

TENERE IN CAPITE AND TENANT IN CHIEF

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Tenant in chief has long been used as a term of art for someone who held lands directly of the king. This expression appears to be first documented in England only late in the thirteenth century, hardly before the statute *Quia Emptores* (1290) empanelled the idea that anyone may hold *de capitali domino feodi* ‘of the chief lord of the fee’. At the time when the Domesday survey was carried out in 1086, the term of art was *baro regis*, as we see, for example, in geld-lists from the 1080s preserved in Exeter Domesday, where ‘de his habent barones regis in dominio’ is a recurrent formula (though ‘regis’ is often omitted). Anglo-Norman lawyers recognize *barones* as holding of others than the king: *Si quis baronum regis uel aliorum comitatui secundum legem interfuerit* ‘if any baron of the king or of others is present at the shire court in accordance with the law’ (*Leges Henrici*, 7. 7). Although tenant in chief is scarcely found, the verbal phrase ‘to hold in chief’ can be documented in England from early in the twelfth century—it has no Continental currency—and this too was used in contexts that did not involve the king’s tenants. It signifies that a person holds with no intermediary. An explanatory example that involves replacing mesne tenure with tenure in chief of the earl of Chester appears in the Abingdon Chronicle, written in the 1160s:¹

Siquidem feudi comitis Cestrensis deputatur, de quo tunc temporis Nigellus de Oilli eandem hidam simul cum nonnullis aliis possessionibus, et per Nigellum Droco, tenebat. Sed Drocone monachatum subeunte, Rogerus filius Radulfi, filiam ipsius in coniugium ducens, quarumlibet ille rerum potiebatur dum seculo militaret summam ipse adipiscitur. Qui, quoniam ingenio callebat, Nigelli de Oilli consensum sibi traduxit, quatinus de comite in capite (ut uulgo loquatur) teneret, homo ipse comitis effectus.

For it was part of the fee of the earl of Chester, of whom at that time Nigel d’Oilly held that hide along with other property, and Drogo held it through Nigel. When Drogo became a monk, Roger fitz Ralf obtained everything that Drogo had possessed while he was a knight and a layman, for he married Drogo’s daughter. Roger was an astute man who obtained the consent of Nigel d’Oilly that he might hold in chief (to use the common expression) of the earl and so became the earl’s man.

¹ *Historia ecclesiae Abendonensis*, ed. J. G. H. Hudson, OMT (Oxford, 2002–5), ii. 98. The closest dating of the business comes from the deed of Earl Richard of Chester (1106). This passage and the accompanying documents are included in relation to the charter of Henry I, *Regesta* 693, in my edition of his charters for Abingdon abbey.

The earliest example known to me is found as a gloss by the author of *Instituta Cnuti*, who translated Cnut's laws from Old English into Latin no later than 1123:²

Si quis decimam, sicut carruca perarat, dare noluerit, adeant eum praepositus regis et praepositus episcopi et praepositus etiam domini cuius in capite terra est, et presbyter ecclesie, ad quam decima illa pertinet, . . .

if anyone will not give tithes, even as the plough ploughs, there shall come to him the king's reeve and the bishop's reeve and also the reeve of the lord whose land it is in chief, and the priest of the church to which the tithe belongs,

The underlying English has, 'þonne fare þæs cingces gerefa to 7 þæs bisceopes 7 þæs landrican 7 þæs minstres mæssepreost', using *landrica* 'landlord', where the translator spells out 'the lord whose land it is in chief'. None of the other Latin translators of this law do this. Both *Quadripartitus* and *Consiliatio Cnuti* have the same phrase, *ipsius terre domini* 'of the lord of the actual land'.

The point of reference to which one naturally turns for an answer to the question, When is *tenere in capite* first recorded?, is the Medieval Latin Dictionary.³ Here the verb *tenēre* is treated at some length; sense 10 gathers examples denoting to hold property 'as one's own, in full ownership', and sense 11 examples of to hold by tenancy, distinguishing as sense 11c the present participle *tenens* as a noun, 'one who holds real property from another by feudal obligation or payment of rent, tenant', with the first example from 1214. This can be pushed back to examples in Glanvill's treatise from the 1180s.⁴ None of the quotations actually illustrates *tenere in capite*, but at the start of sense 11 are several cross-references to other entries, among them *caput* 20c, where Ronald Latham gathered a generous number of good illustrations:

