henry I had established a system of judicial and fiscal visitations,¹⁶⁷ which could hardly have failed to be brought to the notice of Roger II, and the relations between the two kingdoms under Henry II were such as to keep the Sicilian rulers well informed of the development of the Anglo-Norman institution. In this, as in other things, distance must have been less important than the essential similarity of the problem which the two central governments had to solve.

IV

As regards fiscal matters, the existence of a well-developed financial administration in Sicily has naturally suggested the likelihood of some connexion with the equally precocious organization of the Anglo-Norman exchequer; and by Bishop Stubbs,¹⁶⁸ as well as by Pauli¹⁶⁹ and Hartwig,¹⁷⁰ resemblances between the two systems were traced to the influence of the English ministers of King Roger in the formative period of the Sicilian state. Sicilian scholars, however, were quick to point out that the influence might equally well have been exerted in the opposite direction by Thomas Brown, while Amari¹⁷¹ emphasized the essential diversity of the two institutions, due, he declared, to the perpetuation by the Sicilian sovereigns of the fiscal system of the Fatimite caliphs. All such discussion, so far as it touches the relations of the two countries, has been of a rather superficial character, and it is well to remind ourselves at the outset how slight is the basis for any scientific comparison. While the origin of the exchequer still remains obscure, its workings under Henry II are, thanks to the *Dialogus* and the Pipe Rolls, understood with greater accuracy and fullness than any other institution of that age, and the surviving roll of Henry I justifies us in carrying

¹⁶⁶ Cf. Ficker, *Forschungen zur Reichs- und Rechtsgeschichte Italiens*, ii. 42 ff., 133, iii. 42-4, 421-5, 458.

¹⁶⁷ For England see Stubbs, *Constitutional History*, i. 423 f.; for Normandy, Haskins, *The Administration of Normandy under Henry I*, ante, xxiv. 209-31.

¹⁶⁸ *Constitutional History*, sixth edition, i. 408, n.

¹⁶⁹ 'Magister Thomas Brunus,' in *Nachrichten der Göttingen Gesellschaft*, 1878, pp. 523-40. So also Brunner, in Holtzendorff, *Encyclopädie* (1890), p. 325.

¹⁷⁰ Hartwig and Amari, 'Sulla data degli sponsali di Arrigo VI con la Costanza, e su i divani dell' azienda normanna in Palermo,' in *Memorie dei Lincei*, third series, ii. 409-38.

¹⁷¹ In the memoir just cited. Amari's investigations have been supplemented by Garufi, 'Sull' ordinamento amministrativo normanno in Sicilia—Exhiquier o diwan,' in the *Archivio storico italiano*, fifth series, xxvii. 225-63. Compare also von Heckel, in the *Archiv für Urkundenforschung*, i. 372-94.

back its most essential features a generation earlier. With respect to Sicily, on the other hand, it cannot now be doubted that at least the name and the records of the *diwan* go back to Saracen antecedents, possibly reinforced by Byzantine survivals in southern Italy; but for its study there are no sources analogous to the Pipe Rolls or the *Dialogue*. The *diwan* had voluminous registers, called *defēlir* or *quaterniones*, and extracts from its records of lands and villeins are contained in the *platee* and descriptions of boundaries which it issued;¹⁷² but its tax-rolls and account-books have wholly disappeared, so that its methods of doing business are quite unknown to us, and we are left in the dark respecting some of the most fundamental facts of its organization.

What we really know of the Sicilian fiscal system may be summarized briefly. Under Roger II we find, possibly as early as 1123,¹⁷³ a *duana* or *diwan*, which has two titles in the documents (*diwan al mamur*, *diwan at tahqiq al mamur*) but is probably only a single bureau.¹⁷⁴ It keeps lists of villeins and records of boundaries, and under the king's direction it issues official copies from these and makes payments and grants from the domain;¹⁷⁵ but there is no indication that it exercised any independent activity, and it would seem to have been merely a subordinate branch of the all-embracing *curia*.¹⁷⁶ Under William I no change is seen. The Greek name of the *duana*, *σέκρετον*, appears for the first time in 1161;¹⁷⁷ the *defetarii* are so mentioned in connexion with their destruction in the revolt of that year;¹⁷⁸ and we learn more explicitly, what was evident from the language of its earliest documents, that the officers of the bureau were largely Saracens.¹⁷⁹ With the accession of William II the documents relating to the *duana* become more abundant, although they still fail to make clear the procedure of the bureau or its relation to the other elements in the administra-

¹⁷² Amari, *Storia dei Musulmani*, iii. 324-6; Kehr, pp. 228-32; von Heekel, pp. 384-8; Genuardi, 'I defetari normanni,' in *Centenario di Michele Amari* (Palermo, 1910), i. 159-64.

¹⁷³ A charter of 1188 makes mention 'cuiusdam quaterni duane regie qui factus fuerat olim per manus protonotarii curie transactis annis sexaginta et quinque': *Arch. stor. sic.* xxiii. 151; cf. p. 27.

¹⁷⁴ Garufi seeks to distinguish two *diwans* where Amari had found but one, and his view is accepted by Caspar (p. 315) and Chalandon (ii. 649); but I agree with Besta (*Miscellanea Salinas*, p. 295) and Genuardi (p. 161, n.) that he has not established his case.

¹⁷⁵ Caspar, nos. 109, 184-7, 193, 216, 218.

¹⁷⁶ So Garufi, *loc. cit.*, p. 258; Caspar, p. 317; and for William I, Besta, *loc. cit.*, p. 294. Compare the use of *curia*, where the *diwan* is evidently meant, in *Doc. stor. sic.*, i. 19; Pirro, p. 979; *infra*, p. 654, n. 191; and throughout the *Catalogus Baronum*.

¹⁷⁷ Cusa, ii. 622.

¹⁷⁸ Hugo Falcandus, p. 69. Compare the mention of *quaterniones* in Ughelli, x. app., 369.

