

RECORDS, ADMINISTRATION
AND ARISTOCRATIC SOCIETY
IN THE ANGLO-NORMAN REALM

Papers Commemorating the 800th Anniversary
of King John's Loss of Normandy

Edited by
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THE BOYDELL PRESS

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First published 2009
The Boydell Press, Woodbridge

ISBN 978 1 84383 485 4

The Boydell Press is an imprint of Boydell & Brewer Ltd
PO Box 9, Woodbridge, Suffolk IP12 3DF, UK
and of Boydell & Brewer Inc.
668 Mount Hope Ave, Rochester, NY 14604, USA
website: www.boydellandbrewer.com

A CIP catalogue record for this book is available
from the British Library

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This publication is printed on acid-free paper

Printed in Great Britain by
CPI Antony Rowe, Chippenham and Eastbourne

‘In Testimonium Factorum Brevium’: The Beginnings of the English Chancery Rolls

David Carpenter

It has become almost axiomatic among historians that the start of King John’s reign in 1199 saw the introduction of the English chancery rolls.¹ In other words, the rolls began at the point from which they actually survive in The National Archives at Kew. When Nicholas Vincent entitled a recent paper ‘Why 1199? Bureaucracy and Enrolment under John and his Contemporaries’, his question was not, as it might have been, ‘why all this misplaced fuss about 1199?’, but, as he put it, ‘why should it have been in 1199 that the record keeping of the royal chancery took the quantum leap into enrolment?’² Vincent was in good company, for the assumption underlying his question had been shared by historians as diverse and distinguished as Duffus Hardy, Maxwell-Lyte, Galbraith, Painter, Cheney, Chaplais and Clanchy, a veritable galaxy of the good and the great.³ One hesitates to cite Robert Bartlett for a mere summary of current orthodoxies but that, in effect, is what he provides in his new Oxford history of England. In a discussion of what he calls ‘The Record Revolution’, he observes that ‘From John’s reign the Chancery adopted the system of enrolling copies of the charters and letters that it issued.’ ‘The Chancellor at the time of the innovation’, Bartlett continues, ‘was Hubert Walter, archbishop of Canterbury, and there is every reason to assume that he was personally responsible.’⁴ Well perhaps not every reason, but certainly several of the historians quoted above ascribe the revolution to the administrative genius of Walter (who became chancellor at the start of

¹ I would like to thank Drs Adrian Ailes, Sean Cunningham, Adrian Jobson and Stephen O’Connor of The National Archives who have helped in numerous ways, for example by commenting on the headings in the early rolls, trying to locate lost documents, and suggesting where to look for early inventories. The views expressed in this essay are entirely my own and those of H.G. Richardson, which may be a reason for treating them with caution.

² N. Vincent, ‘Why 1199? Bureaucracy and Enrolment under John and his Contemporaries’, in *English Government in the Thirteenth Century*, ed. A Jobson (Woodbridge 2004), 17–48 at pp. 17–18.

³ Thomas Duffus Hardy in, *RLC*, i, pp. iii–viii; H.C. Maxwell-Lyte, *Historical Notes on the Use of the Great Seal of England* (London 1926), 359 and *CLR 1226–40*, p. viii; V.H. Galbraith, *Studies in the Public Records* (London 1948), 66–71; S. Painter, *The Reign of King John* (Baltimore 1949), 96–106; C.R. Cheney, *Hubert Walter* (London 1967), 108–9; P. Chaplais, *English Royal Documents King John – Henry VI 1199–1461* (Oxford 1971), 3–4 and 4 n. 1; M.T. Clanchy, *From Memory to Written Record: England 1066–1307*, 2nd edn (Oxford 1999), 69; and (a thesis supervised by Christopher Cheney), J.B. Edwards, ‘The English Royal Chamber and Chancery in the Reign of King John’, Cambridge University Ph.D. thesis, (1974), 68. I have taken the same view myself: D.A. Carpenter, ‘The English Royal Chancery in the Thirteenth Century’, in *English Government*, ed. Jobson, 67–8.

⁴ R. Bartlett, *England under the Norman and Angevin Kings 1075–1225* (Oxford 2000), 199–200.

the reign), although an alternative view is to point the finger at King John himself, given his interfering and suspicious nature.⁵

Against this smothering consensus only one historian stands out: H.G. Richardson. In *The Governance of Medieval England from the Conquest to Magna Carta* (1963), which he co-authored with G.O. Sayles, Richardson wrote of

an error constantly repeated, that the chancery enrolments have their origin under John and that the credit for their innovation is due to his chancellor, Hubert Walter. ... It is, of course, true that the principal series of chancery rolls, as they now exist, begin in John's reign, but this is a mere accident. There is abundant evidence that the chancery enrolments were already in existence under Richard I and that the system which required these enrolments was nearly complete in all parts in the latter years of Henry II.⁶

Richardson's tone doubtless owed something to the derision that had already greeted various of his ideas, dismissed by Painter as 'utterly incredible' and by Galbraith as 'frivolous'.⁷ In part, Richardson only had himself to blame. Learned and longwinded, inspirational and intransigent, perceptive and perverse, discerning and disingenuous,⁸ his opinions rarely commanded unqualified assent. Not part of the university establishment (he was an official at the Tithe Commission), he was also free from the restraints and protections that sometimes, at least, go with membership of the academic profession. 'Arguments not based on the records leave us unmoved' was his contemptuous dismissal of Painter and Galbraith.⁹ It comes, indeed, as a surprise to see that Richardson was a Fellow of the British Academy, doubtless through Sayles's efforts. Both proclaimed their FBAs on the title page of *The Governance of Medieval England*, as if hoping that membership of that august establishment would give an imprimatur to their heterodox opinions. Perhaps it was his fellowship that saved Richardson from being identified by Galbraith as the author of frivolities, although Galbraith's choice of words here may merely have left Richardson to ponder whether it was better to be traduced or ignored.¹⁰

⁵ Galbraith, *Studies*, 66, 74; Painter, *King John*, 104; Cheney, *Hubert Walter*, 108–9; Clanchy, *Memory to Written Record*, 69. For the alternative of King John, see Vincent, 'Why 1199?', 43, and Carpenter, 'English Royal Chancery', 67–8.

⁶ H.G. Richardson and G.O. Sayles, *The Governance of Medieval England from the Conquest to Magna Carta* (Edinburgh 1963), 170.

⁷ Painter, *King John*, 100; Galbraith, *Studies*, 69.

⁸ Apparently Richardson admitted in private that Cazal and Painter had been right to criticize his ideas about the first marriage of Isabella of Angoulême. However, he refused to admit this in public and so wrote a 'smokescreen' designed to blur all the issues and obscure his mistakes: H.G. Richardson, 'King John and Isabelle of Angoulême', *EHR*, lxxv (1950), 360–71. For the debate, see the articles in *EHR*, lxi (1946), 289–314; lxiii (1948), 83–9; lxxvii (1952), 233–5. I owe this story to L.J. MacFarlane who had it from Sayles himself. In seminars at the University of Aberdeen, Sayles made MacFarlane (his junior colleague) play the part of Henry II while he played that of Becket. As a devout Catholic, MacFarlane found this uncomfortable.

⁹ Richardson, *Governance*, 171 n. 3.

¹⁰ Galbraith (*Studies*, 156, n. 14 to p. 69) cites the introduction to the *Memoranda Roll I John* (see below note 11), but does not specify Richardson as the author.

Richardson was also less than fair to his critics, for his opinions had certainly not received blanket dismissal, any more than those opinions had, in fact, been a blanket dismissal of 1199. In his lengthy introduction to the Memoranda Roll for 1199 (published in 1943), Richardson had begun by arguing that the Fine Rolls went back to the reign of Richard I and quite probably to that of Henry II.¹¹ This was a view that historians accepted, but that did not mean they had to agree that enrolment itself, at least in the sense of the enrolment of charters and letters, had existed before 1199. For the early Fine Rolls, unlike their later counterparts, were largely records of offers of money to the crown for concessions and favours. These records might be quite detailed, going into terms of payment and including names of pledges, but they very rarely mentioned the royal letters that must have accompanied the fines, and when they did so it was only in the briefest of notes. The early Fine Rolls, therefore, were records of royal business rather than of chancery output.¹² As for the beginnings of the Charter Rolls and Patent Rolls, here Richardson, for all his bluster, actually shared the general view that these had been introduced at the start of John's reign. He merely argued that the reason was so that the chancery could keep track of the fees due for issuing the charters and letters. This was the idea that Painter and Galbraith found so incredible.¹³ When it came to the Close Rolls, however, Richardson had just cause for complaint. These, he suggested, were part of the same system as the Fine Rolls, and like them quite probably went back to the 1170s.¹⁴ On this view, the significance of 1199 was thus greatly reduced, for on the Close Rolls, unlike the Fine Rolls, the chancery certainly was recording its own output, letters close being the usual way in which the king communicated his will to the justiciar, the Exchequer and local officials. Indeed, it was through letters close more than anything else that England and the continental dominions were governed. It was, moreover, the great series of Close Rolls that set the English royal chancery apart from its continental counterparts, with the latter confining registration to documents of permanent importance and ignoring the more ephemeral administrative business. Richardson's arguments about the Close Rolls have, however, been either ignored or misunderstood. Indeed, there is not a single historian who has given them anything like justice.

In this essay I will seek to review, refine and extend Richardson's hypotheses. I will argue that the Fine Rolls, or their antecedents, may well have gone back much *earlier* than even he believed, gone back indeed to the reign of Henry I. I will then, introducing some new considerations, support his arguments for the early date of the Close Rolls. I cannot, I fear, go on from there

¹¹ H.G. Richardson, 'Introduction' to *Memoranda Roll 1 John*, pp. xi–xcviii (a genuinely inspiring work), with pp. xxi–xxxiii on the origins of the Fine Rolls.

¹² This point about the nature of the early Fine Rolls is not made explicitly either by Richardson or his critics, and it is clear that Richardson regarded the Fine Rolls from the start as fully fledged chancery enrolments, either not appreciating the point or not thinking it significant. For the early Fine Rolls, see D.A. Carpenter, 'Historical Introduction', *CFR 1216–1224*, pp. vii–ix.

¹³ Richardson, 'Introduction' to *Memoranda Roll 1 John*, pp. xxxv–li.

¹⁴ Richardson, 'Introduction' to *Memoranda Roll 1 John*, pp. xxxiii–xxxv.

to rescue his reasons for the introduction of the Charter Rolls, but instead I will suggest that the grounds for believing that these started only in 1199 are less conclusive than is sometimes supposed. I will conclude by offering some thoughts about what might have happened to cause the loss of the rolls drawn up before 1199, and, in this context, will consider the archival consequences of the collapse of the Angevin empire.