2 caput 20c

adeant eum praepositus regis et praepositus episcopi et praepositus etiam domini cuius in capite terra est (*Inst. Cnuti*) GAS 293;

² The text is printed in parallel with the Old English sources by F. Liebermann, *Die Gesetze der Angelsachsen* (Halle, 1898–1916), i. 292–3. He dates the composition 1097 × 1117 (*Gesetze*, iii. 330), though his reasons are not strong. Bruce O'Brien avoided fixing limits between the Conquest and the earliest copy, *Textus Roffensis*, fols. 58r–80r, which was made in 1123–4 ('The *Instituta Cnuti* and the translation of English Law', *Anglo-Norman Studies* 25 (2003), 177–97, at p. 187). He notes (p. 185) that Patrick Wormald was open to the idea that the translation was made in William II's reign.

³ R. E. Latham & others, *Dictionary of Medieval Latin from British Sources*, 17 fascicules (Oxford, 1975–2013).

⁴ ???

1130 Osbertus Syluanus r. c. de vij m. argenti ut teneat in capite de rege feodum j militis *Pipe* 9;
1164 archiepiscopi et episcopi et uniuerse persone regni qui de rege tenent in capite habent possessiones suas de domino rege sicut baroniam et inde respondent iustitiis et ministris regis *Const. Clar.* 11;
 quatenus de comite in capite, ut uulgo loquitur, teneret, homo ipse comitis effectus *Chr. Abingd.* II 67;
s1163 asserit · · rex · · quod nullus · · , ut uulgariter loquar, de rege tenens in capite castellum, uillam uel predium citra conscientiam regis est excommunicandus ab aliquo DICETO *YH* 312 (cf. *Const. Clar.* 7);
s1177 W. · · intimauerat regi quod ipse deberet de eo tenere in capite baroniam suam, quam de R. comite Leicestrie tenebat R. HOWD. *G. Hen. II* I 133;
1201 mandamus uobis quod dilecto et fideli nostro A. de C. faciatis homagium de feodo de S. Seueria quod de nobis hactenus tenuistis in capite *Pat* 1b;
1217 quod · · reddatis · · capitali iusticiario foreste nostre omnes exitus foreste ad nos pertinentes · · exceptis illis de quibus respondere debetis in capite ad scaccarium nostrum *Pat* 126;
1237 si balliui liberorum hundredorum in balliua sua non responderint ad returnum suum, [uicecomes] intret in hundreda et dstringat in capite *LTR Mem* 12 r. 15;
1242 tenet terram suam · · de honore de Peuerel · · , de quo honore balliuus noster ad hoc assignatus nobis respondet in capite · · de · · exitibus eiusdem honoris *KR Mem* 20 r. 12;
1247 qui nobis in capite respondebunt sicut prius consueuerunt (Farnham) *BBC* 312;
1291 qui de regia dignitate tenuit in capite *RScot* 3b;
1344 omnia tenementa et redditus in ciuitate [London'] tenentur de domino rege in capite ut liberum burgagium ad feodi firmam *MGL* I 191;
1325 terram · · que de nobis [sc. rege Scotorum] tenebatur in capite *Reg. Aberbr.* I 220;
1391 quam quidem terram · · teneo de abbate in capite *Reg. Aberbr.* II 40;
1529 terre · · de ecclesia cathedrali de A. per seruitium feodifirme tente in capite *Reg. Aberd.* I 393.

Next in date after *Instituta Cnuti* is an example from the first extant pipe roll, 31 Henry I (Michaelmas 1130). As one expects with the pipe roll, there are similar examples elsewhere in the roll.⁵ One of them, under Berkshire, involves someone other than the king: ‘Anselmus uic(ecomes) Roth(omagi) r. c. de dim. m. auri ut tenet in capite de Episcopo Wint(onie) terras quas tenuit de Thoma de Sancto Iohanne’. From the 1160s, Latham has quoted what is a core source for the early use of the expression, the Constitutions of Clarendon (1164). Of similar date is the passage from the Abingdon Chronicle (cited from Stevenson’s edition), which, adding *ut uulgo loquatur*, signals common language as distinct from Latin idiom. The vulgar usage is no doubt French. The Anglo-

⁵ *Pipe Roll 31 Henry I*, 18, 82, 114, 124.