¹⁷⁹ Hugo Falcandus, p. 57.

tion. It still buys and sells land for the *fiscus* and issues *platee* and official certificates of boundaries and privileges.¹⁸⁰ Its officers go about recovering the king's property¹⁸¹ and enforcing the payments due to him;¹⁸² they hold court for the determination of boundaries and the decision of disputes concerning jurisdiction;¹⁸³ and they exercise a certain supervision over local *camerarii*, *stratigoti*, *baiuli*, and *portulani*.¹⁸⁴ The authority of the *duana* extends over the whole kingdom,¹⁸⁵ but its control over local officials is exercised by means of visitations on the part of its members¹⁸⁶ rather than, as in the English system, by calling these officials to the *curia* for a general account. After 1174 we find the two divisions of the *duana de secretis* and the *duana baronum*, the first having charge of the king's domain and domanial rights, the second apparently exercising an oversight over the fiefs and feudal dues; but while the records of the two offices were doubtless distinct, their personnel was, at least in the upper grades, identical, the same man appearing at different times as an official of one or the other *duana* or of both.¹⁸⁷

The controlling authority rested with a board of *magistri duane* or *ἄρχοντες τοῦ σεκρέτου*, in which the principal chamberlain

¹⁸⁰ Cusa, i. 37, 134, 179, 187 ('terre duane'), 243, 321 (delivery of archdeaconry of Messina), 484, 487, 489; Garufi, *Documenti*, p. 125; Pirro, ii. 1017; *Doc. stor. sic.*, xix. 163.

¹⁸¹ See the extracts printed above, p. 650, n. 160, and below, p. 654, n. 191; cf. *Const. Sic.*, i. c. 61 (Huillard-Bréholles, iv. 36).

¹⁸² Trinchera, *Syllabus graecarum Membranarum*, p. 311.

¹⁸³ Cusa, i. 80, 432; Bruel, *Chartes de Cluny*, v. 600; *Arch. stor. napol.*, ix. 346; *Studi e documenti di storia*, xxii. 275, 278; Camera, *Amalfi*, i. 364-7.

¹⁸⁴ Cusa, i. 487, 489; Minieri Riccio, *Saggio di Codice diplomatico*, sup., i. 21; *Studi e Documenti*, xxii. 278; *supra*, p. 445. Cf. *Const. Sic.*, i. c. 37 (Huillard-Bréholles, iv. 37).

¹⁸⁵ The assertion of Mayer and Niese (p. 164 f.) that the *secretum* was limited in its jurisdiction to Sicily and Calabria is disproved by the documents just cited from Cusa (p. 489) and Minieri Riccio, as well as by the numerous instances where Eugene Cali and Walter Moac are found at Minori, Atrani, Nocera, Salerno, and Barletta. See above, p. 650, notes 161-4.

¹⁸⁶ Besides the instances cited in the preceding note, compare above, p. 650, n. 160 and the following notice from Salerno, in 1174: 'Superscripta venditio celebrata est per licentiam domini Eugenii magistri duane baronum qui a regia celsitudine ad partes istas delegatus est pro exigendis rationibus a baiulis partium istarum, eo quod pretium eiusdem venditionis datum est Bartholomeo regio ostiario pro minuendo debito de decem milibus tarenis monete Sicilie quos prefatus Landulfus a doana baronum cui preest gaytus Matara regius camerarius et senescalcus mutuo suscepisse dicitur. et ad ipsos tarenos recolligendos regia celsitudo predictum Bartholomeum ad partes istas delegaverat. . .': Archives of La Cava, xxxiv. 106.

¹⁸⁷ Garufi, in *Arch. stor. ital.*, pp. 240-50. Genuardi (p. 164) subordinates the *duana baronum* to the *duana de secretis*. Mayer (ii. 386) and Caspar (p. 316) assert that a single *magister* presided over each *duana*, a statement which is clearly seen to be erroneous from the evidence collected by Garufi and from other documents: 'Goffridus de Centurbio et gaytus Bulcassum magistri duane nostre de secretis,' in a charter of 1172 (Bruel, *Chartes de Cluny*, v. 600); Eugene and Walter Moac both with the title 'magister regie duane baronum et de secretis' in a document of 1178 (Camera, *Amalfi*, i. 364-7).

of the palace, as treasurer, probably occupied the chief place.¹⁸⁸ These officials were not cut off from the other branches of the administration: Walter Moac, *magister duane de secretis et duane baronum*, served also as admiral;¹⁸⁹ Geoffrey Moac, *σεκρετικός* in February 1172, is later in the year master justice in the Val de Noto and in the autumn appears as *σεκρετικός* again.¹⁹⁰ Even where we cannot trace the interchange of officers, the connexion between justice and finance is seen in the fact that disputes concerning boundaries are determined now by the justiciars and now by the officers of the *duana*, and that justiciars might be set to recover the king's property under the order of the *magister palatinus camerarius*.¹⁹¹ Still the *magistri* and *σεκρετικοί* are evidently expert officials whose primary functions are fiscal; the *cursus honorum* of many of them can be followed through a considerable period;¹⁹² and there are glimpses of a staff of ushers, clerks, and collectors quite in consonance with the

¹⁸⁸ Garuti, *loc. cit.*, pp. 251, 256 f.; Besta, *loc. cit.*, p. 291; Cadier, *Essai sur l'Administration du Royaume de Sicile*, p. 293 (document on the chamberlain's functions perhaps going back to the twelfth century). Compare the mention of gaytus Matara, above, p. 653, n. 186 and *Doc. stor. sic.*, xix. 165; gaytus Ricardus above, p. 650, n. 160, and below, n. 191; and Darius 'privatus palatinus camerarius et magister regie duane baronum' under Tancred in 1193 (archives of La Cava, xliii. 83).

¹⁸⁹ Walter Moac witnesses as admiral in 1176 (Benedict of Peterborough, i. 171); in 1177, 1178, and 1179 he is 'regii fortunati stolii ammiratus et magister regie duane de secretis et duane baronum' (*Studi e Documenti*, xxii. 275, 278; Camera, *Amalfi*, i. 364-7; *supra*, p. 445); and he is in command of the fleet in 1180-1 (Chalandon, ii. 398).

