

appeal which it had had in the twelfth century, the great effort of papal propaganda of the late twelve-sixties had quite a substantial effect. The Crusade, however, got under way very slowly. Ottobuono left England in 1268; it was not until 1270 that the English contingent, led by the Lord Edward himself, set sail. In the same year St. Louis of France also set out on Crusade, to meet his death in Tunis before he ever reached the Holy Land. Louis' death severely weakened the Crusade, and Edward had to content himself with leading some raids on the Syrian coast, and helping in negotiations for peace with the Egyptian sultan, under which the coastal settlements round Acre and elsewhere were preserved until the sixteenth century. Late in 1272 Edward set out on his return journey, and had only reached Sicily when he received news that his father had died on 16th November 1272.

Edward's journey home was extraordinarily slow: it took him nearly two years to travel from Sicily to England, a space of time occupied in formal visits to the Pope and the King of France, in taking part in his last tournament, and in settling the affairs of Gascony. England, meanwhile, was securely held by his friends. Edward had been accepted as king by hereditary right and by the will of the magnates immediately on his father's death. But it was not until 19th August 1274 that he was crowned in his father's choir in Westminster Abbey.

E. ENGLAND UNDER EDWARD I, 1272–1307

in G. HOLMES, *THE LATER MIDDLE AGES, 1272–1485*
The Norton Library History of England (1962) 102–10

6. THE POLITICS OF ENGLAND UNDER THE THREE EDWARDS

(1) *Edward I and England to 1294*

WE HAVE seen something of Edward I's struggles with Wales and Scotland. It is now time to turn to the internal politics of the kingdom of England and to the wars with France, which imposed a much greater strain on royal resources than fighting in Britain and had therefore a more critical effect on the relations of the monarchy with its subjects at home. When Henry III died in November 1272 his son, Edward I was in Sicily on his way back from Syria. The last English king to go on Crusade was thirty-three years old and already a famous man in the European world. His early manhood had been passed in a time of adventurous politics which had given him the opportunity to establish a reputation as a successful soldier. He had saved his father's kingdom from the rebellion of Simon de Montfort, Earl of Leicester, in 1265. Then he had taken the Cross and led an army to Acre. Crusading projects remained alive and, after his conquest of Wales, Edward intended to lead an army again to the Holy Land. But enterprises nearer home claimed his attention. He never went to the East again but spent his long reign in Britain and France. Edward I did not repeat his more romantic father's mistake of allowing distant possibilities in the Mediterranean to divert his attention from the problems and opportunities of his own dominions. The persistent effort at expansion and defence on his own borders—in Wales, in Scotland, and in Gascony—is the first thing for which his reign is important.

Its second great importance lies in the remarkable development of institutions, and this, too, undoubtedly owed much to Edward's character. Medieval writings do not give us much insight in depth into the characters of kings, for they were represented as far as possible as embodiments of traditional virtues. In Edward I's case this may have been less misleading than usual. He was, outwardly at least, a magnificently successful conventional man. He was a great and active fighter from youth to death, 'erect as a palm, he maintained the lightness of youth in mounting a horse or running.' In politics he lived as expected of a king of his time, but much more effectively than most, for the utmost exaction of his rights. The man who expelled the Jews from England and Gascony to pay for the ransom of his ally, Charles of Salerno, by the forfeiture of their property,¹ was neither merciful nor particularly scrupulous in exacting his pound of flesh when he thought he had legal right on his side—as he did in his Welsh and Scots policies. 'By God's blood

¹ H. G. Richardson, *The English Jewry under Angevin Kings* (1960), pp.213ff.

Syon shall not silence me nor shall Jerusalem keep me from defending my right as long as I have strength of body and the breath of life,' he is reported to have said to Archbishop Winchelsea, who had brought him the Pope's unwelcome reproaches for his aggressions in Scotland; and this on the whole seems to have been his attitude throughout. At home, in the institutions of England, this led to two things. Firstly, a process of legal definition. Edward's quo warranto proceedings (inquiries to discover 'by what warrant' people other than the king held judicial powers) completed the long struggle in which the Crown claimed judicial supremacy. Because of this, among other reasons, no medieval king before or after him was more powerful in his kingdom. His statutes are the most remarkable body of legislation between Magna Carta and the time of Henry VIII. Secondly, as we have seen, Edward's reign was a decisive period in the development of taxation and parliament, settling some important features of the political constitution for a century.