Norman Dictionary gives no example before the thirteenth century.⁶ Professor Ian Short, however, brings to my attention two instances from the Anglo-Norman Life of St Thomas Becket, composed 1172–4: ‘A Norhamtune a fet sun concile establir, / E prelaz e barons par ban i fet venir, / Trestuz ces ki en chief de lui deivent tenir’, ‘Persones e prelaz tut de la regiun / Qui tenissent del rei terre e possessiun / Tuit tenissent de lui en chief cumme barun’.⁷ Latham’s next example, from Ralf de Diceto at the end of the twelfth century, still alludes to the vernacular, *si uulgariter loquar* ‘if I may use the common expression’, though the usage was by then long standard in Latin. This example was quoted centuries ago in Du Cange’s *Glossarium*.⁸

Since the Medieval Latin Dictionary has become available electronically, by subscription, it is a simple process now to harvest examples from among the quotations used to illustrate any other word. Wild-card and combination searches are possible. I present below the result of such a search, repeating quotations used under 2 caput 20c only if they were used elsewhere as well. We now have an example from a charter of Henry I in favour of Hildred of Carlisle, *Regesta* 1560, referring to *liberi homines qui de me tenent in capite* ‘free men who hold of me in chief’, which had appeared under *drengus*; it was dated 1128, after *Regesta*, but a date between Michaelmas 1129 and Michaelmas 1130 is better founded.⁹ An example from Herbert de Bosham, writing in Henry II’s time, introduces a gloss: all persons, he writes, *qui de rege tenent in capite, habeant possessiones suas de rege, sicut baroniam* ‘who hold of the king in chief shall have their possessions of the king, such as a barony’. This provides a link to the *Rotuli de dominabus* from 1185, *ij bouatas quas tenet in baronia de domino rege RDomini* 16 (s. v. baronia 2). We have reconnected with the usage of the late eleventh century when *baro regis* was the standard form of words for someone who held in chief of the king.

⁶ *Chef, en chef* 2: ‘in chief, depending immediately on the lord, without intermediary’ *le purchaceour n’iert tenaunt le seignur del fee en chief sauntz meen* BRITTON, i. 254.

⁷ Guernes de Pont Sainte-Maxence, *La Vie de saint Thomas Becket*, lines 1383–5, 2478, ed. Emmanuel Walberg (Lund, 1922; Paris, 1936).

⁸ C. du Fresne, Sieur du Cange, *Glossarium ad scriptores mediae et infimae Latinitatis* (Paris, 1678), s.v. *tenere*. Revision for the 1733 edition added an example from N. Brussel, *Nouvel examen de l’usage général des fiefs en France* (Paris, 1727), ii, App., pp. i–vi, a putative charter of liberties for Normandy in the name of Henry II, 1155: ‘si quis comes uel baro seu alius tenementum tenens de nobis in capite per seruicium militare’. L. Delisle, who noted its use by continuators of Du Cange under rare words *bidelus*, *haubergettus*, and *russetum*, but not under the less manifestly uncommon *tenere*, showed that the text appears to be based on the charter of 9 Henry III (11 February 1227), *Actes de Henri II*, Introduction (Paris, 1909), 312–16.

⁹ R. Sharpe, *Norman Rule in Cumbria 1092–1136* (Carlisle, 2006), 12.