¹⁹⁰ Garuti, *loc. cit.*, p. 248, who is, however, in error in making Geoffrey master justice in 1183.

¹⁹¹ 'In nomine domini nostri Iesu Christi cuius salutifere incarnationis anno millesimo centesimo octuagesimo tercio mense Ianuarii [indictione pri]ma, regnante domino nostro secundo W. felicissimo rege Sicilii' (*sic*) ducatus Apulie et principatus Capue, anno regni eius septimo decimo adveniente feliciter per Apuliam. Nos Bereng[arius] Latronici et Robertus camer[arius] Vallis Sinni regii iusticiarii magna curia et maiestate preceptum recepimus a magistro palatino camerario domino gayto Riccardo magistro regie duane de secretis ut pergeremus per terras universas iusticiaratus nostri de regio demanio et diligenter et studiosissime inquireremus si villani possessiones ab aliquibus ex ipso regio demanio essent occupata vel detenta que fuerunt disraynata tempore gayti Thome qui regio [duane] de secretis camerariatum tenebat vel postea occupata fuerunt, et revocaremus in regium demanium et per litteras nostras quecumque inveniremus occupata regie magne curie significaremus. Ad eo (*sic*) nos volentes regia precepta adimplere [Gra]vinam congregatis coram nobis iudicibus militibus iuratis et probis veteribus hominibus ipsius terre fecimus ante eos [legi preceptum] magistri regie duane et iussimus iuratis et iudicibus et aliis probis hominibus ut iuxta edictum regii mandati nobis dicerent qui venientes unanimiter cum veridica recordacione plenarie nobis exponerent. Qui dixerunt de casali et Chursosimi et obedientiis et pertinenciis eiusdem quia dominus Ugo Clarimontis qui fuit dominus de Noa dedit casale et ecclesias. . . ' Original. damaged, in Archives of La Cava, xxxviii. 117.

¹⁹² See particularly Garuti, pp. 246-8, 252 f.; and cf. also the career of Walter Moac (*supra*, n. 189) and of Abul-Kasim, ἀρχων τοῦ σεκρέτου with John the scribe in 1168 (Cusa, p. 484), master of the *duana de secretis* with Geoffrey de Centurbio in 1172 (Bruehl, *Chartes de Cluny*, v. 600), and prominent at the court of William II (Hugo Falcandus, p. 119 and n.).

bureaucratic character of the Sicilian government.¹⁹³ Nevertheless, bureaucratic as the Sicilian *duana* was, it was by no means the faithful copy of the Fatimite *diwan* which Amari tried to make out, for the *diwan at tahqiq al mamur* of the caliphs consisted of a body of clerks under a single head, and the separation of justice from finance was one of the fundamental features of the Mohammedan system. Contrary to Amari, there is a certain analogy between the *ἄρχοντες τοῦ σεκρέτου* and the organization of the exchequer, and the analogy is still closer if one accepts Garufi's view of a subordinate treasury, which would correspond to the lower exchequer; but at best the resemblances are hardly close enough to render imitation probable. As institutions it is not likely that the exchequer of Henry I and the *diwan* of King Roger owe anything to each other, unless it be through the influence of the itinerant justices upon judicial and fiscal organization in Sicily. In matters of practice it is quite possible that Roger's *diwan* may have taken something from the English system, and that Thomas Brown, whose third roll was in itself a noteworthy innovation, may have turned his familiarity with the Sicilian procedure to account during his long service at the exchequer. So long, however, as we do not know what the Sicilian procedure was, influences of this kind are mere possibilities and as such cannot be the subject of profitable discussion.

V

There is, however, one set of records in the two kingdoms which does admit of comparison, namely, the registers of feudal tenants; and it is surprising, in view of their striking parallelism, that no one has as yet attempted a comparative study of the South-Italian *Catalogus Baronum* and the returns collected by Henry II for England in 1166 and for Normandy in 1172. The *Catalogus*, which has come down to us in an Angevin register of 1322,¹⁹⁴ is a statement of the military obligations of tenants and sub-tenants, arranged in some instances by constabularies, but generally under the counts or other great lords of which the fiefs were held, the whole being grouped in a rough geographical

¹⁹³ Besides those mentioned by Garufi, cf. 'Bartholomeus regius ostiarius' in n. 186; and 'Eleazar regie duane hostiarius et serviens', who witnesses the document of 1183 of which the earlier part is printed above, p. 654, n. 191.

¹⁹⁴ Naples archives, reg. 242, ff. 13-62. A critical edition is lacking; the most accessible text is that of Del Re, *Cronisti e Scrittori*, 571-615, which is the one here cited. I have collated the significant passages with the register. The entry relative to the bishop of Teramo (p. 610 b), without the bishop's name and the *augmentum*, is also found in the cartulary of this see: Savini, *Il Cartulario della Chiesa teramana* (Rome, 1910), p. 66 and plate 2. There is an excellent study of the *Catalogus* by Capasso, *Sul catalogo dei feudi e dei feudatarii delle provincie napoletane*, in *Atti della R. Accademia di Archeologia*, iv. 293-371 (1868).

order. Omitting Sicily and Calabria, which were administered together under the Normans and the Hohenstaufen, the list begins with Apulia, Basilicata, and the Terra di Otranto, deals next with Capitanata, the Molise, the Principati, and the Terra di Lavoro, and ends with a full treatment of the region of the Abruzzi. In most cases the name and the obligations of the fief have been declared by the tenant himself (*sicut ipse dixit*), sometimes by his lord, frequently by a royal chamberlain or constable. In several instances the information has been taken from the registers of the government (*sicut inventum est in quaternionibus curie*); such references are confined to the region of Apulia and the Terra di Otranto, and in one case mention is made of *quaterniones* at Taranto which are obviously distinct from the *quaterniones curie*.¹⁹⁵ Evidently the *Catalogus* is not the earliest list of the sort which existed in the Norman kingdom,¹⁹⁶ and it may well have owed its origin to the effort of the government to secure for the whole of its continental territory such a record of military obligations as it already possessed for the south-east.