Edward's reign before 1294 is divided sharply in character from the later years. In foreign affairs the first period saw successful war and diplomacy in Wales, France, and Scotland, when the king achieved his objects without overstraining his resources and therefore without arousing any violent opposition from his subjects. This part of his reign was also one of tranquil relations with the great magnates. Like his grandson, Edward III, eighty years later, Edward I had about him a group of young nobles who respected and shared his qualities. Besides those of the royal blood, his brother Edmund, Earl of Lancaster, and his cousin Edmund, Earl of Cornwall, were other young noblemen such as Henry de Lacy, Earl of Lincoln who took part enthusiastically in the King's wars. At home he was able to proceed without serious check in the consolidation of royal power, with the aid of his great Chancellor Robert Burnell, Bishop of Wells.

Soon after Edward returned to England in 1274, commissions were issued for a widespread inquiry into the lands and Judicial rights of the Crown all over England. This led to the Statute of Gloucester (1278) and other acts which laid down the procedures for claiming franchises, to other inquests to many cases of quo warranto, and finally to the Statute of Quo Warranto in 1290. The most striking exercise of judicial supremacy, perhaps, occurred in 1291, when the judges condemned the Earls of Gloucester and Hereford for fighting about a castle at Abergavenny and asserted that the King's prerogative could overrule even the custom of the March. At the same time Edward was asserting his rights in the dispute with Archbishop Pecham, which revived in a milder form the great quarrel with Becket over a century before. Apart from this firm and persistent emphasis on the royal authority, however, the first two decades of Edward's reign were quiet at home. The fighting was abroad.

(2) *Edward I and France*

Apart from Wales and Scotland, Edward's main field of conflict was in France. For centuries people have spoken of the Hundred Years' War between England and France, meaning the series of wars which lasted, with long intervals, from 1337 to 1453, in which the kings of England claimed, also intermittently, that they were the rightful kings of France. We shall see later that these wars really had little unity apart from the repeated claim to the throne. Nor were they a very new phenomenon. The Hundred Years' War was a phase in the long struggle between the kings of France and England which lasted for most of the Middle Ages from the time when the Duke of Normandy, a vassal of the King of France, became King of England in 1066. From that time until 1453 the kings of England always had a substantial foothold in France, which was a potential source of friction. An important stage in this struggle was passed in the Treaty of Paris in 1259: Henry III renounced his claims to the Duchy of Normandy and in return was confirmed, as Duke of Aquitaine, in his extensive possessions in the south-west of France, around the towns of Bordeaux, Bayonne, Limoges, and Cahors, but as a vassal of the King of France. The legacy of this status and relationship, descending to Edward I, caused his bitter quarrels with France.

In the first half of his reign Edward spent two periods in Gascony. The first was in 1273 and 1274, when he lingered there on his way home to be crowned, established himself, and dealt with some unruly vassals. The second was from 1286 to 1289, when he crossed the Channel to do homage to Philip the Fair of France (Philip IV, 1285–1314) and stayed three years, mostly in Gascony, dealing with his own rights there, with the quarrel between France and Aragon, and with the plans for a new Crusade which he always kept alive until the problem of Scotland absorbed all his energies.

Until 1293 Edward's relations with Philip the Fair were good. Up to this time the story of his reign had been one of solid success; consolidation of his place in England and Gascony, conquest of Wales, acceptance of the overlordship of Scotland. The next few years saw a widening of his ambitions beyond his powers and a consequent nemesis. France played a most important part in this change. The immediate cause of the trouble that flared up in 1293 was a dispute between English and Gascon pirates; behind it was the determination of Philip the Fair to make good his overlordship in Gascony, ironically parallel to Edward's claims over Scotland. Edward refused to answer a summons to appear in court at Paris and Philip used this as an excuse to take over Gascony at the beginning of 1294. A war with France was, of course, a very different matter from a war in Wales or Scotland. It involved an enemy equal or greater in wealth, expensive invasions overseas, and, as Edward's plans developed, European alliances, not unlike a smaller version of England's efforts in later centuries against Louis XIV and Napoleon. For some years after 1294 this effort absorbed the greater part of Edward's resources, but was always fatally hindered by frustrations nearer home. The large expeditions which were quickly planned in 1294 came mostly to nothing because the Welsh rising of the next year demanded instant action. In 1296 it was the rising in Scotland that stopped Edward crossing the Channel. In 1297 he was greatly hindered, as we shall see, by opposition in England itself, and it was not until August of that year that he actually left the country.