It is worth reflecting at the outset on the scale of the innovations in 1199 if the usual hypotheses are correct. We are dealing, of course, not with English but very much with Angevin chancery rolls. Thus the early Charter and Patent Rolls had charters and letters patent for the continental dominions, as well as for England, although the English business certainly predominated. As for the Fine Rolls and the Close Rolls, here the chancery kept two sets of rolls, one for England, and one for Normandy and the rest of the continental empire. Early in John's reign, therefore, the chancery was keeping six sets of rolls, two of which (the Fine Rolls), had a long history, and four of which (the Charter, Patent and two Close Rolls), on the usual hypothesis, had been recently introduced.¹⁵ Simply in terms of the amount of writing involved, the enterprise was not inconsiderable. It was, of course, in respect of charters, approaching *double*, what the clerks had previously done.¹⁶ The first Charter Roll, containing as it does, all the confirmations made at the start of the reign, runs to sixty-four two-column folio pages. Also worth noting is the expertise required of the clerks. The rolls were all drawn up on a different basis. The Fine Rolls recorded the business of the fines, with related writs mentioned only occasionally and briefly. The Close Rolls usually recorded the substance of the writs in full, including the place dates and the authorization clauses, but gave highly abbreviated versions of the king's name and that of the addressee 'Rex etc Gaufrido f(ilio) Petri etc', thus omitting John's name and titles, fitz Peter's title as earl and the usual salutation addressed to him as the king's 'trusty and well beloved'. The charters on the Charter Roll, on the other hand, begin 'Iohannes Dei gratia', and, while omitting his titles and the addressees, were then copied in full. The Charter Rolls usually had marginal annotations indicating the names of the beneficiaries; the English and Norman Fine Rolls ones indicating the county, administrative district or province to which the fine belonged, and the English Close Rolls, for the most part, no annotations at all, although some such may have been intended. In all this there are variations, which could be interpreted as testimony to some new system, examples in the English Close Roll where John appears as John, where fitz Peter is given his title,¹⁷ or where a clerk begins the record with the names of the addressees of the writ, rather than with that

¹⁵ The number of rolls would have been doubled if they were kept in duplicate as they were later in John's reign: see Hardy, *RLC*, pp. ix–xii and Carpenter, 'Historical Introduction', *CFR 1216–1224*, pp. xvii–xviii. The first Charter Roll, which is in several pieces, seems to come from different rolls: Richardson, 'Introduction' to *Memoranda Roll 1 John*, p. xlii.

¹⁶ I use the term 'approaching' because not all charters were enrolled: Edwards, 'The English Royal Chamber and Chancery', 73, 76 n. 1, 85. The vast numbers of judicial writs 'de cursu' were never enrolled on the Close Rolls.

¹⁷ *Memoranda Roll 1 John*, 89–90.

of the king.¹⁸ But variations are hardly confined to this period, and the main elements of these early rolls seem very set.¹⁹

The enrolling clerks worked across the rolls, so that one particularly distinctive hand is found in the Close Roll and Patent Roll for 1201–2 and the Patent Roll and Norman Roll for 1202–3.²⁰ This makes another feature of the rolls all the more remarkable, namely the success in keeping the material distinct. There were occasional mistakes. When John got back to England in October 1201, the writ delivering money to the clerks who sang the 'Christus Vincit' at his second coronation was enrolled on both the English and Norman Close Rolls.²¹ But the rolls were very carefully monitored, and for the most part, when mistakes like this occurred, the offending writs were deleted (as was the Norman version of the 'Christus Vincit' writ)²² often with a note as to their correct rolls.²³

If the full quiver of rolls was thus introduced at the start of John's reign, the chancery must have been working far harder than before 1199. The clerks had to be trained in the new system and had to devote more time and care than before to their writing. One only hopes they received a pay rise. Or did Hubert Walter take on more staff? Either way the cost came out of his own pocket as chancellor. That pocket was deepened by the fees coming in from the numerous charters issued at the start of the reign, but denuded by Walter's pious decision to reduce fees from the exorbitant levels reached in Richard's time.²⁴ There is a contrast here with the tripartite final concord that Hubert introduced in 1195, where the litigants gave a fee to the clerks who produced them.²⁵ The chancery fees, on the other hand, came from the issuing of the letters and charters, not for the record of them.²⁶ From that point of view, it did not matter at all whether they were actually enrolled.

¹⁸ *Memoranda Roll I John*, 91–3 where the addressee's name is in the margin; see PRO C 64/ 1, mm. 1–2. The marginalia in the Norman Close Rolls change. In the roll for 1200–1, they indicate whether the writs belonged to Normandy, Anjou or Poitou. In the roll for 1202–3, they contented themselves with indicating Anjou and Poitou, leaving it unsaid that the remaining writs (the great majority) were for Normandy. The change was doubtless the result of the great expansion in the size of the rolls (53 printed pages as against 15), which was the consequence of the war with France, something also reflected in the appearance of the marginal note 'terra commissa' or 'terra data' against many entries: *Rot. Norm.*, 22–37; 44–98. The early Close Rolls also change their appearance, the membranes becoming wider and the gaps between the entries less, probably because of the increasing volume of business.

¹⁹ Richardson ('Introduction' to *Memoranda Roll I John*, p. xlvii), although he thought the Charter Rolls began in 1199, acknowledged that 'we cannot detect any obvious signs of experimentation from the very beginning of the series'.

²⁰ PRO C 62/2; C 66/1, 2; C 64/5. This clerk used the first letter of the enrolment as a way or marking each new entry, so 'R ex'.

²¹ *Rot. Lib.*, 1; *Rot. Norm.*, 34.

²² The erasure is unnoticed in the printed edition: *Rot. Norm.*, 34, from PRO C 64/ 4, m. 2.

²³ For further discussion, see below p. 21.

²⁴ *Foedera*, 75–6.

²⁵ Cheney, *Hubert Walter*, 95–6; *The 1235 Surrey Eyre*, ed. C.A.F. Meekings, 3 vols, Surrey Record Society, xxxi–ii, xxxvii (1979–2002), i, 25, 42.

²⁶ I think Clanchy is mistaken, citing Richardson, 'Introduction' to *Memoranda Roll I John*, pp. xxxv–li, in stating that private individuals paid fees to have their royal grants recorded on the rolls: *Memory to Written Record*, 69. The fees mentioned in the ordinance of 1199 (*Foedera*, 75–6),

The Fine Rolls aside, none of this proves that chancery rolls had a life before 1199. But it does at least give food for thought. In supplying that thought, we will look first at the one set of rolls that everyone accepts had a life before 1199: the Fine Rolls. That life may indeed have been longer than has previously been imagined.

The Fine Rolls

The first surviving roll from the series that became known as the Fine Rolls is that for King John's first regnal year, which ran from May 1199 to May 1200.²⁷ The early rolls were sometimes described as Fine Rolls and sometimes as 'oblata' (offer) rolls, although the former eventually became standard: itself a warning against thinking that because a roll changes its title it is in some way new. The terms 'fines' and 'offers' could carry slightly different meanings, an 'offer' being voluntary and a 'fine' having a tinge of compulsion about it, but for the purposes of headings and labels they were synonymous.²⁸ Some fines and offers were made with the king personally, but others, less important, could be made with ministers, who might either be at the king's court, or, in the case of the justiciar (the king's deputy in England) might sometimes be separated from it. However made, all the proffers in John's reign were consolidated on a single Fine Roll.²⁹ The impression given by the roll is that the money promised was given at once, but usually this was not the case. Instead, the money on the English Fine Roll had to be collected by the Exchequer, and so that it knew what to collect, copies of the Fine Roll, known as the 'Originalia Roll', were sent to it in installments through the year. The Exchequer then extracted the debts from the Originalia Roll, placing them on both the lists of 'summonses', specifying the money the sheriffs had to collect, and also on the Pipe Roll, the great annual record of the money owed the crown. There from John's reign onwards, such debts were always placed under the heading 'nova oblata' (new offerings).³⁰

Now, as Richardson showed, although the Fine Roll for 1199–1200 is the first to survive, it probably had many predecessors. Indeed, a membrane of an Originalia Roll, which was almost certainly copied from a Fine Roll, actually survives for 1195–6, and there is also a reference to a 'roll of fines' in the Pipe Roll of 1194–5.³¹ Going back further into the reign of Henry II, Richardson showed that from the 1170s there were headings in the Pipe Rolls that

discussed by Richardson, were for the documents themselves and for their sealing, not for their enrolment.

²⁷ *Rot. Ob.*, 1–75. For the development of titles, see Carpenter, 'Historical Introduction' to *CFR 1216–24*, p. viii.

²⁸ For the different shades of meaning, see Carpenter, 'Historical Introduction' to *CFR 1216–24*, pp. ix–xi.

²⁹ Richardson, 'Introduction' to *Memoranda Roll 1 John*, pp. xxviii–xxix, xxxii.

³⁰ Richardson, 'Introduction' to *Memoranda Roll 1 John*, pp. xxv–xxvi.

³¹ Richardson, 'Introduction' to *Memoranda Roll 1 John*, p. xxi. Richardson printed the surviving membrane: *Memoranda Roll 1 John*, 85–8. The 'roll of fines' in the 1195 roll (*PR 7 Richard I*, 179, 225) is probably also an originalia roll.

were the equivalent of the 'nova oblata' ones found generally from 1199.³² Since the number of debts recorded under such headings was considerable,³³ there must have been a worked-out system for passing knowledge of them from the king's court to the Exchequer: in other words, the Fine Roll and Originalia Roll system was already in place. This does not mean there was a straight progression from the Fine Rolls of Henry II to those of King John. The disruptions of Richard's reign saw to that. Richard's near permanent absence from England naturally meant that a great deal of the fine-making was devolved to ministers, who, as Richardson showed, sent their own Originalia Rolls to the Exchequer. Indeed, the Originalia Roll of 1195–6, and thus also the Fine Roll that lay behind it, was actually the work of the justiciar, Hubert Walter.³⁴ What happened in John's reign was the return to one consolidated Fine Roll, something reflected in the way the 'nova oblata' heading now became standard.³⁵

While Richardson traced the Fine/Originalia Roll system back to the 1170s, he was very clear that it had not existed early in the reign of Henry II, let alone in that of Henry I. He noted that in the Pipe Roll of 1130, and in the early rolls of Henry II, new entries were grouped under the heading 'nova placita et nove conventiones'. These entries, however, he suggested, were few in number, diverse in nature 'and all are thrown together, seemingly written down as they came to the notice of the clerk'. No very elaborate system would have been necessary to communicate this business to the Exchequer, and the debts were probably checked 'from whatever documents were at hand'.³⁶ There may be truth in this for the early years of Henry II, but it certainly does not apply to the Pipe Roll of 1130.³⁷ There, in nearly every county, towards the end of the account is indeed the heading 'nova placita et nove conventiones'. Its importance is stressed by the fact that it is always in capitals, something missed in the printed edition: 'NOVA PLACITA ET NOVE CONVENTIONES'. Now in the Pipe Rolls of Henry II, this heading sometimes precedes a lists of debts arising from the work of the king's justices,³⁸ but equally, sometimes expanded to 'nova placita et nove conventiones de oblatis in curia', it can head a list of fines and offers made in the king's court.³⁹ The heading in the Henry I Pipe Roll is certainly of this second nature, for usually coming first under it, and in a contiguous block, are precisely the kind of fines and offers found under later 'de oblatis in curia' headings. In Kent, for example, there are two offers for wardships, one for relief, one for the king to arrange a reconciliation with the bishop of Lincoln, three for 'right'

³² Richardson, 'Introduction' to *Memoranda Roll I John*, pp. xxii–xxiv.

³³ Richardson did not, however, analyse this in any detail.

³⁴ This is also true of the roll of fines referred to in the pipe roll of 1195, above n. 31.

³⁵ The first fine roll of the reign and thus presumably the first Originalia Roll described itself as a roll of 'oblata'.

