



England's Barons, Baronies, and Feudal Titles of Honour

"The history of the baronage, the second estate of the realm, is a matter of difficulty: controversy has raged around it, and it has become the theme of a large literature. The difficulty has at least been created by the continued existence of this estate, and the high value men have come to place on a seat in the House of Lords." — Frederic William Maitland, The Constitutional History of England, Cambridge: The University Press, 1955,

In brief, the feudal title of Baron is a territorial dignity that passes with the ownership of the lands, a Land Barony, to which it is attached. A modern peerage title is a personal dignity that will pass, if it is not a life peerage, according to the "remainder" or "destination" specified at the time of its creation. Nevertheless, despite this clear distinction between feudal titles and modern peerages, there are titles for which proper definition or classification may be obscure or contentious. For example, the Barony of Renfrew, before it was settled by Act of Parliament in 1469 on the firstborn Princes of the Kings of Scotland forever (it is now held by the Prince of Wales) was a feudal territorial dignity, neither a personal nor a peerage title. Some scholars believe the Act of 1469 elevated the Barony of Renfrew to peerage rank; others that it became a peerage title with the Union of the Crowns in 1603; and still others that, owing to the uncertainty about the meaning of the 1469 Act's text, the title is still territorial. The exact status of the Barony of Renfrew serves to illustrate that determining exactly what feudal titles mean requires great care.

The origin, meaning, and status of feudal titles of honour are widely misunderstood. Over the last thousand years, words and terms associated with feudal titles of honour have been as inconsistent as has been mediaeval spelling. Many words and terms having their origin in dimly lighted history are today commonly thought to be precise in definition and usage. In fact, however, their creation was often mere convenience and simple undisciplined orthography, and there was certainly no idea about orthographic problems for the scholars and lawyers of much later centuries. The terms, barony, lordship, manor, honour, and nobility require particular care to interpret accurately. Care must be exercised to understand the widely differing feudal system customs and their applications that existed region to region throughout Western Europe beginning the second millennium. Such differences often created nuances that changed the meaning and application of legally important words and terms. Latin, then the "international language", also tended to modify and obscure meaning in translations of such words and terms. The broad use of the Latin term, dominus, generally intended to convey the meaning of supremacy and authority over others as "lord" or "lordship" is an example. Over time there was some tendency towards greater precision in selecting words and terms, but greater precision sometimes resulted in producing the unintended consequence of actually reversing a word's or term's meaning, as happened with the application of the term, baron, in Scotland.

"Baron" is the most widely recognized but least understood British title of honour. Moreover, the word exists today to describe the old German nobility, Tuans in Malaysia, leaders of Great Britain's trade unions and Australian newspaper owners. The word is generally understood to mean "a powerful man". It has evolved many times since its introduction to Britain by Normans in the eleventh century, but the original, intended and specific meaning of the term,

baron, is frequently confused and obfuscated by its many dissociated uses.

In classical Latin, *baro* means “dunce” or “fool”. In low Latin, *baro* means “slave” or “servant”, albeit servants in the houses of greater nobles of the eleventh century tended to be young men from noble families. As the feudal system and its three essential components of fealty to a superior, land possession and military service became more firmly rooted in Europe, the term and word *baron* meant man (as, for example “man” in the 1930s popular play, “My Man Godfrey” or “My man Jeeves” as P.G. Wodehouse’s fictional character, Bertie Wooster, described him). A feudal “man” was someone upon whom had taken the Oath of Fealty to a superior and the superior could rely upon him.

The feudal system provided that the Oath of Fealty allowed a “man” to hold land as a “tenant-in-chief” of his Prince. This is another word or term with a wide range of meanings, but here it means someone who holds his lands of no one. He need not be the king; he might be a bishop. The essence of the term is that he is sovereign in his principality. In earliest feudal history, a king's barons (his tenants-in-chief) might also have their own barons through a process of subinfeudation. Eventually subinfeudation was greatly restricted in England when King Edward I saw it to threaten centralized power and fiscal efficiency.

In Scotland, where the geophysical factors and harsh winters created different political problems, it continued for longer.