As regards the date when the *Catalogus* was drawn up, attention was early called to the mention of a king William,¹⁹⁷ which

¹⁹⁵ 'Robertus Spirlintus, sicut inventum est in quaternionibus curie, tenet Turritum, quod est feudum quatuor militum, et Iohe, quam tenet de principatu Tarenti et est feudum trium militum, et cum augmento obtulit milites quatuordecim et servientes quadraginta. In quaternione vero Tarenti scriptum est quod debet servire de ipso castello Iohe cum augmento quod ei pertinet' (p. 571 b). Cf. pp. 575 b (where the manuscript has 'feudum trium militum'), 589 a, 589 b ('est scriptum in quaternionibus predicti principatus Tarenti'). I am disposed to call special attention to the fact, which seems to have been overlooked, that reference to the *quaterniones* is found only in the south-east, and that this is the only part of the territory covered by the *Catalogus* which was under a vigorous Byzantine administration at the time of the Norman conquest. A connexion with the Byzantine *κώδικες στρατιωτικοί* has been suggested by Mayer (i. 427). Von Heckel's view of the Arabic origin of the feudal registers and of feudalism itself in the south (*Archiv für Urkundenforschung*, i. 383-91) involves the assumption, among others, that they were brought to the mainland from Sicily.

¹⁹⁶ The *quaterni fiscales*, however, mentioned in a charter of Duke Roger of 1087 (Archives of La Cava, C. 12; printed in the appendix to Ventimiglia, *Difesa della Giurisdizione . . . della Cava nel Feudo di Tramutola*, Naples, 1801) do not, as has been supposed (Capasso, pp. 321, 352; Carufi, in *Arch. stor. ital.*, xxvii. 244, 261; Genuardi, in *Centenario Amari*, i. 163) relate to the obligations of the barons. See Chalandon, ii. 649. Moreover this charter, repeatedly used as a source for the institutions of the eleventh century (e.g. Chalandon, ii. 504, 508, 511, 521, 530 f., 535 f., 557, 616, 649, 671, 690, 696), is an evident forgery. Both in substance and in external appearance it reveals close resemblances to the forged bull of Urban II of 1092 for La Cava (Jaffé-Löwenfeld, no. 5467; P. Kehr, in *Göttingen Nachrichten*, 1900, p. 203); and comparison with genuine charters of Roger for the abbey, such as that of March 1089 (Archives, C. 17), shows that the concessions of this prince have been elaborated and later phrases introduced (e.g. 'tam reales quam personales'). La Cava was an active centre of forgery (K. A. Kehr, *Urkunden*, p. 319, n.); without defending the authenticity of the more doubtful documents, Don Martino Martini seeks to save their substance (*Rivista storica benedettina*, iii. 201-32).

¹⁹⁷ p. 581b.

would bring it within the reigns of William I and II and the years 1154–89, and of a *magna expeditio* or *magnus exercitus*, which was long identified with a supposed crusade of 1187. Recently, however, Chalandon has shown,¹⁹⁸ what should have been evident to students of feudal institutions, that these expressions do not relate to any particular expedition but denote the general levy, or *arrière-ban*, in contrast to the ordinary feudal service; while Capasso pointed out that many of the persons mentioned in the *Catalogus* had been dead long before the date of the supposed crusade. All these, Capasso thought, could be brought within the years 1154–69 but not into any single year, for he discovered, what is of the first importance for the study of the *Catalogus*, that it bears evidence of a considerable amount of revision and correction, which can be traced in changes of name by which one tenant appears in the title and another in the body of the text, and in additions which stand in contradiction with other parts of the document. When, however, he attempted to fix this revision in the year 1161 and to connect it with the restoration of the records destroyed that year in the sack of the palace at Palermo, Capasso was led to disregard certain of the dates which he had himself established; and further study of the *Catalogus* shows clearly that what we have to allow for is not a general revision, but a series of corrections made from time to time in an unsystematic fashion.¹⁹⁹ Such changes, indeed, had been anticipated when the *Catalogus* was first drawn up, for in many cases we have only the heading, doubtless left to be filled in later, and frequently it is noted that further inquiry is to be made on specific points.²⁰⁰

While then the *Catalogus* cannot be assigned to any single year, it is nevertheless important to fix its chronological limits. The greater number of the names which can be identified fall, as Capasso has shown, between 1154 and 1169, and these dates have been accepted by Chalandon and von Heckel. If, however, we fully accept the conclusion that the *Catalogus* was revised and corrected from time to time, the chronological problem becomes less simple than these writers have conceived it. The statement that after the death of Roger Bursellus his constablership was conferred by King William upon William Scalonus²⁰¹ has been

¹⁹⁸ *Domination normande*, i, p. vii f.

¹⁹⁹ See Durrieu, in *Mélanges de l'École de Rome*, vi. 210; and especially von Heckel, *loc. cit.*, pp. 389 f.

²⁰⁰ e.g. pp. 576 b, 580 a, 582 b, 585.

²⁰¹ 'Post mortem Rogerii Burselli ex precepto domini regis Guilielmi Scalonus statutus est comestabulus eiusdem comestabulie, quam tenuerat Rogerius Bursellus' (p. 581 b). It is possible that the original MS. read 'Guilielmus', which would eliminate the king's name. Indeed, Hugo Bursellus, just below, 'tenet de eodem Guilielmo,' but the next entry sums up the fiefs of Guilielmus Sancti Fraymundi, which shows that the passage in its present form is too fragmentary to serve as the basis of any sure conclusion.

interpreted as fixing the *Catalogus* in the time of William I or II—plainly William I, since in his son's time it would have been necessary to distinguish the two in some fashion—without considering the possibility of this being a later entry. As a matter of fact, it appears from another passage²⁰² that Roger Bursellus had been alive at the time the returns were made, when he declared his service as holder of the fief of Torricella, though this has now been granted to Scalfonus, so that the entry concerning King William's appointment is evidently a later gloss, made necessary by the death of Roger Bursellus and substituted for the original heading in which he doubtless appeared as constable. Now if this change had been made by the king under whom the original *Catalogus* had been drawn up, there would have been no point in calling him King William, for everywhere else throughout the text the king is simply *dominus rex*. So far as this entry shows anything, it indicates that King William, instead of being the king under whom the returns were originally made, is mentioned by name only in a later entry, and then to distinguish him from some other king. And this king could have been no other than his predecessor, the first Sicilian king.