³⁶ Richardson, 'Introduction' to *Memoranda Roll I John*, p. xxii.

³⁷ *PR 31 Henry I*. A new edition, edited by Judith Green, will shortly be published by the PRS.

³⁸ For example, *PR 25 Henry II*, 21, 33, 37 etc.

³⁹ For example, *PR 33 Henry II*, 8, 12, 27, 62, 101, 121 etc., and note the deletion at p. 37. 'Placita' here had the sense of a pecuniary penalties, and thus of fines, and 'conventiones' of voluntary agreements and thus of 'oblata': Richardson, 'Introduction' to *Memoranda Roll I John*, p. xxiii.

and one for dower and 'maritagium'.⁴⁰ The amount of this business is not small. Indeed, I would calculate that there are in the roll as a whole over 130 entries of this nature. By analogy with the 1199 Fine Roll, eight membranes of parchment would have been necessary to communicate this business to the Exchequer.

How was it communicated? The first thing to note here is that for nearly the whole period covered by the 1129–30 account, the king was in England. The great majority of the proffers were thus almost certainly made at court, either directly with the king or with his ministers. They cannot all have been made when the king and Exchequer were together, in which case certainly no elaborate system of communication would have been necessary. Rather, many must have been made at intervals through the year, and in diverse places on the king's itinerary. Unless the Exchequer was informed of every new proffer individually, which was certainly not the later practice, the court must have kept a record of the fines and offers, and at intervals either dispatched it to the Exchequer or simply handed it over when court and Exchequer were together. It could have done this by recording each fine on a separate piece of parchment and conveying them in a file, but it would have been much less cumbersome to have used a roll. This would have worked well for the Exchequer because on the roll (something seen from the earliest surviving Originalia Roll in 1195–6), the name of the county to which the fine belonged would be written in the margin, so it was a simple task for the clerk to work through the roll assigning each debt to its appropriate county in the lists of summonses and the Pipe Roll, a job he could have performed by doing first all the debts of one county and then going through the roll again to do the debts of another.⁴¹ Of course, it is possible that there was just one roll, that given to the Exchequer, with the king keeping no record of his own. But equally it is possible to envisage the Fine and Originalia Roll system in which the fines were first recorded on the Fine Roll and from there copied onto the Originalia Roll for the Exchequer. Given the value to the itinerant king of knowing what he had been offered, this seems much the more likely procedure.

Although there is no proof of the hypothesis, there are, therefore, grounds for thinking that the Fine/Originalia Roll system, or something like it, was already in place in 1130. There was not, of course, a straight line through to the rolls of Henry II, any more than Henry's, as we have seen, run straight through to those of John. The system was largely destroyed under Stephen, and then had to be built up again by Henry II, although that may have happened more quickly than Richardson allowed.⁴² Whatever the pace of the recovery, by 1199, there was almost certainly a long history of fine business being enrolled by the chancery. Was there also a long history of the

⁴⁰ *PR 31 Henry I*, 66–7.

⁴¹ *Memoranda Roll 1 John*, 85–8. The clerk marked the entries he had inserted into the Pipe Roll with the marginal note 'in rotulo'.

⁴² I have not investigated this build-up by analysing the business beneath the 'nova placita et nove conventiones' headings in the early Henry II rolls, but see E. Amt, *The Accession of Henry II in England. Royal Government Restored 1149–1159* (Woodbridge 1993), 180–1.

chancery enrolling its own output? This brings us to the early history of the Close Rolls.

The Nature of the Earliest Surviving Close Rolls

The early history of the Close Rolls has been bedevilled by a fundamental misunderstanding that has trapped even the most distinguished scholars. This is that what appears at the start of John's reign is a series of rolls, called 'Liberate Rolls', the first being for the year 2 John, 1200–1. These were then transformed into, or superseded by, the series of Close Rolls 'proper' that begin in the year 6 John, 1204–5.⁴³ In fact, however, there were never two series of rolls, only one to which all the surviving rolls from that of 1200–1 belong. Nor were these rolls in any way transformed in their basic nature between 1200 and 1206, when, for the first time, the roll is actually given the heading at its start 'Rotulus Litterarum Clausarum'. In order to understand the nature of the first extant rolls, and appreciate their origins, it is important to clear up this misunderstanding, or at least to seek to do so.

The misunderstanding has a long history. When Thomas Duffus Hardy published the first volume of Close Rolls for the Record Commission in 1833 he started with that for 6 John, 1204–5. Admittedly, it was not until the roll of 1206–7 that the heading 'Roll of Letters Close' appeared at the start, but, Hardy thought, and here he was quite right, that the similarity in business showed that the 1204–5 roll was part of the same series. It was also he stated, here being quite wrong, both 'the most ancient now extant', and, in all probability, the first that had ever existed.⁴⁴ This impression was maintained when eleven years later Duffus Hardy published rolls of letters close for the years 1200–1, 1201–2 and 1203–4, for these he labelled 'Liberate Rolls', indicating that they were part of a different series.⁴⁵ The volume itself was entitled *Rotuli de Liberate ... regnante Johanne*, in clear distinction to the earlier *Rotuli Litterarum Clausarum*. Hardy had some excuse for this distinction, which he averred went back to a categorization of the records in the reign of Richard II.⁴⁶ Yet Hardy himself realized that this categorization was

⁴³ For the Close Rolls 'proper', see Bartlett, *England under the Norman and Angevin Kings*, 698.

⁴⁴ *RLC*, i, pp. iii–iv.

⁴⁵ *Rot. Lib.*

⁴⁶ *Rot. Lib.*, p. viii n. 1; 'The present classification of the Chancery Records is as ancient as the reign of King Richard the Second.' Despite attempts to do so, I have been unable to verify this statement, for which Hardy gives no reference, although it may well be verifiable from documents in TNA or elsewhere. The division was certainly in place in the early seventeenth century where it is plain in notes from John's chancery rolls made by the herald, Augustine Vincent (died 1626): PRO OBS 1/243, for example, pp. 69, 72, 314, 315 and London, College of Arms ms. Vincent 217, p. 3. Some importance here attaches to the date of the large headings written on the wrappers of the chancery rolls, and to the question whether they simply reflected an existing division or were part of the process which created it. These headings proclaim the rolls for 1200–1 and 1201–2 as being, respectively, 'Liberate de anno ii. R(egis) Iohannis' and 'Liberate anno R(egis) Iohannis iii', while the roll for 1204–5 and all those subsequent to it are labelled Close Rolls. For the heading given to the roll for 1203–4, see below n. 74. Maxwell-Lyte thought these headings were seventeenth-century: *CLR 1226–40*, p. v.

wrong, for in the middle of his introduction to *Rotuli de Liberatē ... regnante Johanne*, which discussed the Liberate Rolls as a separate series, a series that in fact did not begin until 1226, he suddenly declared

The LIBERATE ROLLS of the reign of King John contain entries precisely similar to those which occur on the CLOSE ROLLS. The two series of records were in fact identical.⁴⁷

This avowal did have some impact, being appreciated by Maxwell-Lyte, by G.S. Giuseppi in his guide to the Public Records, and, of course by Richardson, who in publishing some lost membranes from the roll of 1200–1 pointed out that the so-called ‘Liberate Rolls’ were in fact ‘strictly speaking, the earliest members of the series of Close Rolls’.⁴⁸ Richardson, however, showing uncharacteristic concern to make things easy, thought it would be confusing to change the titles, and thus published his membranes under the heading ‘FRAGMENTS OF THE LIBERATE ROLL OF 2 JOHN’.⁴⁹ And the fact is that to this day the three rolls for 1200–1, 1201–2 and 1203–4 are filed at the Public Record Office not as the first members of the series of Close Rolls (C 54) but as the very first in the series of Liberate Rolls (C 62), thus standing alone and palely loitering until the series proper begins in 1226, separated, apparently for all time, both in the search facilities and on the shelves, from their true Close Roll descendants.

Not everyone, however, has appreciated the true state of affairs. Indeed, I hope I may be forgiven if I take the work of three eminent medieval scholars, Galbraith, Painter and Vincent, ‘not as a model of accuracy, but as proof of the sheer quantity of myth that has seeped in to modern writing’ about the origins of the Close Rolls.⁵⁰ Galbraith thus has ‘a special roll ... for the writs of “liberate”’, and Painter ‘a roll called the Liberate Roll’ opened early in John’s reign.⁵¹ Neither Galbraith nor Painter went into the question in any detail, but they both clearly thought that this was a roll for the writs of liberate and computate, which dealt with the expenditure of money and which were either addressed to or concerned the Exchequer. According to Galbraith, the roll was expanded in 1203–4, ‘to include many other sorts of letters close’.⁵² According to Painter, ‘by the sixth year of John’s reign [1204–5] it was decided to extend the Liberate Roll to form a general register of all letters close that were issued’, this roll being a transitional one between the

⁴⁷ *Rot. Lib.*, p. viii and viii n. 1, where he added that since the titles of the rolls for 1203–4 and 1204–5 were so similar ‘it may be inferred that originally the two series of rolls were considered the same’. The capitals in the passage quoted above are those of Duffus Hardy.

⁴⁸ *CLR 1226–40*, p. v, where Maxwell Lyte observed that the heading ‘Rotuli de Liberatē’ was ‘somewhat misleading’; M.S. Giuseppi, *Guide to the Contents of the Public Record Office Revised (to 1960)*, 3 vols (London 1963–8), i, 20; *Memoranda Roll 1 John*, 89. Edwards took the same view: ‘The English Royal Chamber and Chancery’, 70.

⁴⁹ *Memoranda Roll 1 John*, 88, using Richardson’s capitals.

⁵⁰ Here adapting words used in quite another context by N. Vincent, *Becket’s Murderers* (Canterbury 2004), 8.

⁵¹ Galbraith, *Studies*, 74; Painter, *King John*, 97.

⁵² Galbraith, *Studies*, 74.

early Liberate Rolls and the later Close Rolls.⁵³ Much of this is misleading, and it must have irritated Richardson to be footnoted by Painter for 'full discussion', when he himself had said no such things.⁵⁴ The expansion of the rolls noted by Painter and Galbraith was not the result of a decision to include new categories of letters, but was inherent in the nature of the rolls from the start. For the most part, what expanded was simply the volume of certain types of business with which the rolls had always dealt. Although, moreover, 'Rotuli de Liberate' would have been a perfectly possible shorthand title for the early rolls, it never seems to have been used by contemporaries.⁵⁵ If it had been, the heading, as we will see, would have referred to a broader category of business than that simply covered by writs of liberate addressed to the Exchequer. In this, and in other ways, John's so called 'Liberate Rolls' were very different from the Liberate Rolls proper that began in 1226.