In England the kings ruled in council, first summoning some of the greater barons (i.e. the more powerful barons) to attend and advise them, and then, while retaining the Privy Council, extending the principle to bring to their Parliament larger numbers of barons, together with the

representatives of the church and the boroughs and the Knights of the Shires.

The concept of peerage did not develop immediately, and its subsequent evolution was haphazard and irrational. Vicary Gibbs, Editor of *The Complete Peerage*, observed "it is impossible to reconcile the facts of history with the Law of Peerage". In fact, "Parliament" itself has never been defined by the Committee for Privileges, the body responsible for the organization of the British Peerage in Parliament.

Those barons who first attended the Norman kings in council came as territorial magnates holding their lands of the king in accordance with a loose Norman hereditary system based upon land tenure: "Nulle terre sans dominus, nulle dominus sans terre" (No land without a lord, no lord without land), but if the barony—which was the lands—passed to another, the rank of baron and the privileges dependent on it passed also. Such baronies were "Baronies by Tenure".

When the concept of the modern peerage took root in England it was argued that those feudal barons—Barons by Tenure who had been summoned to the early Parliaments were ipso facto peers—Barons by Writ. However, it is not likely the king—who summoned the—believed he was creating hereditary peers or that those he summoned reasoned posterity (through the Committee for Privileges six hundred years in the future!) would retrospectively award them and thus, their heirs forever, promotion to what would become peerage rank and privileges.

Later, kings created new peers of landless men they considered would make valuable contributions to their government, and these became Barons by Patent. Subsequently, Letters Patent became the usual way to create new peers or to promote existing peers to higher peerage rank.

In Scotland, in the early days, it was quite impossible to distinguish clearly between Barons who were the equivalent of peers and those who were simply Barons by Tenure. Until the statute of 1428, which recognized the burden carried by those poorer Barons with the smaller estates, all were expected to attend Parliament, but thereafter they were termed Greater Barons ("Lords of Parliament") or Lesser Barons, who could but need not attend Parliament. The Scots Parliament assembled in a single chamber, and consisted of the Prelates, the Barons, and the Burgesses: the Earls sitting as Barons, i.e. as those holding their lands per baroniam. However, despite the importance of land and the significance of the barony, a Baron in Scotland did not necessarily hold a territorial barony. Feudal Law gives the title of Baron to all who hold lands with absolute jurisdiction with the special franchise of furca et fossa: the power to hang men and to drown women found guilty of capital offences by a baronial court.

To understand the relationship between Barons, Lords, and Earls in the feudal system it must be remembered that rank came from the lands held: Barons held baronies, Lords held lordships, and Earls held earldoms. Lordships and earldoms are lands held in baroniam. Thus, lordships are baronies of a higher rank and earldoms are baronies of an even higher rank. Uniting and integrating an existing barony with another barony or with some other feudal title created lordships. Earldoms could be created similarly, perhaps by uniting existing lordships. Many Scottish earldoms of the middle ages actually predated the introduction of feudal law into Scotland, but were absorbed into the system in a manner similar to the absorption of the clan structure into the feudal society.

The term, Baron, has a broad meaning. In Scotland the Act of 1428 made it a little more precise, but subsequent decline of the law enforcement powers of barons—almost

wholly terminated by the Abolition of Heritable Jurisdictions Act of 1747—reduced the importance of the baronies that the term, baron, became a synonym for “freeholder”. This can be seen in the several Acts that address Parliamentary representation where the term is used to designate both county freeholders who had the franchise of law enforcement and those who represented the shires (“counties”) in Parliament. The present century has seen another change in Scotland. The influence of the modern Peerage and the term, Baron, as a rank equivalent to a Scottish Lord of Parliament, together with the survival of the Scottish feudal Baronage as a recognized body and the diminished use of the unqualified term, baron, as a description of anything other than a feudal baron have enhanced its prestige. This development has been assisted by the activities of the Convention of the Scottish Baronage and by the Lord Lyon's continued use of the chapeau as armorial recognition of a feudal Baron's rank.