The view that the fundamental part of the *Catalogus* goes back to the reign of King Roger is supported by a number of other facts. In the first place, it should be noted that various barons there mentioned belong at the latest to the very beginning of William I's reign. Thus, Geoffrey, count of Montescaglioso, lost his fiefs in 1156;²⁰³ Benedict, abbot of San Giovanni in Venere, died not later than 1155.²⁰⁴ More significant is the appearance in the *Catalogus* of Oderisius, abbot of San Clemente in Pescara, who died 12 December 1152,²⁰⁵ more than a year before Roger. Capasso tries to explain this on the theory that his name was inserted because his successor was not recognized by the lay power, but surely in that case the compilers of the catalogue would have omitted the name of the abbot altogether, as they did in the case of nearly all of the other ecclesiastical tenants. If Oderisius is called abbot, it must have been because he was abbot when the returns were made.

It has not as yet been observed that the chamberlains and constables who are mentioned as collecting the returns of the

²⁰² 'Rogerius Bursellus dixit quod tenet de eodem comite in domo Turricellam . . . et de hoc debet respondere Guilielmus Scalsus, cui balium commissum est' (p. 601a).

²⁰³ Hugo Falcandus, p. 22. Hugh, count of Molise, also died in the early years of the reign; *ibid.* p. 32. It is not clear that, as Capasso says (p. 328), Philippa, marchioness of Gravina, was dead in 1157; see Garufi in *Centenario Amari*, i. 54. On the other hand William d'Avenel, who has been replaced in the revision of the *Catalogus* (pp. 594b, 596b; cf. Capasso, pp. 313, 315), is mentioned as early as 1134 (Caspar, p. 128.)

²⁰⁴ p. 609b; see Capasso, p. 329.

²⁰⁵ p. 610a; see *Chronicon Casauriense*, in Muratori, ii. 2, col. 893; and on the vacancy after his death, P. Kehr, *Italia Pontificia*, iv. 302, nos. 8-11.

Catalogus can in most instances be shown to have been officers of Roger II. Thus the chamberlain Alfano, who appears some forty times in the catalogue,²⁰⁶ was sent on a mission to France in 1140²⁰⁷ and acts as justiciar at Salerno in 1150 and 1151,²⁰⁸ along with Lampus de Fasanella and Florius de Camerata, both of whom are prominent in the catalogue.²⁰⁹ Lampus is found as early as 1128,²¹⁰ but as the list has reached us, while frequently mentioned as constable, he has ceased to possess his lands.²¹¹ Another well-known chamberlain is Ebulus de Mallano, who is found in documents of 1140-50,²¹² and is perhaps identical with the justiciar Ebulus who was at Trani in 1136.²¹³ The chamberlain Atenulfus de Caserta²¹⁴ is found at Amalfi in 1145, at Salerno in 1146, and at Aquino in 1148;²¹⁵ and Robert, count of the Abruzzi,²¹⁶ acts as judge in 1148.²¹⁷ Guimundus de Montellar, who appears as constable in the *Catalogus*,²¹⁸ holds court at Troia in Roger's reign;²¹⁹ and another constable, Gilbert of Balbano,²²⁰ can be traced in 1152 and 1155, and died in 1156.²²¹ William de Tivilla and Robert the Seneschal, mentioned in the catalogue,²²² are justiciars under Roger and in 1155;²²³ yet when the list was first drawn up William's fief of Nusco was in possession of his elder brother Simon, who probably died before the close of Roger's reign.²²⁴ It is not, of course, implied that none of these were in office later, but I have been unable to trace Lampus beyond Roger's reign or Alfano beyond 1156,²²⁵ while the only identifiable constable or chamberlain who has an im-

²⁰⁶ pp. 586 ff.

²⁰⁷ Chalandon, ii. 106.

²⁰⁸ Caspar, no. 224.

²⁰⁹ pp. 583 b, 584-7.

²¹⁰ Archives of La Cava, F, 44: cf. G, 14 (1134), and xxviii. 37 (1152); *supra*, p. 643.

²¹¹ 'Curia tenet quod tenuit Lampo de Fasanella (p. 583 b); cf. p. 585 a.

²¹² pp. 584 a, 596 b, 597; Caspar, nos. 128, 225; Pratiello, *Historia principum Langobardorum*, iii. 267; Gattola, *Accessiones*, i. 257. Ebulus appears, though not as chamberlain, in 1161 (archives of La Cava, H, 36), but he has been succeeded by his son on p. 586 b (cf. Capasso, p. 314).

²¹³ Garufi, *Documenti*, p. 34. Gibel Lorio (p. 587 a) was likewise one of Roger's justices (*supra*, p. 643).

²¹⁴ pp. 594 b, 597 b, 600 a.

²¹⁵ Camera, *Memorie di Amalfi*, i. 342; archives of La Cava, xxv. 117 (Atenulfus domini regis camerarius as judge in 1146); *Privilegia S. Mathei Servorum Dei*, p. 42, in archives of Monte Cassino ('Atenulfus Casertanus et Hector Atini regales iusticiarii' in 1148).

²¹⁶ pp. 601 f.

²¹⁷ Gattola, *Historia*, i. 198.

²¹⁸ p. 582 a.

²¹⁹ Capasso, p. 367. This charter is witnessed by the chamberlain Leo of Foggia, who appears in the *Catalogus*, pp. 580 b, 582 a.

²²⁰ pp. 583 a, 589 a.