Latham's use of royal charters from the Anglo-Norman period was far from systematic. Since the collected *Regesta* was a mere calendar before King Stephen's reign, he was reliant on quotations excerpted from the diversity of sources in which charters had been printed, whether from cartularies or from Chancery enrolments. It is now possible to review the usage of royal charters more thoroughly and with more refined judgement on date and authenticity. The phrase *tenere in capite* is not recorded before the reign of Henry I. The example quoted by Latham is one of a dozen that can be found in the charters of Henry I. The earliest firm date is 1126, and only one example has a date-range that extends earlier than that. There is a strong case for thinking that this formulation was introduced by the king's draftsmen in the 1120s. It is surely significant that almost all examples come from that small minority of King Henry's surviving charters, those granting succession to lay heirs, in which it is used as part of a formula. That it was a new introduction may be illustrated from the remarkable Barrington charters, surviving as original documents. Eustace de Barrington was given the land of Geoffrey the Forester by Henry I, 1121 × 1127, but there is no mention of tenure in chief. In the first years of Henry II's reign Humfrey fitz Eustace was granted succession to the lands 'quas Eustac(ius) pater eius tenebat uel de rege Henr(ico) auo meo in capite uel de quocumque alio, sicut carta regis H(enrici) ei testatur et confirmat'.¹⁰ Innovation in language in the chancery is possible, but the earlier date of *Instituta Cnuti*, the most widely known Latin version of the Old English codes, makes one wonder whether there is some link between it and the king's court. The context there, a brief explanatory insertion, is not an innovative environment, so the phrase was already familiar in Latin to the translator. The translator was certainly Norman, but he would hardly have introduced the French usage in Latin dress unless it were already in recognized use. Other brief insertions at the beginning of Cnut's code reflect awareness of the king's role: 'him sylfum to cynescipe 7 to þearfe' becomes 'ad . . . honorem sui et profectum totius regni cui preerat', and in the following clause the motive 'pro quiete et stabilitate regni sui' is interpolated by the translator.¹¹ Liebermann noted his rendering of *æþeling* as 'filius regis de legali coniuge', inferring that the writer had in mind William *æþeling*, who drowned in 1120.¹² The concern over the need for a *legitimate* heir was at its most acute immediately after this, and by 1125 the king had adopted a

¹⁰ King Henry I's charter is now BL Add. Ch. 28313 (*Regesta* 1518), King Henry II's BL Add. Ch. 28327 (H2/114), datable 1154 × 1158, ?April/May 1157.

¹¹ Liebermann, *Gesetze*, i. 278–9.

¹² Liebermann, *Gesetze*, iii. 330, under Abfassungszeit, referring to the text of *Instituta Cnuti* III 56. 2 (*Gesetze*, i. 470n, 615).

policy of recognizing his daughter as heir. Might this translator have been connected to the court shortly before 1123?

Examples from charters of Henry I

1116 × 1128 sciatis me concessisse et reddidisse Will(elm)o filio Alurici de Colubrugia terram Ric(ardi) fratris sui de Duilestona quam tenuit de me in capite frater suus die qua fuit uiuus et mortuus *Regesta* 1563 for William fitz Alfric;

1126 sciatis me reddidisse et concessisse Miloni filio Walteri Gloec(estrie) conestabularii mei totam terram patris sui quam tenuit de me in capite et de quocumque tenuisset *Regesta* 1552 for Miles of Gloucester;

1126 × 1134 sciatis me concessisse et reddidisse Willelmo filio predicti Roberti totam terram patris sui unde seisitus fuit die qua fuit uiuus et mortuus quam tenuit de me in capite et de quocumque eam tenuisset *Regesta* 1556 for William fitz Robert of Little Easton (and renewed by Henry II, **1154 × 1157**, H2/2872: sciatis me concessisse et confirmasse Willelmo filio Roberti predicti totam terram patris sui unde saisitus fuit die qua fuit uiuus et mortuus quam tenuit de rege H(enrico) auo meo in capite et de quocumque eam tenuisset);

1127 × 1133 sciatis me reddidisse et concessisse Alano filio Raginaldi Belet totam terram patris sui quam tenuit de me in capite et de quocumque tenuisset die qua fuit uiuus et mortuus *Regesta* 1809 for Alan fitz Rainald Beleth;

1129 × 1130 sciatis quia Nicholaus Basset mihi reddidit et quietas clamauit omnes terras illas quas de me tentui in capite, uidelicet Mixeberi et Wilauiston, et hoc quod habuit in Neuiton et Viuilcote. Has uero terras dedi et concessi Ricardo Basset et heredibus suis, de me in capite et heredibus meis eas tenendas *Regesta* 1668 for Richard Basset;

1129 × 1130 sciatis me dedisse et concessisse Hildredo de Karleolo et Odardo filio suo terram que fuit Gamel filii Bern et terram illam que fuit Glassam filii Brictrici drengnorum meorum reddendo inde michi per annum de seruicio gabulum animalium sicut alii liberi homines tam franci quam angli reddunt qui de me tenent in capite in Cumberlanda *Regesta* 1560 for Hildred of Carlisle;

1130 sciatis me reddidisse Iuoni filio Fornonis totam terram patris sui quam tenuit de me in capite *Regesta* 1639 for Ivo fitz Forn;