Although there were modest and unsuccessful expeditions to Gascony in 1294 and 1296, the main attack was put off repeatedly for three years. In the meantime great efforts had been made to build up a big English army and a ring of allies. Wool exports were heavily taxed and wool sometimes seized between 1294 and 1297. The clergy and the laity were taxed directly. Alliances were made with Philip's enemies on the Continent, the Count of Flanders, the Duke of Brabant, and Adolf of Nassau, King of Germany. Edward planned a great assault on France through Gascony, through Flanders, and through the Rhineland at the same time. Without the long delays in Wales and Scotland something might have come of the great design, but, as it turned out, the whole plan miscarried. By 1297 Adolf of Nassau had come to terms with Philip the Fair and Philip was successfully invading Flanders as well as Gascony. The English nobility refused to go to Gascony, the country was resisting taxation more and more strongly, and the money which had been collected was largely frittered away before its main purpose was reached. Edward eventually took an army to Flanders in August 1297 but its career ended ingloriously in a truce with Philip in October. At the beginning of the next year, 1298, Edward was compelled by the dangers of opposition in England and Scotland to return home. There followed five years of negotiation, partly through the Pope, which ended in peace in 1303, with a return to the status quo in Gascony, a marriage between Edward and Philip's sister Margaret, and another between the Prince of Wales and Philip's daughter, Isabella, which was to provide a new reason for war in the reign of Edward III

(3) *Edward I and England, 1294-1307*

The immense efforts and frustrations of Edward's campaigns in Scotland and France are the essential background to the troubled politics of his last years at home. Several times during the Middle Ages the strain of a great war in France produced a crisis in politics at home. As King John's duel with Philip Augustus had been in part the explanation of the events leading to Magna Carta in 1215, so Edward's duel with Philip the Fair went far towards humbling him before his subjects in 1297. The war and diplomacy carried on simultaneously in Scotland and on the Continent were on a scale greater than anything attempted by his predecessors. The pressure of war acted like a hothouse in developing the new kinds of taxation and the institution of parliament very quickly in a few years. It also became clear that the King was attempting too much for his resources, and his demands provoked an opposition which endeavoured to set some limits to his power. The later part of the reign is therefore a dramatic and important period in the domestic history of England.

During the years 1294-7 Edward used every method available to him to raise money, and used them all more extensively than ever before. Merchants were subjected to the maltote, a heavy duty on the export of wool, which seems to have been resented more by other people than by the merchants themselves, because it reduced the prices paid for wool to the owners of sheep. The knights and burgesses granted taxes in

parliament in 1294, 1295, and 1296. The great parliament of 1295 included also the clergy, who eventually granted a tenth, though already in 1294 they had been forced to pay a tax of unprecedented heaviness, a half of spiritual revenues, in addition to the sums collected for Crusade in previous years, which had mostly passed into the King's hands. At the beginning of 1297 the opposition stiffened on two fronts: the Church, with papal support, took a more definite stand, and the good will of the magnates, broken by the King's assertive demands, turned for the first time in the reign to positive rebellion. The new Archbishop of Canterbury, Robert Winchelsey, who arrived in England from Italy in 1295, was an unyielding upholder of the independence of the Church. When Pope Boniface VIII issued, in 1296, the bull *Clericis Laicos*, forbidding kings to tax the clergy without papal consent, Winchelsey refused to yield to Edward by sanctioning taxation until the Pope modified his prohibition in the middle of 1297. The assembly of the army to invade France at the beginning of 1297 provoked resistance, partly because the King was trying to extend the duty of military service to all men with more than £20 annual income from land, partly because of objections by two leading magnates, Roger Bigod, Earl of Norfolk, and Humphrey de Bohun, Earl of Hereford, who led an opposition which refused to go to Gascony if the King himself was going to Flanders. In the summer Edward tried to raise another tax from the laity without proper consent from a full assembly of knights and burgesses. The earls forbade its collection. When Edward did at last sail in August, it was with the country half in revolt behind him. Then to crown it all came Wallace's dangerous rising in Scotland.