Vincent's approach to the subject is more original,⁵⁶ since he believes that the early 'Liberate' Rolls were drawn up in the chancery, but were then dispatched to the Exchequer in order to provide it with copies of previously issued financial writs.⁵⁷ Vincent acknowledges that the chancery may well have been drawing up Liberate Rolls for many years before 1199, and that these were precursors of the Close Rolls, but, in his opinion, the Liberate Rolls were different from the Close Rolls in that they were designed to convey information to the Exchequer rather than being kept as a central record of chancery output.⁵⁸ Vincent is thus clear that 'the earliest surviving rolls of letters close' are those for 1204–5, the first that are printed as such by Hardy.⁵⁹

It should be said at once, in support of Vincent's hypothesis, that the chancery, before 1199, did send copies of previously issued financial writs to the Exchequer. It was also not impossible for documents thus sent to find their way back to the chancery archive, which is where, as we have seen, John's 'Liberate Rolls', although mislabelled, now reside. Thus both the surviving portions of Originalia Rolls from John's reign, although sent by the chancery to the Exchequer, made such a return and are classified as documents kept by the chancery rather than by the Exchequer, being thus part of the chancery Fine Roll rather than Exchequer Originalia Roll series.⁶⁰ It is highly unlikely, however, that John's 'Liberate Rolls' made a similar return trip. Rather, they were kept from the start by the chancery and have always been

⁵³ Painter, *King John*, 99. Painter, however, qualified this by stating (p. 99 n. 12) that routine judicial writs were not enrolled.

⁵⁴ Painter, *King John*, 97 n. 9.

⁵⁵ Although the first roll (PRO C 62/5) has no heading, the rolls that began in 1226 were called 'rotuli de liberate' from the start: see *RLC*, ii, 160b.

⁵⁶ It is puzzling, however, that Vincent only cites Richardson in support of his hypothesis, 'Why 1199?', 24 n. 36.

⁵⁷ Vincent, 'Why 1199?', 24, 36.

⁵⁸ Thus Vincent observes that the loss of the 'liberate' rolls before the English and Norman ones for 1201–2 'must be ascribed' to the Westminster and Caen exchequers where they were sent: Vincent, 'Why 1199?', 24, n. 36.

⁵⁹ Vincent, 'Why 1199?', 34, n. 83.

⁶⁰ PRO C 60/3A (for 7 John) and C 60/5C (for 15 John), the latter being printed in *Rot. Ob.*, 526–50. C 60/3A has the large labelling on the wrapper found on other chancery rolls and may be referred to in the inventories of around 1670, for example PRO OBS 1/1273, p. 1.

part of its archive. The first point to note here is the physical appearance of the rolls. Assuming for the moment that they were sent to the Exchequer, then it would have required an immense amount of work to make them usable. The Exchequer would have needed to discard, or at least set on one side, numerous writs not directly relevant to its financial business. It would also have needed to sort out the various types of financial writs and, at the very least, copy out those addressed to the sheriffs (of which it was being informed for the first time) so that these could be produced at each county account. Yet of this work the rolls bear absolutely no trace. They are thus totally different from the Originalia Rolls, which, from the first to survive in 1195–6, have their margins covered in Exchequer annotations indicating that the fines they recorded have been transferred to the Pipe Rolls.⁶¹

There is then little in the appearance of John's 'Liberate Rolls' to suggest they were dispatched to the Exchequer. If we come on to analyse their content, it becomes even clearer that this was not the case, and that these rolls are simply the first surviving members of the Close Rolls' series, a series that, as far as I know, no one has ever suggested was sent to the Exchequer. Remarkably, such an analysis has never been attempted, even by Richardson, yet it clarifies the nature of the early rolls and helps forward a discussion of their origins. The first surviving roll, that which ran from May 1200 to May 1201, is badly damaged. Duffus Hardy published membranes covering the period from 10 October to 27 November 1200, and Richardson added those from 26 May to 30 August, and from 31 March to 27 April.⁶² In all, nine membranes survive from the roll, and since these cover less than five months of the year, the original roll must have been much longer, eighteen membranes being a conservative estimate. No heading survives for the roll, the 'Rotulus brevium de liberate de anno regni regis Iohannis secundo' at the head of the printed

⁶¹ In the 'Liberate Roll' for 1201–2 a few writs dealing with the granting of fees have the marginal annotation 'f' or 'feodum' against them: PRO C 62/1, mm. 2, 3; *Memoranda Roll 1 John*, 95. In the 'Liberate Roll' for 1202–3 and the Norman Roll for the same year many entries have the marginal annotation 'terra data' or its equivalent: PRO C 62/3; C 64/5; *Rot. Lib.*, 34–108; *Rot. Norm.*, 45–98. These were probably made by the chancery in an effort to keep track of this growing business. In the last surviving portion of the 1200–1 Close Roll (C 64/1; *Memoranda Roll 1 John*, 91–4) there are numerous marginalia but these are simply created by the enrolling clerk putting the names of the addressees in the margin and then omitting them from the body of the writ, an ingenious way of identifying the writs which unfortunately was discontinued. For the originalia roll annotations, see PRO E 163/1/3 (*Memoranda Roll 1 John*, 85–8); C 60/3A and C 60/5C (*Rot. Ob.*, 526–50). C 60/5C also has notes indicating the passing of membranes of the roll to the Exchequer: *Rot. Ob.*, 532, 540, and C 60/5C, m. 1d omitted from the printed version. The writs not directly connected with the accounts (those addressed to the justiciar and dealing with the conferral of land), which the Exchequer would have had to set aside, are discussed below, as are the different types of financial writ. For the question as to whether the copies sent to the Exchequer were sent on a file, as opposed to a roll, and whether, in any case, the chancery ever sent all the information found on the first 'Liberate Rolls', see below notes 90 and 93. I am sceptical as to whether the early Norman Rolls, the equivalent of the English 'Liberate Rolls', were sent to the Caen Exchequer, as opposed to being kept by the chancery, in part because they also contain business related to Anjou and Poitou.

⁶² The 26 May to 30 August portions had been restored to the roll in 1923 and 1931. The portion from 31 March to 27 April had been mislabelled (as it still is today) as a roll for Normandy. In chronological order, the surviving parts of the roll have been published as follows: *Memoranda Roll 1 John*, 89–91; *Rot. Lib.*, 1–11; *Memoranda Roll 1 John*, 91–7.

edition being an invention by Duffus Hardy.⁶³ The contemporary heading for the corresponding roll for Normandy and the other continental possessions was 'Rotulus De Contrabrevibus de Anno ii. in Normannia', which would have done equally well for the English roll, meaning no more than it was a roll of copies of writs, a statement of fact.⁶⁴ The dorse of the Norman Roll has the more informative 'Rotulus terrarum liberatarum et contrabrevium in Normannia Anno [illegible] Secundo', which would also have fitted the English roll since, as we will see, the disposal of land was a significant part of its business.⁶⁵ In all, the English roll records *c.* 140 writs, which, making allowance for the missing months, suggests that the number on the original roll might have been around 340, a better indication of its size than the number of membranes, since these could vary in length and width.⁶⁶

Looking now at the nature of the writs, the first and most striking point is the total contrast between those when the king was overseas and those when he was in England. When overseas nearly all the writs were addressed to the justiciar in England, Geoffrey fitz Peter. This is true of twenty-two of the twenty-four enrolled between May and August, the period of John's continental stay covered by the surviving membranes. The other two went to the Exchequer. Clearly, John was careful to respect the administrative hierarchy.⁶⁷ Having crossed to England, which he did between 1 and 6 October, the pattern is quite different, for John now dealt directly with the Exchequer, sheriffs and other officials, only five of the *c.* 115 writs from October, November, March and April going to the justiciar. In terms of the function of these writs, seventy-five of those sent to the Exchequer and local officials (65 per cent of the total), were concerned with royal revenues. These were of three main types:

1. Writs of 'liberate' ordering the Exchequer to pay out money.
2. Writs of 'computate' ordering the Exchequer to give due allowances to sheriffs and other officials, when they came to account, for money that they had spent on the king's orders.
3. Writs of 'computate' ordering sheriffs and other officials to perform various tasks and promising due allowances at the Exchequer, when they accounted there, for the money spent.

There was also a handful of writs giving quittance or pardon of debts. The other major category of writs, amounting to roughly 13 per cent of the English writs, were the fifteen to sheriffs and other local officials ordering them to

⁶³ *Rot. Lib.*, 1.

⁶⁴ PRO C 64/4, m.6; *Rot. Norm.*, 22. Here and in quoting other headings I have retained the original capitalization.

⁶⁵ PRO C 64/4, m. 1d. This heading is not printed in *Rot. Norm.*, but, although very worn, I think it is contemporary.

⁶⁶ I have made allowance here for the different rates of recording according to whether the king was in England or on the continent. The printing of the early rolls on pages of different size makes a comparison by printed pages impossible.

⁶⁷ For an example of adherence to hierarchy under Richard, see *CRR*, vii, 343 where two men of Thanet were imprisoned for complaining direct to the king instead of going first to the 'justiciariis Anglie'.

put individuals in possession of lands.⁶⁸ Other writs included one to Hugh de Neville, the chief justice of the forest, one to the justiciar of Ireland, and one (a letter patent) about the custody of the castle and county of Hereford. Of the five writs to the justiciar, when the king was in England, one was about the conferral of land, and the rest about the expenditure of money. The writs sent to the justiciar from Normandy were of the same type, ten of the twenty-two being about lands, and nine about money.⁶⁹ Many of the latter probably resulted in the justiciar issuing his own writs of ‘liberate’ and ‘computate’ to the Exchequer and local officials. Alongside this English roll, the one for Normandy and the other continental dominions has the same basic character with fifty-four (68 per cent) of the eighty Norman writs being about the expenditure of money, and eight (c. 10 per cent), being about the conferral of lands, hence the reference to the giving of lands in the roll’s title.⁷⁰

Moving on from 1200–1, it is clear, both from a consideration of content and titles, that the basic character of the rolls did not change in the ensuing years. The roll for 1201–2 survives entire, and has no heading, although a space was left for one to be written. Again the printed ‘Rotulus brevium de liberate de anno regni regis Iohannis tertio’ is an invention of Duffus Hardy.⁷¹ The roll was much shorter than its predecessor having only c. 130 writs, as against the putative c. 340 for the roll of 1200–1. This is largely because John spent almost the entire year on the continent. Indeed, only eighteen of the enrolled writs were issued in England, of which two conferred land, and the rest, as before, dealt with the spending of and accounting for money. These were equally the chief concerns of the writs issued overseas, of which c. 90 per cent (around 100) were sent to Geoffrey fitz Peter. The next roll, that for 1202–3, is missing. There is no reason to think it was drawn up on different lines from its predecessors, yet we know it was thought of as a roll of letters close because a contemporary note placed on the Patent Roll of the same year referred to letters to be found ‘in rotulo litterarum clausarum’: so much for the idea that the roll of 1204–5 is the first Close Roll.⁷² Continuity is also apparent on the continental side, where the 1202–3 roll does survive and has the title, much as in 1200–1, ‘Rotulus terrarum liberatarum et contrabrevium’ for Normandy, Anjou and Poitou.⁷³

The roll of 1203–4, the last published as a *Rotulus de Liberate*, has a contemporary heading, indeed one in splendid capital letters: ‘ROTULUS TERRARUM & DENARIORUM LIBERATARUM IN ANGLIA ANNO REGNI DOMINI REGIS

⁶⁸ Here, and in analysing subsequent rolls, I have included with land some other forms of patronage.

⁶⁹ Counting writs is easier than counting sheep because they are static, but one remains very prone to error and all the figures I give should be taken as approximate. I have included with the writs entries where a note is made that a writ had been issued, and also all items of other business (there are not that many). It would be tedious every time to write ‘writs and other items of business’.

⁷⁰ *Rot. Norm.*, 22–37. The Norman Rolls, however, do not have an equivalent division between when the king was in Normandy and elsewhere since many writs, even in Normandy, were addressed to the seneschal rather than the Caen Exchequer.

