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The Attack on 'Feudalism' in Eighteenth Century France

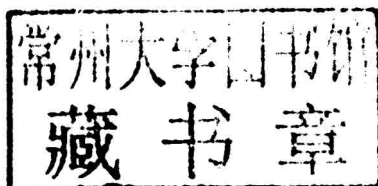
J.Q.C. Mackrell



THE ATTACK ON 'FEUDALISM' IN EIGHTEENTH-CENTURY FRANCE

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For Alice

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Bibliographical Note

When writings are cited for the first time full bibliographical particulars are given. Thereafter, works are identified simply by the author's name, and by an abridged title in the few cases where reference has been made to more than one of his writings.

Although it is usual for scholarly works to be garnished with arcane abbreviations, such as *op. cit.*, *loc. cit.*, *idem*, *et seq.*, not to mention the repellent *id.* with its fatal fascination for certain academics, they have been omitted to avoid confusing the reader by an enigmatic brevity in a foreign tongue. Exceptions have been made for *ibid.* and *passim* which, despite their source, are useful.

The names of eighteenth-century authors give much scope to the perverse ingenuity of librarians. At the British Museum and other centres of bibliographical fashion they delight, for example, in hiding Condorcet under Caritat, Mirabeau under Riquetti and even dare to put Montesquieu under Secondat. Here the prosaic practice has been to allow each author to retain the name by which he is commonly known.

For anonymous works and those difficult to locate the reference number, at either the B.M. (British Museum) or at the B.N. (*Bibliothèque Nationale* in Paris), has been given.

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I

Introduction

When 'the sleep of reason brought forth monsters' one of the first to appear was 'feudalism'. It was very characteristic of the *siècle des lumières* that it should have conceived from its own fears the monster which it then tried to slay with its reason. The hysterical tone of some of the writings on 'feudalism' itself betrays the limits of eighteenth-century rationalism. It is hardly surprising, therefore, that almost all historians, except the incurably old-fashioned Marxists, have tended to represent 'feudalism' as no more than a contemporary term of abuse. Many medievalists have long thought that feudalism was moribund, if not actually dead, by the end of the twelfth century, which would make the eighteenth-century attack on 'feudalism' six hundred years behind the times. These twentieth-century historians have the immense advantage over their predecessors, that the latter cannot answer them. It is difficult to understand, however, why eighteenth-century writers, including some of their best historians, should have expended so much energy in demolishing what was already in ruins. Their attitude only makes sense if their conception of 'feudalism' differs from that of today's historians. And it is, of course, contemporary conceptions of 'feudalism', and not the history of feudal institutions, that is the subject of this study.

Feudalism is usually defined by the latter as a form of land tenure in return for military service. According to that view, the disappearance of knight-service had removed the *raison d'être* of feudalism well before the eighteenth century. Yet, the pre-tence that it existed in its traditional medieval form was still

maintained until the late seventeenth century. An ordinance of 1635 laid down an obligation to knight-service in the *ban* and *arrière-ban* for three months each year within the French frontiers and forty days outside them. Despite the fact that the *ban* gave fresh proof of its unreliability whenever it was summoned, it met for the last time as late as 1697.¹ Even in the eighteenth century many nobles regarded service in the army as the chief duty of their class. The very fact that feudal and seigniorial rights were condemned in some *cahiers* of 1789 on the grounds that the holders no longer performed the military service for which they had been granted, shows that the original purpose of feudal tenure had not been forgotten.

Feudal rights properly so-called were derived, therefore, from the contract under which a fief was held. With the disappearance of knight-service fiefs naturally tended to become assimilated to private property. The confusion was made all the greater by the snobbish habit of dignifying almost any landed property of the well-to-do by the name of 'fief' and by describing ordinary tenants as 'vassals'. Yet, as happened so often under the *ancien régime*, a partial collapse of the system did not lead to its replacement. Faith and Homage continued to be paid by holders of fiefs in the eighteenth century to their overlords, as in earlier times.² Among the most important marks of the fief were the *droits de mutation*, which consisted mainly of various types of relief, which were levied by the overlord when a fief changed hands. On *roturier*, or non-noble, property, similar rights of *lods et ventes* were claimed. The Crown itself reinforced these distinctions by levying a tax called *franc-fief* on *roturiers* whenever they acquired land that was classified as noble. The original purpose, a monetary compensation to the Crown when land passed into the hands of *roturiers* who were ineligible for knight-service, had, of course, disappeared much earlier. In the eighteenth century *franc-fief* was regarded as a tax on property which worked to the disadvantage of nobles, as well as of *roturiers*, by reducing the saleability of land.

The holder of a fief also owned the *directe*, or right to levy dues on lands that fell outside his personal domain, but within

¹ M. Marion, *Dictionnaire des institutions de la France aux XVIIe. et XVIIIe. siècles* (Paris: A. Picard, 1923), p. 34.

² *Ibid.*, p. 236.

the fief or seigneurie. The customary mark of feudal overlordship was the *cens*, which therefore retained an importance in the eighteenth century out of all proportion to its yield, which, as it was nearly always paid in coin, had long since been eroded by inflation. It was sometimes replaced as the mark of overlordship by the *champart*, which brought the seigneur much more because it was still paid in kind. The *rente seigneuriale*, despite its name, and also payable in kind, fell into the same category.¹

Modern historians usually draw a distinction between 'feudal rights' which were derived from the contract that upheld a fief and the 'seigniorial rights' which were all those that had come into the seigneur's hands by other means. Attempts to distinguish closely between the two, however, are far from easy, as the Feudal Committee itself discovered during the Revolution. None the less, seigniorial rights can be classified roughly by whether they fell on the person or on the property of the vassals – or *censiers*, as those who paid the ubiquitous *cens*, were called.