1130 × 1131 sciatis me reddidisse et concessisse Alberico de Danmartin totam terram patris sui de manerio Norton ad tenendum illud de me in capite sicut pater eius tenuit *Regesta* 1934 for Aubrey Dammartin;

1131 × 1133 sciatis me reddidisse et concessisse Will(elm)o filio Vdardi de Baenb' totam terram patris sui quam de me in capite tenuit et de quocumque eam tenuisset die qua fuit uiuus et mortuus *Regesta* 1760 for William fitz Odard of Bamburgh;

1131 × 1133 cum terra sua que fuit de tenura Ernaldi filii Anisani ita quod hec omnia tenebunt in capite de Gaufrido filio Gaufridi de Clintona de cuius feodo hoc est *Regesta* 1744 for Kenilworth priory;

1131 × 1135 si ecclesie de Rollos quam Ricardus dedit cum appenditiis suis ecclesie sancti Stephani de Plessis-Grimold et canonicis in elemosina cum terris et aliis beneficiis est de meo feodo quod dictus Ricardus de me in capite tenet, et si sine calumpnia, tunc concedo et confirmo donum ipsius Ricardi *Regesta* 1592 for priory of Le Plessis-Grimoult;

1133 sciatis me reddidisse et concessisse Willelmo Butteuillain totam terram patris sui de Cotesbrocha et de Pipewella et Florendona et Flichestona et omnes alias terras

quas pater suus tenebat de me in capite et de quocunque tenuisset sicut pater suus eas unquam melius tenuit in uita sua et die quo fuit uiuus et mortuus Not in *Regesta* for William de Butevilain.

Given the relative scarcity of acts for lay succession among the surviving charters of Henry I, this represents high frequency in the last decade of the reign compared to no examples from earlier. The charters of King Stephen and Empress Matilda show a slightly lower frequency, with thirteen examples in Stephen's acts and six among Matilda's, and in Henry II's time the frequency falls further to twenty-four (among almost three thousand acts), with several of those examples reflecting acts of Henry I that had been shown as precedents. Official draftsmen and men connected to the court used it as an accepted technical term in Latin, but chroniclers seem to have thought it still carried the flavour of its origin as an expression in French.

RS
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What follows is a collection of examples drawn from the Medieval Latin Dictionary as a whole, using Dictionary short-titles and reference to the entries under which the quotation was entered.

tenere in capite, to hold in chief

1128 dedisse ··· terram que fuit Gamel ··· et Glassam ··· drengnorum meorum reddendo inde michi ··· de seruitio gabulum animalium sicut alii liberi homines ··· qui de me **tenent in capite in** Cumberlanda *Regesta* 1560 (s. v. drengus);

1141 quod nec ipse comes Gualeranus nec aliquis alius ··· mecum finem faciet quin semper ipse Willelmus [de Bellocampo] de me **in capite teneat** (*Ch. Imperatricis Cart. Beauchamp* 9 (= *Regesta* 68) (s. v. 1 finis 11);

1164 nullus qui de rege **teneat in capite** ··· excommunicetur ···, nisi prius dominus rex ··· conveniatur ··· ut rectum de ipso faciat *Const. Clar.* 7 (s. v. convenire 2);

1164 nullus qui de rege **teneat in capite** vel aliquis dominicorum ministrorum ejus excommunicetur ··· nisi ··· *Const. Clar.* 8 (s. v. dominicus 2);

1164 episcopi et universe persone regni qui de rege **tenent in capite** habent possessiones suas de domino rege sicut baroniam *Const. Clar.* 11 (s. vv. baronia 1, 2 caput 20c);

1164 universe persone regni qui de rege **tenent in capite** ··· sequuntur et faciunt omnes rectitudines et consuetudines regias *Const. Clar.* 11 (s. v. rectitudo 6);

1166 michi et ceteris comparibus meis, qui de vobis [sc. rege] **tenemus in capite**, ··· mandastis ut vobis ··· mandemus quot milites habeamus ··· *RBExch* 276 (s. v. compar 2);