⁷¹ *Rot. Lib.*, 11.

⁷² *PRO C* /62, m. 5; *RLP*, 24b, as noticed by Maxwell-Lyte in *CLR* 1226–40, p. v note.

⁷³ *Rot. Norm.*, 45.

IOHANNIS QUINTO',⁷⁴ a heading that describes well enough the content of all the rolls from 1200, and which may indeed have graced that for 1200–1 and been intended for that of 1201–2. This is the closest a contemporary heading gets to describing the roll as a 'Roll of Liberate', and it is plain that what is being delivered is land as well as money, unlike the later Liberate Rolls proper, which dealt only with money. That the roll of 1203–4, like its predecessor, was equally regarded as a roll of letters close, is shown by a heading on the dorse of the final membrane: 'Rotulus litterarum clausarum anni Regni Regis Iohannis Quinti'. The roll is also referred to as a roll of letters close in the fine rolls.⁷⁵ With *c.* 460 writs in all, *c.* 220 issued overseas and *c.* 240 in England whence John returned, his hold of Normandy collapsing, in December, the roll of 1203–4 is bigger than any of its extant predecessors. Yet, as its title implies, its content is much the same, and there are little grounds for thinking that a decision had been made, as Galbraith thought, to enroll 'new sorts of letters'. Indeed, the only reason Galbraith gave for this belief was the title to the roll, which, as we have seen, indicates, in fact, its continuity with its predecessors.⁷⁶ All that has happened to make the roll seem new is a large expansion in its traditional land business doubtless (although I have not worked this out in detail) because the confiscations in England of the lands held by those who had deserted John in Normandy meant that the king had now a lot more to give.⁷⁷ Thus roughly 33 per cent of the writs on the roll (taking it as a whole) concerned the conferral of land as opposed to *c.* 19 per cent in 1200–1. The change is even more impressive in numerical terms, with around 45 writs dealing with land in the roll of 1201–2, and around 150 in that of 1203–4, a marginal heading 'terra data' now appearing against many of the entries.⁷⁸

So we come to the roll for 1204–5, the first published as a 'Close Roll' by Hardy, and also the first for a regnal year which John spent exclusively in England. One could indeed be forgiven for thinking that it is radically different in type from its predecessors because it is far larger, recording

⁷⁴ *Rot. Lib.*, 34 (where everything should be in capitals); PRO C 62/ 3, m. 13. This time the later heading on the cover simply copies the contemporary heading.

⁷⁵ For the heading on the dorse, see *Rot. Lib.*, 108 (which should not be in capitals); PRO C 62/ 3, m. 1d. The hand is the same as that which wrote the heading at the start of the next roll (below note 80). It is a later hand, which has crossed out 'clausarum' and substituted, erroneously, 'cartarum, terrarum et libertatum'. There are, of course, no charters on the roll. For the Fine Roll reference: *Rot. Ob.*, 188; *Rot. Lib.*, 71.

⁷⁶ Galbraith, *Studies*, 74.

⁷⁷ There was also more to give on the continent as is apparent from the Norman roll of 1202–3. See above n. 18.

⁷⁸ *Rot. Lib.*, 43, 47, 95; *Rot. Norm.*, 31. In total on the English roll, around 160 (*c.* 73 per cent) of the letters sent from overseas were addressed to the justiciar. All sixteen of those to the Exchequer simply acknowledged receipt of money. Other writs were to the chief justice of the forest, Hugh de Neville, the justiciar of Ireland and the justices of the Jews. Nearly a hundred of the letters to the justiciar dealt with the conferral of land, while most of the rest were, as before, concerned with expenditure and account. Of the *c.* 240 letters issued in England around 65 per cent were of 'liberate', 'computate' and quitance (almost the same percentage as in 1200–1), and another *c.* 52 (*c.* 22 per cent) were about the conferral of land.

around 940 writs,⁷⁹ against the *c.* 460 of 1203–4, the *c.* 130 writs of 1201–2, and the suggested 340 of 1200–1. Yet that we are dealing with the same animal is clear from the roll's heading, which is very similar to that of its predecessor: 'Rotulus terrarum datarum et commissarum et denariorum et quietantionum Anno Regni Regis Iohannis Sexto'.⁸⁰ Although there is no label on the dorse, as there is in 1203–4, describing the roll at the same time as a Close Roll, many of the membranes have on their dorse the label 'littere clause' or 'clause'.⁸¹ Again the striking feature of the roll, which accounts in part for its great length, is the number of writs dealing with the giving and committal of lands, over 300, making up *c.* 33 per cent of the whole. With the writs of 'liberate', 'computate' and quittance added in, traditional business thus makes up about 73 per cent of the roll. On the English portions of the roll of 1200–1, the proportion was 78 per cent: hardly a radical change. It may well be that conditions in 1204–5, with the court permanently resident in England, led to a more thorough enrollment of letters. There are, for example, seventeen writs dealing with gifts of wine, game and wood, as opposed to seven in the roll of 1203–4, one (of wine) in the Norman Roll of 1200–1, and none in what survives of the 1200–1 roll for England. Yet, as we shall see, no hard and fast decision had been made to enroll this material.

We may, finally, skip to the roll of 1206–7, the first with an actual heading at its start proclaiming it to be a roll of letters close: 'Rotulus Litterarum Clausarum Anni Regni Regis Iohannis Octavi'⁸² The roll for 1205–6 has no heading, that printed being another editorial invention.⁸³ The roll of 1206–7 is certainly a warning against thinking that there was a steady trend of expansion, for it is actually much shorter than its immediate predecessors, containing only *c.* 390 writs as against the *c.* 940 of 1204–5, making it not much bigger than the estimated 340 for the roll of 1200–1. The 1206–7 roll takes up fourteen printed pages in the Duffus Hardy edition as against the thirty-three of 1204–5, and the thirty-seven of 1205–6.⁸⁴ This reduction in length is partly because, between June and November 1206, John was overseas in Poitou and Anjou, a period during which only just over thirty writs were enrolled, all but five of them addressed to the justiciar. But in England too there was less business recorded, since the six months there only produced *c.* 360 writs, an average of 60 a month as opposed to the 78 a month of the roll of 1204–5. One reason for the decline was the reduction in the number of writs dealing with the disposal of land, only *c.* 85 in the year against over 300 in 1204–5: clearly the flow was drying up, though it was still more than double the rate in 1200–1.⁸⁵ It may also be that clerks were less assiduous in enrolling some types of business, since the writs dealing with gifts of wine and game and

⁷⁹ Vincent's slightly lower figure of 917 writs is to be explained by the fact that he has confined his count to writs, whereas (above n. 70), I have added in other business: Vincent, 'Why 1199?', 35.

⁸⁰ PRO C 54/ 1, m. 21; *RLC*, i, 1. For the hand, see above n. 75.

⁸¹ For 'littere clause', see PRO C 54/ 1, m. 10d. Some membranes have on the dorse 'terre date'.

⁸² PRO C 54/ 3, m. 9 (pencil); *RLC*, i, 70.

⁸³ *RLC*, i, 33.

⁸⁴ *RLC*, i, 1–33, 33–70, 70–84.

⁸⁵ This is taking an average of the surviving record for the 'English' months of 1200–1.

so forth dropped from the seventeen in 1204–5 to two. Despite these variations, the dominant pattern of the roll, taking the English and continental portions together, is not very different from what it had been before, with *c.* 66 per cent of business being of the usual 'liberate', 'compute', quittance and 'terre date' type. Another fourteen writs dealt with the affairs of Ireland, which likewise had featured in the rolls from the start.

None of this is to deny development to the rolls in the first part of the thirteenth century. Despite fluctuations, they did grow in size, even when no longer boosted by the special 'terre date' business following the loss of Normandy. Indeed, the Close Rolls for 1224–5 and 1225–6 run to 156 printed pages as against the seventy for the rolls of 1204–5 and 1205–6. In 1226–7 the writs of 'liberate' and 'compute', once central to the series, were hived off to a separate roll. The gradual waning of the old core business is indeed reflected in the early rolls where the *c.* 66 per cent accorded to it in the roll of 1206–7 contrasts with the *c.* 73 per cent in the roll of 1204–5 and the *c.* 78 per cent in that of 1200–1. The financial writs of 'liberate', 'compute' and quittance were also losing ground, as a proportion of the whole, making up less than 50 per cent of the roll of 1206–7 as against *c.* 65 per cent of that of 1200–1. The whole process would repay examination although presumably at its heart was both the recording of new material and the more thorough enrolment of old. Change in the first years of John's reign, however, was organic and was not the result of any sudden decision to enrol more types of writ or to change 'Liberate Rolls' into 'Close Rolls'. Although the rolls greatly increased in size, the main reason for this was simply the expansion of the traditional 'terre date' business consequent on the loss of Normandy. The title 'Rotulus Litterarum Clausarum', found for the first time at the start of a roll in 1206–7, had been used to describe the rolls since at least 1202–3. Its adoption, far from stemming from a perceived change in the nature of the rolls, was probably inspired by the creation of a separate set of Patent Rolls in 1201–2, which made it easy to think of there being one roll for charters, one for letters patent and one for letters close. It is time to banish John's 'Liberate Rolls' once and for all from the historical lexicon. In reality, they were the earliest, or at least the earliest surviving, members of the series of Close Rolls.

Close Rolls before 1199?

Are there, then, any grounds for believing that the Close Rolls had a life before 1199 or are those for 1200–1 the first? In addressing this question we need, of course, to remember the shifting nature of the rolls, depending on whether the king was in England or the continent. If Richard I's chancery kept a set of English rolls between 1194 and 1199, then they would have recorded writs addressed to the justiciar, and been most akin to the roll for 1201–2, which was nearly all drawn up on the continent. For a mixed English roll, like 1200–1, we would have to go back to 1194, 1189, and then to Henry II's rolls in the 1180s. A roll drawn up exclusively in England, like that of

1204–5, would not be found until 1179.⁸⁶ This does not mean that when the king was out of England, there was no equivalent to the kind of roll he would have drawn up when he was in England, since such a roll could have been kept by the justiciar. In other words, Hubert Walter, as justiciar between 1193 and 1198, and thereafter Geoffrey fitz Peter would have had rolls of letters close that recorded the writs of ‘liberate’, ‘compute’ and conferral of lands that they were issuing both on their own initiative and on orders from the king from overseas: rolls that would be shut down for the most part when the king was back in England and issuing such letters himself.

But did any of this exist? I want to start here with the ‘liberate’ and ‘compute’ business since it was this that attracted Richardson’s notice and is also where other historians have come closest to acknowledging the existence of earlier rolls. Galbraith believed that the chancery itself kept records of such writs but individually on files. Only in John’s reign were they copied onto rolls, thus forming the first ‘Liberate Rolls’.⁸⁷ Vincent, as we have seen, believes the chancery did draw up rolls of the ‘liberate’ and ‘compute’ writs but sent them to the Exchequer, John’s ‘Liberate Rolls’ being part of this series. What will be suggested below is something different again, namely that the chancery, when in England, going back to the reign of Henry II, both drew up and *kept* rolls of this business.