The greatest restraint on the person of the vassal arose in cases of personal servitude. In that condition if he left the seigneurie the lord could exercise his *droit de poursuite*, although the law courts in the late eighteenth century no longer upheld him automatically. By the prohibition of *formariage* the serf was also forbidden to marry anyone outside the seigneurie without the lord's permission. Personal servitude was both rare and in decline in the eighteenth century and differed, in any case, from the serfdom of the Middle Ages. Rather commoner was mortmain which affected property. Under this tenure the *mainmortable* enjoyed personal freedom, while being free to dispose of his possessions only to direct descendants and then on condition that they lived in the same household. Otherwise, everything at his death fell forfeit to the seigneur.

The seigneur's hold over the person of a free vassal was most complete in the case of seigniorial justice. If it were true that in the last resort every Frenchman was a subject of the king, the seigneur's right to have justice administered in his name invested him with a share of the public authority for the misuse of which he was seldom called to account. The chief advantage of the seigniorial courts to the lord was that they gave him a

¹ A. Soboul, *La France à la veille de la Révolution* (Paris: Société d'Édition d'Enseignement Supérieur, 1966), I, pp. 171 ff.

means of enforcing the payment of feudal and seigniorial dues. The right of seigniorial justice was also prized for the *droits honorifiques* which usually accompanied it. These accorded the *haut-justicier* pre-eminence in the parish church, which included the right to his own pew in the choir, to be sprinkled with holy water and incensed separately, and to be named personally in prayers of intercession. In rural communities where status counted for far more than wealth, these rights were often the cause of endless rivalries and dissensions. As it was a common maxim, however, that 'fief and justice have nothing in common' it might seem that seigniorial justice itself could be classified with complete assurance as a seigniorial, rather than feudal, right. However, even this rule did not always hold good: in some provinces the owner of a fief was assumed also to have the right of having seigniorial justice administered in his name.

Another right which the seigneur, by virtue of his power of seigniorial justice, exercised over the persons of his *censiers*, was the *corvée personnelle*, which usually entailed work on the seigneur's domain. In the Middle Ages the peasants had been *corvéables à merci*, but by the eighteenth century it was unusual for the *corvées* to account for more than twelve days of unpaid labour each year. The *corvées*, none the less, figured as a major grievance in the peasant *cahiers* of 1789.

Seigniorial taxes which bore on the property of the *censier* were often as burdensome as those which fell on his person. In some cases the same right could apply to either. There were, for instance, *corvées réelles* which were attached to land as well as *corvées personnelles*. Among the levies on property were the so-called regalian rights of the seigneur which included the *péages* and *droits de marché*. The former were tolls which were levied more or less arbitrarily and still numbered nearly 6,000 in 1770. The *droits de marché* existed under a wide variety of names, but were essentially taxes on merchandise brought to fairs and markets within the seigneurie. Along with the *péages*, they often proved remunerative to the seigneur.¹ The hunting rights of the seigneur can also be classified as arbitrary exactions on the lands of *censiers*. The *droit de chasse* itself belonged in most areas to all nobles and could wreak considerable havoc on crops. The seigneur himself usually had the right to maintain

¹ *Ibid.*, I, 176.

a rabbit warren and dovecot, which brought the crops of the unfortunate peasants under attack, as it were, from both land and air. Although it was beyond the ingenuity of the seigneurs to mount a water-borne attack, they did deprive the peasants of fishing rights by arrogating the *droit de pêche* to themselves or to others at what was often a lucrative rate.

The rights of banality do not fit neatly into any of the above categories. Although they took a variety of forms, the most widespread and onerous were those by which the vassal was forced to bring his corn to be ground at the lord's mill, his flour to be baked in his oven and his grapes pulped in his lord's wine-press. The *banalités* were often ascribed along with other seigniorial rights to the tyranny of the nobles during the Middle Ages. Yet it was often claimed with some justification that the *banalités* fulfilled an economic service in the countryside. According to this line of argument, the obligation of the peasants to use the lord's *banalités* was no more than a recompense to the seigneur for providing these services in the first place. Whatever their origin, however, the peasants in some of their *cahiers* showed that they resented the *banalités* as arbitrary exactions that lacked all justification.

None of the above rights can be termed 'feudal' without extensive qualifications. At most some contain a certain 'feudal element', while others do not possess even that. Therefore, it is easy to appreciate the impatience of medievalists with the 'feudalism' of the eighteenth century. Yet, surely contemporary writers ought not to be condemned by modern historians solely because their conception of feudalism differed from that of our medievalists. A better test is whether their ideas about the past made sense in eighteenth-century terms.

One sign that ideas are relevant to their times is the invention of a new vocabulary to express them. The fact that the word *féodalité* was itself rediscovered in the eighteenth century suggests that the attack on 'feudalism' sprang from contemporary needs.¹ Although the use of *féodalité* has been traced back to 1515,² it was employed rarely enough for a modern compiler to

¹ M. Reinhard, 'Sur l'histoire de la Révolution française: travaux récents et perspectives', *Annales. Economies. Sociétés. Civilisations*, XIV (1959), p. 569.

² A. Dauzat, *Dictionnaire étymologique de la langue française*, 7th ed. (Paris: Larousse, 1947), p. 319.