²²¹ Chalandon, ii. 70, 329; *Necrologio di S. Matteo di Salerno*, ed. Garufi, p. 108, from proof-sheets kindly communicated by Professor Garufi.

²²² pp. 571 a, 572 a, 589 b.

²²³ *supra*, p. 644.

²²⁴ Capasso, p. 315. Simon de Tivilla makes a grant, witnessed by William, in 1143: Naples archives, *Monasteri soppressi*, i. 35. It is not likely that William was made justiciar before coming into possession of his lands.

²²⁵ Ughelli, vii. 400.

portant place in the *Catalogus*²²⁶ and is not found under Roger is Abdenago filius Annibalis,²²⁷ certain of the entries relating to whom are clearly later additions.²²⁸

Other elements in the catalogue likewise agree better with Roger's reign. The mention of the elect of Troia and the elect of Muri²²⁹ is natural at a time when for lack of papal approval a large number of the Sicilian and South-Italian bishops were so styled; ²³⁰ indeed the bishop of Troia is called elect in 1147,²³¹ while he is addressed as bishop in documents of 1156.²³² Similarly the references to the principality of Taranto and its records²³³ have more point in Roger's reign, when it was held as a separate appanage, than in the time of William I, who kept it in his own name.²³⁴ Indeed, it is more natural to associate the whole idea of such a record as the *Catalogus* with the organizing hand of Roger II than with his son. The king who established justices and chamberlains for his kingdom, called in all privileges and *platee* for inspection and confirmation, had at his disposal the elaborate fiscal registers of the *diwan*, and kept written account of all that was his,²³⁵ was not the man to go without some record of the military resources of his dominions, especially if something of the kind was already in existence for the region of Apulia. Once formed, such a list would be annotated and corrected from time to time by the officers of the *curia*, until it grew into the *Catalogus* as we have it; but in most cases it is no longer possible to discern the extent of the changes thus introduced, although a critical edition may attempt something in this direction when the charters of southern Italy have been gathered and sifted

²²⁶ Marinus Russus, however, camerarius in the *Catalogus* (p. 585), is probably the Marinus camerarius who is found at Capua in 1161 (Di Meo, x. 271) and the Marinus Rubens of 1163 (Ughelli, vii. 401); and it is probable that the Rogerius Flamengus of the *Catalogus* (pp. 571 a, 573 b, 576 b, 578 a) is the justiciar and constable Rogerius Flandrensis who holds court at Mottola in 1155 (Archives of La Cava, xxviii. 120; cf. *Rassegna pugliese*, xvii. 57) and at Barletta in 1158 (Naples archives, pergamenae di Corato, no. 37). Raynaldus filius Fredaldi (*Catalogus*, pp. 574 b, 581 b, 582 b) holds court as chamberlain at Salpi in 1158 (archives of Monte Cassino, pergamenae di Barletta, no. 83).

²²⁷ He is twice mentioned as *magister iustitiarum* at Messina in 1168. Hugo Falcandus, p. 140; Vat. MS. Lat. 8034, f. 31 v.

²²⁸ 'Et nunc sicut significavit Ab.' (p. 593 b). Cf. pp. 590 b and 592, where his returns come after the totals.

²²⁹ pp. 582 a, 585 a, 589 a.

²³⁰ Cf. Chalandon, ii. 109 f.

²³¹ 'Interfuerunt ibi[d]e[m] dominus Rogerius electus Panormitanus, electus Troianus, Henricus de Olgia...': suit before curia of Roger, duke of Apulia, 30 March 1147, in register of Petrus Diaconus, in archives of Monte Cassino, f. 259, no. 638. Again in May of the same year, Garufi, *Documenti*, p. 61.

²³² Bull of Adrian IV in Göttingen *Nachrichten*, 1898, p. 79; charter of William I, in *Quellen und Forschungen*, ix. 242.

²³³ pp. 571 b, 575 b, 589.

²³⁴ Hugo Falcandus, pp. 51, 135.

²³⁵ 'Nullum quod sibi erat quod non sub scripti ratione servaretur aut erogaretur.' Alexander Telese, iv. c. 3. (Del Re. p. 147).

for the biographical information which they contain. Meanwhile, for purposes of institutional study, we may feel reasonably sure that the groundwork of the *Catalogus* and the conditions of tenure which it reveals represent the conditions of King Roger's time.

If this conclusion respecting the date of the *Catalogus* is correct, it is the earliest known feudal register, and it should be studied as the first of a series which, in the period immediately following, comprises the English *cartae* of 1166,²³⁶ the returns from the Norman military inquest of 1172,²³⁷ the roll of fiefs of the count of Champagne,²³⁸ and the registers of military tenants of Philip Augustus.²³⁹ While the procedure employed in drawing up the *Catalogus* cannot be studied as can the military inquests held by Henry II,²⁴⁰ it is plain that the closest affinities of the catalogue, both with respect to the information it contains and the form of tenure it exemplifies, are with the Anglo-Norman documents. The Norman origin of South-Italian feudalism is seen, not only in such matters as the forty days' service and the feudal aids,²⁴¹ but in the more distinctive arrangements of the knight's-fee unit and the group of five and ten knights, both of which are peculiarly Norman and are found in the duchy before 1066.²⁴² If the multiples of five and ten knights are not quite so prominent in the *Catalogus* as in England and Normandy, this is probably due to the much smaller number of ecclesiastical tenants entered, for these fiefs were less likely than the lay holdings to be split up into odd fractions, and the monasteries and bishoprics which appear in the list afford excellent illustration of this method of reckoning.²⁴³ Under the larger fiefs the catalogue gives in each case the number of knights due from each portion of the demesne (*tenet in demanio*), and then a list of the sub-tenants, who are said to hold *in servitio*,²⁴⁴ with the amount of each tenant's

²³⁶ *Red Book of the Exchequer*, i. 186-445.

²³⁷ *Ibid.*, ii. 624-45; *Historiens de France*, xxiii. 693-9, 703-5.