Richardson’s argument for the early history of the Close Rolls turned on a passage in the *Dialogus de Scaccario*, a work begun in the late 1170s.⁸⁸ The *Dialogus* states that the constable’s clerk

is sent by the king to the Exchequer at the terms of the Exchequer [Easter and Michaelmas] with the copies of the writs [‘contrabrevibus’] concerning those things which have been done only at court [‘destinatur autem a rege ad scaccarium cum contrabrevibus ad terminos scaccarii de hiis tantum que ad curiam fiunt’].⁸⁹

The *Dialogus* does not specify the nature of these writs being issued from the court (which clearly means the king’s itinerant court), but historians have assumed, I think rightly, that they were essentially the chancery’s writs of ‘liberate’ and ‘compute’.⁹⁰ Now it is possible that the clerks simply made copies of the writs as they went along, either individually or on a roll,⁹¹

⁸⁶ Remembering, of course, that Henry’s regnal year ran from December to December.

⁸⁷ Galbraith, *Studies*, 68, 74.

⁸⁸ I have put his argument in my own way and slightly developed it.

⁸⁹ *Dialogus* (1950/2007), 34/52–3.

⁹⁰ It is possible, however, that only a certain class of writs of ‘compute’ were sent. See below n. 93.

⁹¹ Richardson (‘Introduction’ to *Memoranda Roll 1 John*, p. xxv) believed that if the ‘contrabrevia’ were copied first on files, they were soon put onto rolls. Vincent, as we have seen, takes the same view. This may be so, but, in respect to the writs of ‘compute’, one class of which had to be produced at the account (see below n. 94), it would have been much easier to have had them on files. If they came on rolls, the Exchequer would have had to go through and extract copies. The argument in favour of the ‘contrabrevia’ coming in files would be clinched, at least in terms of later practice, if files of writs of ‘compute’, which survive from the 1230s, are indeed found to be files of ‘contrabrevia’, as their editor supposed. However, I wonder whether they are in fact original writs of ‘compute’. Two contemporary tags describe them simply as ‘brevia allocata’, and some of them are not found on the Liberate Roll. The question will not be solved until the files reappear in the PRO. They should answer to PRO E 101/530/1, but in fact this produces quite a different document. For the files, see *CLR 1267–72*, pp. ix–x, 285–92.

and, when Easter and Michaelmas came, dispatched these to the Exchequer, leaving the chancery itself with no record of what it had issued, or no record before the Close Rolls began in John's reign. This, as we have seen, is Vincent's view. The alternative view, Richardson's, is that the Close Rolls were integral to the 'contrabrevia' system, indeed that the 'contrabrevia' were copied from them, and that since the 'contrabrevia' went back to the time of the *Dialogus*, so in all likelihood did the Close Rolls themselves. Certainly it is clear that in John's reign the Close Rolls were connected with the dispatch and preparation of the 'contrabrevia'. Thus on the roll for 1204–5 we find the note 'from here it is to be sent to the Exchequer' ['hinc mittendum est ad scaccarium'], and that this indicates the point from which a new series of 'contrabrevia' were to be sent is clear from fuller notes in the roll for 1207–8, such as 'from here the copies of the writs are to be sent to the Exchequer and it was last sent by Ralph de Chambray' ['hinc mittenda sunt contrabrevia ad scaccarium et ultimo missum fuit per Radulphum de Chambray'].⁹² In the same roll the annotation 'contrabreve' appears against the writs of 'compute' addressed to local and other officials (that is, not addressed directly to the Exchequer), an annotation that is found in all subsequent Close Rolls and in their Liberate Roll successors.⁹³ This Richardson saw very reasonably as 'a notice to the scribe charged with the duty of preparing the transcript for the Exchequer'; in other words, the 'contrabrevia' sent to the Exchequer were copied from the Close Roll.⁹⁴ Now it is perfectly true that these annotations only start in 1207–8, but that is understandable, since in the old days, when the rolls had been shorter, and much more of their content had been copied (see above n. 93), it was an easy task to see what had to go to the Exchequer. That the rolls, before regular annotations came into place, were used to copy the writs for the Exchequer is suggested by a note in that for 1203–4 against the first writ, one of 'compute', enrolled after the king got back to England. The note is hard to decipher but refers clearly to a 'contrabreve'.⁹⁵ Assuming

⁹² *RLC*, i, 13a ('hinc' is right, not Richardson's 'hic'), 101b.

⁹³ *RLC*, i, 96b ff. The notes show that all that was sent to the Exchequer were the writs that the Exchequer absolutely had to have, namely the ones which were not addressed to it directly. These were the writs of 'compute' addressed to local officials (as opposed to the Exchequer) authorizing them to spend money and promising a due allowance when such officials came to account at the Exchequer. It was not until the writ of allowance that the sheriff produced at this account was matched to the 'contrabreve' sent to the Exchequer by the chancery that the allowance was granted. See here *CLR* 1267–72, pp. ix–x. Maxwell-Lyte (*CLR* 1226–40, p. ix) and Richardson ('Introduction' to *Memoranda Roll 1 John*, pp. xxxiv–xxxv) both thought that the decision was made (in 1207) to cut down what was sent to the Exchequer to these particular writs of 'compute', whereas previously all writs of 'compute' and 'liberate' had been sent. This may be so, for there is some indication (below n. 95) that before 1207 copies were made of writs of 'compute' addressed to the Exchequer. The *Dialogus* (1950/2007), 34/52–3, is too vague to allow any certainty on what was sent then. It may be wondered why copies would be sent to Exchequer at all of writs of 'liberate' and 'compute' that were addressed to it and of which it thus received the 'top copies'. If this did indeed happen, the answer may lie in the way such writs were not always sent to the Exchequer through official channels but were brought by the beneficiaries. Thus it would be useful to be able to check their validity.

⁹⁴ Richardson, 'Introduction' to *Memoranda Roll 1 John*, p. xxxiv.

⁹⁵ *Rot. Lib.*, 75, where the note is printed as 'vid'atur p' contrabreve'. What is printed incorrectly as 'p' should almost certainly be 'per', and I wonder whether the passage is meant to read 'indicatur per contrabreve': PRO C 62/ 3, m. 7. The writ in question is one of 'compute' addressed to the Exchequer.

that the writs issued abroad to the justiciar were not copied to the Exchequer, then this note comes precisely at the point where writs needed to be copied again. If, then, in John's time, the Close Rolls were intimately connected with the drawing up of the 'contrabrevia', it seems reasonable to assume that the same was true in the time of the *Dialogus*, and thus that the Close Rolls go back indeed that far.

There is another reason, not adduced by Richardson, for thinking that the chancery from the 1170s kept its own copies of the writs of 'liberate' and 'computate' that it was issuing. This is the statement in the *Dialogus* that when the Exchequer, on its own authority, issued a writ of 'liberate' or 'computate', then the chancellor's scribe at the Exchequer was to make a copy of it. These copies were then to be kept by the chancellor's clerk, 'in testimonium factorum brevium', 'in testimony of the writs having been made'.⁹⁶ These words deserve to be in up in lights, for they show that, as early as the *Dialogus*, the idea was established of keeping a copy of a writ as testimony to its issue. The principle moreover, was a chancery one, for these records at the Exchequer were being made by the chancellor's scribe and kept by the chancellor's clerk.⁹⁷ If, then, the chancellor's scribe and clerk at the Exchequer were making and keeping copies of the writs of 'liberate' and 'computate' issued there, it seems highly likely that the chancellor's staff at court were likewise making and keeping copies of the writs of 'liberate' and 'computate' that they were issuing.⁹⁸ Indeed, I find it almost inconceivable that they were not doing so. From these copies the 'contrabrevia' were drawn up, but they also responded to a broader purpose: that of providing a 'testimonium factorum brevium'.⁹⁹

If the chancery was indeed keeping copies of its writs of 'liberate' and 'computate', in what form was it doing so? Galbraith, as we have seen, thought it was done on a file, with each writ on its own piece of parchment just like the original.¹⁰⁰ But it would have been much easier to have kept the copy on a roll, and, of course, that was precisely how it was done later. For what are the first extant Close Rolls other than rolls that record (at least as a major part of their business), the writs of 'liberate' and 'computate' that the chancery was issuing? If, moreover, the chancery staff kept a record of fines on rolls before 1199, then it becomes all the more likely that they

⁹⁶ The originals of the writs remained with the treasurer and chamberlains: *Dialogus* (1950/2007), 32–4/48–51; and see pp. 89–91/134–5.

⁹⁷ *Dialogus* (1950/2007), 32–4/48–51.

⁹⁸ For the writs that reached the Exchequer from the court, see *Dialogus* (1950/2007), 32, 34/49, 53.

⁹⁹ The principle enunciated clearly went beyond the need to preserve copies for some double-check system. Indeed, the copies of the writs of 'computate' issued at the Exchequer were probably made *after* the allowance had been granted, something I deduce from *Dilaogus* (1950/2007), 89–91/134–5. These copies were thus different from some of the 'contrabrevia' sent from the chancery, which had to be produced at account (see above n. 93.)

¹⁰⁰ Galbraith, *Studies*, 68, 74. Galbraith (p. 68) refers to 'the practice already known to us from the *Dialogus* of keeping duplicates ("contrabrevia") in the Chancery of the writs' sent to the Exchequer. He provides no reference to the *Dialogus* for this statement. As I have suggested, one may infer from the *Dialogus* that the chancery was keeping copies of these writs, but its specific reference (*Dialogus* (1950/2007), 33–4/48–51) is to 'contrabrevia' kept at the Exchequer.

did the same with the writs of 'liberate' and 'computate'. Thus, just as the 'contrabrevia' destined for the Exchequer were copied from the Close Rolls, so the Originalia Roll, with the same destination, was copied from the Fine Roll, where indeed the 'hinc mittendum est ad scaccarium' notes are likewise found. Both series may well have gone back at least to the 1170s.

What then of the other category of early Close Roll business, namely that related to the giving and committal of land? Did that too have an earlier origin? It would certainly have been sensible for the king to record such grants, more especially as they sometimes involved revenue that was either lost to, or needed to be rendered at, the Exchequer so that the relevant writs could usefully have been included among the 'contrabrevia'. There is also one small pointer to earlier origins, though certainly no more than that. This is the way the Fine Rolls and Close Rolls march so well together. Remember that much of the business on the Fine Rolls led to the conferral of land. This sometimes resulted in royal charters and nearly always in writs to sheriffs and local officials ordering them to take security and give seisin, although these writs were referred to in the briefest way on the rolls and were often not mentioned at all. Now how does this relate to the granting of land on the Close Rolls? The answer is that it was, for the most part, distinct, because the grants on the Close Rolls rarely seem to have arisen from fines. They seem instead to have been freely given patronage or custodies for which the king expected an account. The distinction was carefully upheld, so that when, occasionally, writs connected with fines strayed on to the Close Rolls, they were usually deleted with the note that they were, or should be, on the Fine Rolls.¹⁰¹ The success in keeping the two categories of land business separate is the more remarkable because, while many of the writs arising from the fines mentioned the fact of the fine, not all by any means did so.¹⁰² It could be that the success was simply the result of very careful rules being drawn up when the Close Rolls were introduced in 1200, but it may rather bespeak a parallel system of rolls that was already of long standing.