1166 **tenet** de rege **in capite** feodum suum per seruitium j militis et per serjantiam suam *RBExch* 307 (s. v. sergantia);

archiepiscopi, episcopi, et universe persone regni, qui de rege **tenent in capite**, habeant possessiones suas de rege, sicut baroniam, et inde respondeant justitiis regis sed et ministris, et sequantur et faciant omnes rectitudines et consuetudines regias H. BOS. *CE* 1415D (s. v. sequi 11);

eschaete vulgo dicuntur que, decedentibus hiis qui de rege **tenent in capite**, cum non extet ratione sanguinis heres, ad fiscum relabuntur . . . at cum paterfamilias miles vel serviens de rege **tenens in capite** fati debita solverit relictis tamen liberis quorum primogenitus minor est annis, redditus quidem ejus ad fiscum redeunt, sed hujusmodi non simpliciter ‘escaeta’ sed ‘escaeta cum herede’ dicitur . . . item est ut tertium genus excidentium vel escaetarum, quod fisco provenit jure perpetuo. cum aliquis de rege **tenens in capite** perpetrati sceleris sibi conscius . . . per fugam vite consulit, vel si super eodem objecto convictus vel confessus terra simul et vita judicatur indignus, omnia que sui juris fuerant mox infiscantur *Dial. Scac.* II 10 B–F (s. v. escaeta); quidam de rege **tenent in capite**, baronias scilicet majores seu minores *Dial. Scac.* II 10D (s. v. baronia 1);

s1163 asserit . . . rex . . . quod nullus capitaneorum, nullus militans reg[n]i, nullus minister regis, nullus sc. . . de rege **tenens in capite** *DICETO YH* 312 (s. v. capitaneus 2, 2 caput 20c);

1201 mandamus vobis quod dilecto et fideli nostro A. de C. faciatis homagium de feodo . . . quod de nobis hactenus **tenuistis in capite** quia homagium vestrum de feodo illo ei dedimus *Pat* 1b (s. v. homagium 4);

1215 concessimus quod servitium vestrum quod nobis debetis de terris quas de nobis **tenetis in capite** atornatum sit de cetero . . . W. comiti de F. *Cl* 194b (s. v. attornare 7b);

1217 scuttagium positum est super omnes qui de nobis **tenent in capite** *Pat* 171 (s. v. ponere 14);

1218 scuttagium positum est super omnes qui de nobis **tenent in capite** *Pat* 171 (s. v. super 23);

1219 **tenet in capite** . . . dim. carucatam terre . . . de ancesseria *Eyre Lincs* no. 559 (s. v. ancesseria);

c1222 si . . . V. . . forisfaciat, . . . balliam . . . amittat in perpetuum, et etiam †terra sua tota [*original text of MS: terram suam totam*], quam de me **tenet in capite** incurrat *Ch. Chester* 409 (s. v. incurrere 6);

1224 [*the sheriff of Cumberland*] non dstringat Ricardum de L. ad veniendum in exercitum Bedeford’, cum de domino rege non **teneat in capite** per servicium militare set per cornagium tantum *Cl* 614b (s. v. 1 cornagium);

1224 de domino rege **tenet in capite** terram suam [in Northumb’] in drangagio *Cl* 626b (s. v. drengagium);

1225 si attinctum fuerit per inquisitionem . . . quod ipsam [terram] de nobis **tenuit in capite** *ExcRFin* I 133 (s. v. attingere 7);

1225 M. de F. fecit nos securos . . . de solvendo nobis ad scaccarium super visum compoti tui [i. e. vicecomitis] post Pascha scutagia de Muntgumeri et de Bedeford’ de militibus suis quos de nobis **tenet in capite in** bailiva tua . . . sc. de scuto ij m. de utroque scutagio *LTR Mem* 7 m. 2/1 d. (s. v. scutagium 1);

1232 terra quam Radulfus le Flecher **tenuit** de rege **in capite** . . . per serjantiam reddendi regi flechias per annum *Cl* 107 (s. v. sergantia 1);

1234 J. le Archer, qui de domino rege **tenuit in capite** per serjanteriam archerie *ExcRFin* I 262 (s. v. arcuaria);

1245 decedentibus baronibus nostris de nobis **tenentibus in capite**, nos ratione feodi nostri primam seisinam habere debemus omnium terrarum et castrorum taliter decedentium *Pat* 57 m. 9 (s. v. saisina 1f);

1248 de · · rege **tenuit in capite** per servicium dicte sergantie per dim. habergelli per xl dies in servicio regis *IPM* 8/5 (s. v. haubergellus);