²³⁸ Circa 1172, Longnon, *Documents relatifs au comté de Champagne et de Brie*, i. 1-74.

²³⁹ *Historiens de France*, xxiii. 605 ff.

²⁴⁰ See Round's analysis of the *cartae* of 1166 (*Feudal England*, pp. 236 ff.), and for the inquest of 1172 Robert of Torigny, ed. Delisle, ii. 296 f. (*Hist. de France*, xxiii. 703).

²⁴¹ See for the forty days' service Ughelli, vi. 700; and for the aids the *Constitutiones Siciliae*, iii. c. 20 (Huillard-Bréholles, iv. 132), and the charter of 1183 in *Bullarium Vaticanum*, i. app., p. xxvii. For parallelisms in feudal law compare Nieso, *Gesetzgebung*, 152-63; Neumeyer, *Die Geltung der Stammesrechte in Italien* (Munich, 1901), pp. 239 ff.

²⁴² Haskins, *Knight Service in Normandy in the Eleventh Century*, ante, xxii. 636-49; and *American Historical Review*, xiv. 456. On the Norman character of these arrangements see Guilhaume, *Essai sur l'Origine de la Noblesse* (Paris, 1902), p. 183. The term knight's fee was domesticated even in Calabria, where 'feudum unius militis' appears as *φίον καναλλαρίον ενός*: Trinchera, *Syllabus graecarum Membranarum*, p. 294 (1188).

²⁴³ Thus Venosa owes thirty knights (p. 582 b), Monte Cassino sixty (p. 594 a). S. Giovanni in Venere twenty-five *in demanio* (p. 609 b), and the bishops of Tricarico and Teramo each ten (pp. 574 a, 610 b).

²⁴⁴ This is the natural interpretation of the constantly recurring terms *in demanio* and *in servitio* (cf. Capasso, p. 334; Cartellieri, *Philipp August*, ii. 132 n.), particularly

obligations.²⁴⁵ In addition to his normal feudal obligation (*proprium feudum*) each tenant is liable for an *augmentum*, which consists regularly of a number of knights equal to the *proprium feudum* and of a varying contingent of *servientes*.²⁴⁶ The *augmentum* appears in the older parts of the *Catalogus*, and hence goes back to King Roger's time,²⁴⁷ but we know nothing of the circumstances which led to its imposition or the conditions under which it was afterwards exacted. The available force was even greater, for occasionally, as in Normandy, mention is made of the summons of all the tenant's men in case of special necessity.²⁴⁸

It thus appears that the purpose of the author of the *Catalogus* was twofold, first to furnish the *curia* with a complete list of the military tenants and their obligations, and secondly to secure an

if we consider them in the light of the Anglo-Norman use of demesne. Chalandon (ii. 512 ff.) argues at some length, but not conclusively, that tenure *in demanio* carried with it the plenitude of seigniorial power, which was more limited in the case of fiefs held *in servitio*. Some differences of this sort there may have been, but it is not necessary to assume their existence. Evidently, however, the line between the two tenures was drawn with some definiteness and permanence, for a fief which had reverted to the lord is still reckoned by him as held *in servitio* (cf. p. 584 a: 'Florius tenet feudum quod Niel de Pissoceta de eo tenebat'), and the king in granting fiefs which have fallen into the hands of the *curia* is careful to keep up the distinction previously established between the two sorts of lands. See Mongitore, *Bullae panormitanæ Ecclesiæ*, p. 37; Caruli, *Documenti*, p. 177; Roger of Hoveden, ii. 95. I may observe in this connexion that the marginal 'curia' against many entries in the *Catalogus* should be taken as indicating that the fief has come into the king's hands (cf. the frequent recurrence of 'curia tenet'), rather than, as Capasso (p. 310) conjectures, as a mark of verification on the part of the *curia*.

²⁴⁵ The following brief entry (p. 589 b) may serve as a specimen: 'Comes Philippus de Balbano dixit quod demanium suum quod tenet in ducatu, videlicet de Sancto Angelo feudum iv^{or} militum, de Calabretta feudum trium militum, de Capusele feudum ii. militum, de Diana feudum i. militis. Una demanium eius feudum x. militum, et cum augmento obtulit milites xxiv.'

Isti sunt barones predicti comitis Philippi de Balbano: Rogerius de Oppido dixit quod feudum quod tenet de eo est feudum ii. militum, et cum augmento obtulit milites iv^{or} et servientes x. Bartholomeus de Tigano dixit quod tenet de eo feudum ii. militum, et cum augmento obtulit milites iv. et servientes x. Trahalonus de Balba dixit quod tenet de eo Balbam, que sicut dixit est feudum unius militis, et cum augmento obtulit milites ii. et servientes vi.

Una tam de proprio feudo predicti Philippi de Balbano quam servitii sunt milites xv., et cum augmento obtulit milites xxxiv. et servientes lxxvi.'

²⁴⁶ Not only is the total contingent of knights in the great majority of cases double the *proprium feudum*, but in one instance the principle of doubling the obligation is expressly stated: 'Sicut inventum est in quaternionibus curie sunt feuda iv. militum et in duplo viii' (p. 575a). The use of *addoamentum* as a synonym for *augmentum* on p. 594a is apparently a slip (Mayer, *Italienische Verfassungsgeschichte*, i. 425, n. 16).

²⁴⁷ Mayer (i. 425), while accepting the current view of the later date of the *Catalogus*, places the imposition of the *augmentum* in King Roger's time. It is perhaps significant that in the only list of fiefs which has reached us in a parallel and non-official text, that of the cartulary of Teramo (see n. 194), nothing is said of the *augmentum*.