There is no evidence that Richard or his father kept a record, while overseas, of the writs they sent to their justiciars in England, but again it would have been sensible to have done so. Otherwise they would have had no means of recalling what they had ordered the English government to do. What of the justiciars? Did they keep rolls recording their writs of 'liberate', 'computate', quittance, and conferral of land? They certainly did later, and Peter des Roches' roll from 1214 survives, complete with the notes of the 'contrabrevia' he was sending to the Exchequer.¹⁰³ The need to keep such a record was increased by the fact that the justiciars, although they spent a good deal

¹⁰¹ For examples of co-ordination between the Close Rolls and Fine Rolls, in part through cancelling material that had strayed on to the Fine Rolls, see *Rot. Lib.*, 54, 74 (the Fine Roll is lost for this year); *RLC*, i, 21, *Rot. Ob.*, 253; *RLC*, i, 23, *Rot. Lib.*, 256; *RLC*, i, 29b, *Rot. Ob.*, 265. These cases provide fascinating examples of how the Close Rolls enrolled writs much more fully than the Fine Rolls. For examples of where there is uncanceled material on the Close Rolls, see *RLC*, i, 22b, *Rot. Ob.*, 255–6 (Arsic), and *RLC*, i, 24, *Rot. Ob.*, 260 (William fitz Robert).

¹⁰² For example, *RLC*, i, 29b, *Rot. Ob.*, 265.

¹⁰³ *RLC*, i, 204–13.

of time at Westminster, were also itinerant and issued many writs on their travels. Geoffrey fitz Peter in 1199 did so from Carlton (in Lindsey), Lincoln, Nottingham, Kimbolton, Leicester and Northampton. He could not, therefore, rely on the Exchequer for a record of what he was doing.¹⁰⁴ As we have seen, Hubert Walter almost certainly kept a Fine Roll from which the fragment of the Originalia Roll for 1195–6 was copied. There are also references to the rolls of Ranulf de Glanvill, justiciar from 1180 to 1189, and of Richard de Lucy, justiciar from 1154 to 1179.¹⁰⁵ These were probably plea rolls or Fine Rolls, but both men may well also have kept rolls of letters close. These early letters close were not, of course, actually dated, but the rolls organized them into years, and marginalia may well have acted, or been intended to act, as finding aids. In any case, disputes over whether expenditure had been ordered and authorized would usually have concerned the recent past. Once letters were dated in the 1190s, finding must have become easier, but even in John's reign (and beyond) such dates were still sometimes only by day and month, not also by regnal year.

It is not, therefore, entirely unreasonable to suggest the following working hypothesis. From at least the 1170s, the chancery, when the king was in England, kept rolls that recorded letters close of 'liberate', 'computate', and 'terre date' addressed to the Exchequer, sheriffs and other local officials, and from these were copied the 'contrabrevia' sent to the Exchequer. When the king left England, the chancery accompanied him and now recorded writs sent to the justiciar. The justiciar, for his part, kept his own rolls of the writs of 'liberate', 'computate' and 'terre date' that he was issuing both in response to these letters from overseas and also on his own initiative. Likewise from the 1170s, the chancery, when in England, was keeping a roll of fines, and from these were copied the Originalia Rolls sent to the Exchequer. This roll was continued by the king when overseas, but ran alongside a roll of fines kept by the justiciar in England, although, judging from Pipe Roll headings, it seems to have been only one consolidated roll, as later under John, which was sent to the Exchequer. Richard's captivity meant that the chancery rolls ceased, leaving only those of the justiciar. During Richard's residence overseas between 1194 and 1199, his chancery kept a Fine Roll for such business as he dealt with, and a roll of letters close addressed to the justiciar, while the justiciar again kept his own Fine Roll and also a roll of his writs of 'liberate', 'computate' and 'terre date'. Under John, the situation returned to much the same state as it had existed under his father, with a chancery Close Roll, which changed its nature according to whether the king was in England or across the Channel, and a Fine Roll that consolidated all the fines made both by the king and his ministers. What has been said above concerns

¹⁰⁴ Richardson, 'Introduction' to *Memoranda Roll 1 John*, pp. lxxxvii–lxxxviii, and more generally at pp. lxxv–lxxxvii, for the justiciar's chancery. The writs from which the itinerary here is compiled were those addressed to the sheriffs, produced by them at account and then enrolled on the Memoranda Roll for 1199. For fitz Peter's judicial writs that he would not have recorded, see *Pleas before the King or his Justices 1198–1202*, i, ed. D.M. Stenton, Selden Society lxxvii (1948), 5–33 and Appendix II.

¹⁰⁵ *Memoranda Roll 1 John*, 86; *CRR*, i, 208.

just the English rolls, but we should envisage a similarly long history for the Norman ones.

If this system existed under Henry II, did it have antecedents in the time of his grandfather? In respect to the English Fine Rolls and Originalia Rolls we have suggested that it did, and it is far from impossible that something like Close Rolls and 'contrabrevia' also existed. We have no means of knowing how many writs of 'liberate' Henry I issued, but the Pipe Roll of 1129–30 refers to around 300 writs of allowance and quittance, enough to fill up a substantial roll. An argument can certainly be mounted that intelligence about these writs came to the Exchequer on rolls, which were themselves derived from rolls kept by the king's scribes at court, just as intelligence about fines came from something like the later Originalia rolls derived from the equivalent of the later Fine rolls.¹⁰⁶

We have seen that each county section on the 1129–30 roll has, towards the end, the heading in capital letters 'NOVA PLACITA ET NOVE CONVENTIONES', after which follows the fine business. Now, in several counties immediately after the fine business, though occasionally interspersed with it and in one case before it,¹⁰⁷ there are records of 'murdrum' fines. The sheriff accounts for the 'murdrum' levied on a particular vill or hundred and then, very often, a list follows of major figures whose share of the fine has been pardoned by writ of the king.¹⁰⁸ How did this information reach the Exchequer? A clue here may be provided by thirteenth-century practice, when judges occasionally sent the lists ('the estreats') of the amercements they had imposed to the king, and these were then forwarded on to the Exchequer on the Originalia Roll.¹⁰⁹ Was something like this happening here? The king received the information about the 'murdrums' that had been incurred and then decided who should be pardoned: a major political decision. Once it had been made, the chancery sent on to the Exchequer the amounts to be levied and the list of those who had been pardoned 'by writ of the king'. A similar procedure may have been used for the geld. Accounts for the geld come at the end of nearly every county section in the 1129–30 Pipe Roll, and here too we have long lists of those pardoned 'by writ of the king'. Now it is possible that this information was embodied in a whole series of individual writs sent to the Exchequer, but it may equally be that what was delivered was a roll of all the 'murdrum', geld (and allowance) business, the writs in question being sent not to the Exchequer but to the sheriffs who then produced them at their accounts. At these accounts, the writs the sheriffs proffered were checked off against the information about the pardons of murdrum and geld and the writs of allowance which the Exchequer had received, much as we know happened later. Assuming that the pardons were issued *ad hoc*, and the writs sent to the individual sheriffs as the king travelled the country, it would then have been

¹⁰⁶ T.A.M. Bishop, *Scriptores Regis* (Oxford 1961), 32, cited by Clanchy, *Memory to Written Record*, 58, and Vincent, 'Why 1199?', 29. For cautionary words about the existence of a 'chancery' under Henry I, see Stephen Church's introduction to *Dialogus* (2007), li n.64.

¹⁰⁷ See the entry for Sussex: *PR 31 Henry I*, 69–70.

¹⁰⁸ For example, see the entry for Dorset: *PR 31 Henry I*, 14–16.

¹⁰⁹ For example, *CFR 1216–24*, 401 (1223–4), no. 428.

necessary to keep a record of the writs that had been issued, and it would have been from this roll (if we may presume it such) that the transcript for the Exchequer was drawn up. If this is right, the king was keeping a roll recording writs in 1129–30.

The Charter and Patent Rolls

It is well known that the first two Charter Rolls of John's reign, those for 1199–1200, and 1200–1, also contain letters patent. Then in 1201–2 a separate roll for letters patent was opened, the first of the series which still survives.¹¹⁰ Yet just because the Patent Roll starts now, it does not mean that the Charter Roll too had only just begun. One might as well conclude that the Close Roll had just been introduced because the Liberate Roll was hived off from it in 1226. Nonetheless, all historians seem agreed that the Charter Rolls did indeed start with the reign of John. Richardson supplied a reason. He drew attention to John's proclamation, issued at the time of his coronation at the instance of Hubert Walter, which laid down precise amounts for the fees the chancery could charge for the charters and letters patent that it issued. Richardson thus argued that the rolls were introduced to keep a check of the fees that were due.¹¹¹ If so, as many historians have since enquired, why did the clerks write the charters out in full, as opposed to simply listing them? The answer Richardson supplied to this objection (which he appreciated from the first), namely that the clerks lacked the skill to summarize the charters, does indeed seem almost frivolous, the more especially as the Fine Rolls and Close Rolls often contained mere summaries of letters.¹¹² What Richardson's critics have not appreciated, however, is that if one discounts his argument, one is also discounting one of the reasons for thinking the Charter Rolls began in 1199 in the first place. Of course, it is easy to provide other reasons, the most obvious being the desire to record the large number of charters that were issued at the start of the reign, but then that could equally have applied to 1154, 1189, and, in effect, to 1198 when Richard ordered that everyone who had charters under his old seal should have them renewed under the new one.

We have already seen that the chancery in the 1170s was well aware of the value of keeping copies of the writs it was issuing as testimony to their making. The same principle would have applied equally well to the keeping of records of charters: 'in testimonium factarum cartarum' as well as 'in testimonium factorum brevium'. If the English chancery was recording fines and letters close, but not charters and letters patent, we have here an inversion of the usual practice where it was the solemn documents that were registered not the day-to-day administrative ones. Indeed, if the arguments for the early date of the Close Rolls with their 'terre date' business are accepted,

¹¹⁰ *Rot. Chart.*, 1–104; *RLP*, 1–11. The first part of the Patent Roll for 1201–2 is lost.

¹¹¹ *Foedera*, 75–6; Richardson, 'Introduction' to *Memoranda Roll 1 John*, pp. xxxv–li.

¹¹² Richardson, 'Introduction' to *Memoranda Roll 1 John*, p. xliii.

it would follow that the chancery was recording temporary grants of land, but not grants that were permanent. Of course, one can imagine that the king would be more interested in what he could recover than what he could not, but still Charter Rolls would certainly have been useful to any king, enabling him, most obviously, to check exactly what he himself had granted, assuming the original of the grant was not to hand. As Michael Clanchy has noted, John himself used his Charter Rolls for that very purpose, checking the terms of his grant to the monks of Ely. Jocelin of Brakelond, incidentally, in relating the incident, gives no indication that the king's ability to do this was new.¹¹³

Many historians, of course, have pointed to episodes and procedures under the Angevin kings that, they believe, show that before 1199 they possessed no rolls of charters. Thus it has been suggested that, when Henry II and Richard I confirmed royal charters, 'it was the original charters or beneficiary-produced copies that were presented for confirmation, without any indication that the king could call upon official copies to test the authenticity even of his own awards'.¹¹⁴ Given the lack of evidence, it must surely be impossible to know, in the great majority of cases, whether such checks were made or not, but if they were not then things did not change even when the Charter Rolls were in being and we have abundant record evidence to know what was happening. In 1227, after he entered into full power, Henry III confirmed over forty charters of his father without any indication that checks were made.¹¹⁵ Earlier, in 1222, Henry returned the manor of Fawsley to Hugh Russell 'having inspected a charter of King John', without apparently checking its authenticity by reference to the Charter Rolls.¹¹⁶ Kings might well ponder the authenticity of Anglo-Saxon diplomas and early Norman charters, but probably they or their chancery officials, rightly or wrongly, felt quite able to recognize the genuine material from later periods without the tedious business of having to check it up.¹¹⁷

Turning now to the supposed absence of rolls from the chancery of Henry II, attention has been drawn to two similar incidents. One occurred in 1170, when Master David of London was careful to retain his own copies of letters he obtained from the king.¹¹⁸ The other came in 1189, when Baldwin, archbishop of Canterbury, likewise took care to secure his own copy of a letter, in case the original failed to reach its destination (the monks of Canterbury). Would they have done this, if copies had also been made on the chancery rolls of the king?¹¹⁹ The answer is yes, they would. The chancery rolls

¹¹³ Clanchy, *Memory to Written Record*, 69; *The Chronicle of Jocelin of Brakelond*, ed. H.E. Butler (London 1951), 133–4, 157–60; *Rot. Chart.*, 91b.