The King's opponents had a traditional weapon to hand in the two Charters—Magna Carta and the Charter of the Forest—originally extracted from King John and Henry III in 1215 and 1217 and acknowledged thereafter as expressing the fundamental limitations on royal power. In the political crisis these documents came to the fore again and for several years became the centre of political debate. In the King's absence the Regent was driven in October 1297 to grant the 'Confirmation of the Charters' (*Confirmatio Cartarum*), which added an important statement of principle to the original documents: no taxation should be levied by the king without the consent of the whole 'community of the realm'. This appeased the opposition but the crisis of 1297 did not end in real agreement. The political atmosphere of the remaining ten years of the reign is one of suspicion on the part of the magnates and repeated attempts to curb the royal prerogative, which had seemed more oppressive since 1294. On the King's side there was an equally stubborn insistence on his prerogative as he interpreted it. The criticism of taxation was extended to the administration of royal forests (areas originally of hunting country, subject to special forest courts, which could be oppressive to the local inhabitants). After a further ceremonial confirmation of Magna Carta and the Charter of the Forest in 1299, the parliament of 1300 extracted from Edward twenty new 'Articles on the Charters' (*Articuli super Cartas*). These laid down restrictions on the rights of purveyance by royal officials, insisted that actions at common law should be initiated by letters under the great seal and not the king's privy seal, and ordered an investigation into forest rights. Though the magnates loyally upheld Edward's claims in Scotland, against papal intervention, at the Parliament of Lincoln in 1301, they once again insisted anxiously on the Charters, the basis of their liberties, and unsuccessfully demanded the removal of his extortionate Treasurer, Walter Langton, Bishop of Lichfield.

Their fears were justified for, as Edward recovered his hold on affairs in his last years, he became more grasping. In 1302 the Earl of Norfolk surrendered his lands to the King to receive them back only for life, and the Earl of Hereford's heir was married to one of Edward's daughters with the stipulation that his lands too should revert to the King if he had no children. In 1303 Edward made the *Carta Mercatoria*, a new agreement on heavy wool taxation with the foreign merchants, which was a clear violation of the Confirmation of the Charters. In 1306 he revenged himself on his most inflexible opponent, Archbishop Winchelsey, who had resisted him over the taxation of 1297, over the claims to Scotland, and over the Confirmation of the Charters in 1301. Winchelsey was a man of the firmest principle and a man of the European Church, one who refused to compromise with his conscience in matters of the Church's independence and the pope's authority, the last in the tradition of Becket, Langton, and Pecham, and very different from some of the accommodating primates from the royal household in later years. The ground was cut from under his feet when a Gascon bishop willing to be pliable to Edward was elected as Pope Clement

V in 1305, and in the next year was persuaded to release the King from his confirmation of the Charters and to suspend the Archbishop. His exile, however, did not last long. Edward died little more than a year later. In some ways he was the greatest of medieval English kings, a commanding character at the time when the medieval monarchy reached the height of its power in Britain both in territorial conquest and in the comprehensiveness of its government. But though his grim abilities coincided with an auspicious age in the history of monarchy, Edward's ambitions in Scotland and France, surpassing even his capacities, made him ultimately an overreacher.

F. BRACTON ON KINGSHIP¹

BRACTON, DE LEGIBUS ANGLIE, fols. 7a, 34a-34b, 55b-56a, 107a-107b, 171b
in *Bracton on the Laws and Customs of England* II:33, 109-10, 166-67, 304-6; III:42-3
(S. Thorne trans., Cambridge, 1968-1977) [footnotes renumbered and placed below the text]

The king has no equal.