1255 rex · · escaetoribus suis salutem. quia W. de la Faleis', qui de nobis **tenuit in capite**, diem clausit extremum, vobis mandamus · · *IPM* 17/11 (s. v. 2 claudere 8);

12 · · si una hereditas, que **tenetur** de rege **in capite**, descendat participibus, tunc omnes illi heredes faciunt homagium regi *StRealm* I 226 (s. v. homagium 4);

1269 feodis que · · de nobis **tenuit in capite** per baronagium *Cl* 81 (s. v. baronagium b);

1276 **tenuit** de rege · · **in capite** duas baronias, scilicet lxxj feoda militum *Hund.* I 56 (s. v. baronia 1);

1279 **tenet** · · di' virg' terre de domino rege **in capite** per parvam cerjantiam *Hund.* II 329a (s. v. sergantia 1);

tenementorum quedam · · **tenentur in capite** de corona, quedam vero de rege per escaetam vel per perquisitum *Fleta* 5 (s. v. perquirere 8);

1295 **tenuit** de domino rege **in capite** · · medietatem serjantie pacis per servicium inveniendi decem servientes ad custodiendam pacem in comitatu Cestr', pro qua custodia percipere debet et solet triginta solidos ad scaccarium Cestr' pro mantellis dictorum decem serviencium *IPM* 71/12 m. 5 (s. v. sergantia 3);

1302 quociens archiepiscopatus, episcopatus, abbathia, que de eo [rege] **tenentur in capite**, vel alie domus, quarum terre in hac terra [sc. Hibernia] vocantur ab antiquo terre incroceate, vacaverint, statim tenementa · · domuum hujusmodi capi debent in manum ipsius domini regis, et illi ad quos spectat electio de futuro pastore etc. petere debent ab ipso domino rege licenciam eligendi *RParl* I 152b (s. v. incroceare);

1326 placea · · de nobis **tenetur in capite** per servicium reddendi nobis · · vj d. ad gabulagium *Pat* 165 m. 18 (*Scarborough*) (s. v. gabulagium);

1321 racione cujusdam magne serjantie quam de nobis **tenent in capite** *MGL* II 363 (s. v. sergantia 1);

s1310 viri ecclesiastici · · qui pro baroniis suis, quas de rege **tenebant in capite**, · · compensabant non modicum thesaurum *V. Ed.* II 164 (s. v. compensare 2);

1361 **tenuit** · · unum messuagium · · a domino rege **in capite** per magnam serjeanciam inveniendi unum hominem et custodiendi forestam *Ambrosden* II 130 (s. v. sergantia 1);

s1394 quod possemus acquirere · · tenementa [*in Canterbury*] · · tam ea que de ipso rege tenentur ut in libero burgagio quam ea que sunt de feodo abbacie aut alieno, exceptis eis que de rege **tenentur in capite** per servicium militare *THORNE* 2197 (s. v. burgagium);

1411 predictum manerium de nobis **tenetur in capite** per servicium portandi · · quoddam vexillum album versus Scociam in guerra *FineR* 216 m. 8 (s. v. 2 versus 2).

tenens in capite, someone holding in chief; the syntax with *de* suggests that these examples should be treated as participial rather than as the simple noun, tenant.

1282 in omnibus casibus in quibus prima seysina spectat ad dominum regem · · sicut post mortem **tenencium** de eo **in capite** *SelCKB* I 106 (s. v. saisina 1f);

1296 de omnibus · · tenentibus de vobis [sc. rege] in capite per cornagium in comitatibus Cumberl' et Westmerl' debetur vobis custodia et maritagium; verumptamen utrum de tenentibus de vobis per cornagium in comitatu Northumbr' debeat · · nondum invenimus *IPM* 71/12 r. 4 (s. v. 1 cornagium).

By way of coda, it may be observed that this search has brought to light two quotations that serve to illustrate a sense of the verb *tenere* that does not appear at all in the Dictionary, to wear, in these examples to wear on the head:

1347 in altera parte · · sigilli sculptus erat · · rex · · , tenens · · in capite elnum cum cimera (*Conventio*) *Foed.* V 569b (s. v. cymeria);

1366 non capucia sed almucia vel birreta tenentes in capite *Reg. Aberd.* II 4 (s. vv. almucia, birretum, caputium 2).