¹¹⁴ Vincent, 'Why 1199?', 39.

¹¹⁵ *CFR 1224–34* (1226–7), nos 89, 94–5, 99, 101, 104–5, 108, 111, 113–14, 116, 119, 121, 134, 137–8, 142, 150, 152, 154–7, 160–1, 163, 172, 176, 191–2, 195, 230, 234–5, 268, 277, 293.

¹¹⁶ *CFR 1216–24*, 273 (1221–2), no. 281. It is not on John's rolls, but not all of these survive.

¹¹⁷ Thus the fact that, in 1203, John postponed a case, in which he agreed he should warrant a charter of Henry II, until he returned to England, says nothing about whether or not there were records from which he could check whether the charter was genuine. It was already accepted that it was: *CRR*, iii, 31.

¹¹⁸ Clanchy, *From Memory to Written Record*, 44, 69.

¹¹⁹ Vincent, 'Why 1199?', 39–40.

travelled with the king, indeed that was inherent in their nature, since they recorded business transacted across the whole Angevin empire, not just in England. Had Master David or Archbishop Baldwin relied on the rolls for their back-up copies, they might have found themselves traipsing half way across France. Naturally they took their own copies. This leads on to a wider point. No one in their right mind would have chosen the chancery rolls as the best place to preserve an 'official' record of a charter. The best place for that in England was the Exchequer at Westminster, and in Normandy, the Exchequer at Caen. Thus it was that in the records of charters kept by both Exchequers we find charters also enrolled on the Charter Rolls.¹²⁰ The Exchequer copy was for the subject. The chancery copy was for the king.¹²¹

In urging the absence of rolls from Henry II's reign, some significance has also been attached to an offer made to the justiciar by the men of Kingston in 1194, to hold their vill at farm on the terms granted to them by a charter of King Henry, which unfortunately had been burnt.¹²² No mention is made of checking its existence in any Charter Roll, but since the whole matter seems to have been postponed until the king returned to England, perhaps the idea was that he would bring the Henrician rolls with him to enable that to be done! There is nothing in this episode, which ended with King John granting a charter to the men without reference to any earlier charter, to prove that there had never been Henrician rolls. Another episode is more telling, though far from conclusive. In 1204, John granted a charter to the men of Ilchester, having established by an inquiry of local men the terms of a charter of Henry II that had since been burnt.¹²³ The implication is certainly that John in England in 1204 did not have Henrician Charter Rolls against which the grant could be checked. But that does not mean they had never existed.

Moving on to the absence of Richardian rolls, Richardson drew attention to an episode when John (in Normandy) had to ask Geoffrey fitz Peter in England to send him a transcript of a charter his brother had granted to the men of Winchelsea and Rye. Apparently he had no roll from Richard at hand.¹²⁴ The contrast with John's ability to check his charter to the Ely monks in his own roll seems striking. It becomes rather less so, however, when we remember that the charter John wished to check had been granted at Messina in March 1191, and that a month later the vice-chancellor and keeper of the seal, Roger Malcael, was drowned in a shipwreck off Limassol. His body was washed up with the king's seal round his neck. One could hardly expect the

¹²⁰ Richardson, 'Introduction' to *Memoranda Roll 1 John*, pp. lvi–lviii and notes. See *CRR*, ix, 382, xi, nos 891, 2619. In England the Exchequer records were the 'Cartae Antiquae' rolls.

¹²¹ The chancery and Exchequer enrolments 'were devised not to serve the interests of the subject but the interests of the king and the king's servants': Richardson, 'Introduction' to *Memoranda Roll 1 John*, p. li. There are, however, later examples of appeals to the evidence in the chancery rolls, for instance *CRR*, xv, no. 1426, xvi, nos 1493–4, 1758.

¹²² *Rotuli Curiae Regis*, 2 vols. ed. F. Palgrave (London 1835), i, 15; *Rot. Chart.*, 52b, and see Vincent, 'Why 1199?', 43 and n. 128.

¹²³ *Rot. Chart.*, 130b, and see Vincent, 'Why 1199?', 43 and n. 128.

¹²⁴ Richardson, 'Introduction' to *Memoranda Roll 1 John*, pp. xlvii–xlviii; *Rot. Chart.*, 62.

chancery rolls to have similarly escaped, and these doubtless found a watery grave in the Mediterranean Sea.¹²⁵

The Loss of the Rolls from Before 1199

This image or mirage of chancery rolls sinking beneath the waters of the Mediterranean naturally brings us, in conclusion, to the question of what happened to the rolls before 1199, if indeed they existed. To put it another way, is not the fact that the rolls only exist from 1199 the strongest reason for believing that this is when they started? Not necessarily. No one seems to dispute that chancery Fine Rolls existed before 1199, yet they have entirely vanished. Why should not Close Rolls and Charter Rolls have shared the same fate? That fate had certainly overtaken the pre-1199 material by 1381, when an inventory of the chancery rolls begins with those of John.¹²⁶ Of course, some may have disappeared in the intervening period, although it is but fair to remember, as we have seen, that Henry II's Charter Rolls do not seem to have been available to John in 1204.¹²⁷ Yet it is not hard to explain how that might have happened, quite apart from the Mediterranean shipwreck, although the effects of that should not be discounted. The chancery rolls were drawn up at court as the king travelled his dominions. Every so often, the chancery must have decided to reduce the bulk of what was being carried, and to store or dispose of a certain number of back rolls.¹²⁸ It is a product of a modern Anglocentric view of the Angevin kings to assume that they would have necessarily stored their rolls in England. As we have seen, these were Angevin not English rolls. Henry II died at Chinon. Richard's body was brought there after his death. What more likely than that this was where some of the chancery material was deposited, it then being lost when the great castle, so gallantly defended by Hubert de Burgh, finally fell to the French in 1205? Nicholas Vincent, in an amusing footnote, has suggested that speculating on what vanished with the fall of the Angevin empire is as useful as 'pondering the habits of the giant pink sea snail'.¹²⁹ This is, however, a species with which he himself must be quite familiar, since, in the same paper, he warns us to remember all the losses suffered by the French royal archive through various disasters.¹³⁰

¹²⁵ Howden, *Gesta*, ii, 162–3; Howden, *Chronica*, iii, 105–6; Landon, *Itinerary*, 175. Howden claims that the emperor of Cyprus seized the chattels of those who were drowned, so something survived the wreck, but the emperor would, alas, have had little interest in the chancery rolls.

¹²⁶ PRO C 47/34/19.

¹²⁷ The first extant Close Roll, that for 1200–1, is damaged and partly lost, which makes it easy to envisage the loss of its immediate predecessor. The 1381 inventory of chancery records mentions 75 rolls for John's reign. The inventories of around 1670 (PRO OBS 1/ 1272–3) list 66 rolls, the number given by Duffus Hardy: *RLC*, i, p. iii. According to my count, 72 rolls are now listed but some of these are fragments and duplicates. The subject of the archival descent of the rolls has yet to be researched.

¹²⁸ As Vincent observes: 'Why 1199?', 42. There seems much in Vincent's suggestion that one reason why rolls were preferred to books was that they were lighter to transport.

¹²⁹ Vincent, 'Why 1199?', 24 n. 36.

¹³⁰ Vincent, 'Why 1199?', 46.

That chancery rolls were lost with the fall of the empire seems, therefore, a perfectly reasonable hypothesis. It is true that John took steps to rescue rolls from Caen, but these were probably the Exchequer's, not the chancery's.¹³¹ It was natural to place a higher priority on Exchequer than chancery material. The Norman Pipe Rolls, like the English ones, were working documents, vital for knowing what was owed the king- duke and for getting in his revenues.¹³² The Fine and Close Rolls were also important records, but their value was immediate, not long term. The postulated Charter Rolls of Richard and Henry had longer-term value in enabling John to check the occasional grant, but such use was at best occasional, and, in any case, many of the charters John had by this time confirmed, so that what was operative was on his own Charter Rolls. In some ways, better almost *not* to have a record of what his predecessors had given away. No, the chancery rolls before 1199, if they were not burnt like the archives of the Quai D'Orsay as the Germans approached in 1940, could be left at Chinon, Rouen or wherever else they were.

The early thirteenth century was certainly a period of rapid development for the chancery rolls. The Fine Rolls became far more than simply bare records of fines. The associated writs were written out and many other writs of interest to the Exchequer were included.¹³³ The Close Rolls, as we have seen, increased greatly in size, and were eventually freed from their 'liberate' and 'computate' business by the creation of a separate Liberate Roll, just as earlier, in 1201-2, the Patent Roll had been hived off from the Charter Roll. Meanwhile, the Norman Rolls had come to an end, and the chancery had become an English not an Angevin one.

This does not mean, however, that enrolment started in 1199. Both the clerks of the chancery and those of the justiciar had long experience by then of drawing up Fine Rolls. A good case can be made for suggesting that they were equally experienced in drawing up Close Rolls. Both sets of rolls, in some form, may have had antecedents in the reign of Henry I. Even the case for believing that the Charter Rolls started in 1199 is less conclusive than is sometimes thought. Indeed, it is not impossible that the apparent beginning of the chancery rolls in John's reign, far from arising out of the genius of Hubert Walter, or the paranoia of King John, is simply an illusion created by the loss of the Angevin empire.

¹³¹ *Rot. Lib.*, 102-3; *RLC*, i, 3-3b. The writs here refer to rolls and charters, the latter doubtless being documents like the English 'cartae baronum'.

¹³² I hope I may be allowed here to advance a word in defence of the Pipe Rolls, not a universally popular cause. Nicholas Vincent criticizes them as 'more or less useless as a means of calculating overall income and expenditure': 'Why 1199?', 26-7. This is blaming them for failing to do what they were never designed to do. The Pipe Rolls were a record of the annual audit of the money owed the crown and were vital for getting in the following year's income, since it was from the debts they recorded as still outstanding (together with the Originalia and estreat roll information about new debts) that the summonses to the sheriffs were prepared. Although only the immediate Pipe Roll was needed to raise next year's revenue, earlier ones retained a value, for they showed how debts had arisen, and what had been their rates of repayment.

¹³³ Carpenter, 'Historical Introduction', *CFR 1216-24*, pp. viii-ix, xiv, and see also pp. xvii-xxiii for the end of the duplicate rolls and changes in marginalia.