[fol. 7a, Thorne ed., p. 2:33]¹ The king has no equal within his realm, [Subjects cannot be the equals of the ruler² because he would thereby lose his rule, since equal can have no authority over equal.]³ nor *a fortiori* a superior,⁴ because he would then be subject to those subjected to him. The king must not be under man but under God and under the law, because law makes the king,⁵ [Let him therefore bestow upon the law what the law bestows upon him,⁶ namely, rule and power.] for there is no *rex* where will rules rather than *lex*. Since he is the vicar of God,⁷ [And that he ought to be under the law appears clearly in the analogy of Jesus Christ, whose vicegerent on earth he is,⁸ for though many ways were open to Him for his ineffable redemption of the human race, the true mercy of God chose this most powerful way to destroy the devil's work, he would use not the power of force but the reason of justice.⁹ Thus he willed himself to be ¹⁰under the law that he might redeem those who live under it.¹¹ For He did not wish to use force but judgment. And in that same way the Blessed Mother of God, the Virgin Mary, Mother of our Lord, who by an extraordinary privilege¹² was above law, nevertheless, in order to show an example of humility, did not refuse to be subjected to established laws. Let the king, therefore, do the same, lest his power remain unbridled.]¹³ there ought to be no one in his kingdom¹⁴ who surpasses him in the doing of justice, but he ought to be the last, or almost so, to receive it, when he is plaintiff.¹⁵ If it is asked of him, since no writ runs against him there will [only]¹⁶ be opportunity for a petition, that he correct and amend his act; if he does not, it is punishment enough for him that he await God's vengeance.¹⁷ No one may presume to question his acts, much less contravene them.¹⁸

¹*Supra* i, 117-19 (full collation); F. Schulz in *E.H.R.*, lx, 143-4, 172-3; in *L'Europa e il diritto romano: Studi in memoria Paolo Koschaker*, i, 23 ²'inferiores . . . potentiori (for 'potentioribus')' from line 8: D.4.7.3.pr.: 'potentiori pares non possumus'; Drogheda, 13, 43; cf. Schulz, 172 ³Drogheda, 310; Schulz, 138 (11); *infra* iv, 156 ⁴Glanvill, vii, 10: 'Quia dominus rex nullum potest habere parem, multo minus superiorem'; *infra* 157, 253, 305, iv, 159, 281, *B.N.B.*, no. 1108 ⁵*Infra* 110, 308; Cortese, i, 152-4, ii, 223-5 ⁶*Azo Summa Cod.* 1.14, no. 16, as *infra* 306 ⁷*Supra* 20, *infra* 166, 305 ⁸⁻⁹Leo Magnus, in *P.L.*, liv. col. 196: 'Verax namque misericordia Dei, cum ad reparandum humanum genus ineffabiliter ei multa suppetent, hanc potissimum consulendi viam elegit, qua ad destruendum opus diaboli non virtute uteretur potentiae sed ratione iustitiae.' I owe this identification to Peter Kelly, S.J. ¹⁰⁻¹¹Epist. ad Galatas, 4:5: 'sub lege, ut eos qui sub lege erant redimeret.' ¹²'privilegio' ¹³*Infra* 110, 305 ¹⁴'regno' ¹⁵'in iustitia exhibenda,' 'in iustitia suscipienda,' as *infra* 305 ¹⁶'tantum,' as *infra* iii, 43 ¹⁷But see *infra* 110, iii, 43, iv, 159 ¹⁸The two supplementary paragraphs which once followed here now appear *infra* 109, n. 18 to 110, n. 15

That the justices must not question royal charters nor pass upon them.

[fol. 34a-34b, Thorne ed., p. 2:109-10]¹ Private persons cannot question the acts of kings,² nor ought the justices to discuss the meaning of royal charters: not even if a doubt arises in them may they resolve it; even as to ambiguities and uncertainties, as where³ a phrase is open to two meanings, the interpretation and

¹ Passages that Thorne identifies as later additions to the base text are marked with italic square brackets (*[]*); passages that had already been identified as *additiones* are marked in angle brackets (< >); words or phrases that Thorne added to the translation to make it make better sense are marked with roman square brackets ([]). Thorne's notes explain his markings, reference parallel passages in the text (by page numbers), identify sources of the text, and reference modern literature. The Latin and English text of *Bracton*, with the Thorne markings identified in color, may be found at <http://amesfoundation.law.harvard.edu/Bracton/>.