²⁴⁸ p. 582a: 'Et si necessitas fuerit belli, ultra promissum quotquot habere poterit.' P. 605a: 'Et si necessitas fuerit in marchia et in provincia illa, habebit universam gentem suam.' Cf. pp. 575b, 587a, 604a, 605b; and for Normandy, Guilhaumez, *loc. cit.*, pp. 291-3.

increase in the military contingent. Both tenants-in-chief and sub-tenants were included, but the *augmentum* is applied to both classes in the same measure and to the demesne equally with the fiefs, and the increase is obtained by the simple process of doubling the customary quota. In England, as Mr. Round's illuminating studies have shown,²⁴⁹ the king already knew the amount of the *servitium debitum* from each baron and also kept a roll of the names of sub-tenants as a means of enforcing their liege-homage;²⁵⁰ what was sought in the *cartae* of 1166 was, not only to bring this list of names up to date, but also to ascertain the service due from each sub-tenant, in order thereby to discover whether the tenant-in-chief received more service than he rendered to the king. If this proved to be the case, the larger number was taken as the basis of future assessments—in other words, the king gained an *augmentum*, but by a more roundabout method than in Sicily. At the same time, while a permanent increase of the barons' assessment was doubtless best secured by an arrangement which had a direct relation to their military resources, for particular campaigns Henry II made use of arbitrary *dona* and even arbitrary contingents of *servientes*.²⁵¹ Another parallelism with Sicily is that the *cartae* of 1166, like the *Catalogus*, distinguish carefully in each case between the enfeoffed service and the service charged to the demesne. In Normandy, where the *servitium debitum* to the duke had probably been fixed by the middle of the eleventh century,²⁵² uncertainties appear to have arisen respecting its quantity, while the discrepancies between the amount of service which the great barons owed and that which they received had come to be even greater than in England.²⁵³ Accordingly the inquiry of 1172, the complement of the comprehensive investigation of the royal domains in the preceding year,²⁵⁴ demanded from each baron a sealed return of the number of knights due to the duke and an unsealed list of his sub-tenants and their obligations,²⁵⁵ although in the summary which has been preserved only the number of sub-tenants is given, without their names. Unfortunately the surviving rolls of the Norman exchequer are too fragmentary to show how these returns were used, but if we may judge from the practice of the thirteenth century and from the English analogy, the duke exacted from the sub-tenants an *auxilium exercitus*, or scutage, proportional to the

²⁴⁹ *Feudal England*, 236 ff. ; cf. Inman, *Domesday and Feudal Statistics*, pp. 46 ff.

²⁵⁰ See the returns in *Feudal England*, 238 f. ; and cf. Eyton, *Itinerary of Henry II*, pp. 90 f. ; Round, *Studies on the Red Book*, pp. 62 f.

²⁵¹ *Feudal England*, pp. 265, 283 ; Baldwin, *Scutage and Knight Service*, pp. 29 ff.

²⁵² *Ante*, xxii. 636–46 ; *American Historical Review*, xiv. 456.

²⁵³ See the examples in Guilhaumez, p. 266 ; and compare Pollock and Maitland, *History of English Law*, i. 243.

²⁵⁴ *Ante*, xxvi. 326–8.

²⁵⁵ Robert of Torigny, ii. 297.

number of knights they owed.²⁵⁶ Whether the inquiries of 1166 and 1172 were in any way suggested or influenced by Sicilian precedents, we have no means of knowing, although it is quite conceivable that such was the case. Sooner or later in all the Norman lands the king was bound to feel the cramping effects of the custom which limited him to the quotas originally assessed upon the tenants-in-chief, and it was inevitable that, as his military necessities grew, he should seek to get some advantage from the growing number of his barons' tenants. How this should be secured depended upon local conditions, but full information concerning the sub-tenants and their fiefs was the first necessity in any case; and while the English king possessed a record of the service of his barons and, more or less fully, of the names of their tenants, a complete register of military tenures was, so far as we know, first drawn up in southern Italy.²⁵⁷ Inasmuch as, besides other possible sources of information respecting the south, Henry II had as confidential minister Master Thomas Brown, who as a member of King Roger's *curia* must have been familiar with the military registers of the southern kingdom and the *augmentum* which had there been imposed, it would seem that this experience was at the disposal of the English king if he chose to avail himself of it. Certainly his contemporaries were ready enough to learn from him in such matters, as we see in the imitation of the Assize of Arms by Philip Augustus and the count of Flanders.²⁵⁸

The conclusion to which our study of the chief departments of the Sicilian government seems to lead is that there was no such mechanical or wholesale transfer of institutions between England and Sicily as was once assumed,²⁵⁹ but that the two states were reasonably well informed respecting each other and would appear to have made some use of each other's experience. It seems probable that the English judicial system furnished the model for the justiciars of the south, and the feudal registers of southern Italy may well have had some effect on the military policy of Henry II. It is quite possible that if our sources of information were more satisfactory we could trace lines of influence in the detail of fiscal administration or of legislation,²⁶⁰ while for an earlier period we must bear in mind the possibility of a connexion

²⁵⁶ *Summa de Legibus Normannie*, ed. Tardif, pp. 125 f.; cf. Guilhiermoz, p. 267.

²⁵⁷ The Bayeux inquest of 1133 would seem to have been exceptional.

²⁵⁸ Benedict of Peterborough, i. 270; cf. Guilhiermoz, p. 227.

²⁵⁹ Particularly, at the beginning of the last century, by Gregorio, *Considerazioni sopra la Storia di Sicilia*.

²⁶⁰ That Sicilian legislation was influenced by that of England has been maintained, but on insufficient grounds, by Niese, *Die Gesetzgebung der normannischen Dynastie*, pp. 182, 188-96. The difficulty here lies in the fact that we know very little about the period when such influences are most probable, the latter part of the reign of William the Good. Cf. *ante*, xxvi. 370.

between Domesday Book and the fiscal registers which the south had inherited from its Byzantine and Saracen rulers. For the present, however, all these must remain mere possibilities; the most that can be asked is that we have an open mind toward the existence of international influences between the nascent states of the twelfth century, influences not always conscious, but within their limits not unlike those which are well known to the historian of the fifteenth century or of the nineteenth. If, however, we keep to the more solid territory of established fact, the chief interest of Sicilian institutions lies in the striking illustrations of a parallel political development. CHARLES H. HASKINS.