

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, ⁸for 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/>.

pleasure of the lord king must be awaited, since it is for him who establishes to explain his deed.⁴ And even if the document is completely false, because of an erasure or because the seal affixed is a forgery, it is better and safer that the case proceed before the king himself.

[*The so-called "Addition about Charters"*]

⁵<No one may pass upon the king's act [or his charter] so as to nullify it,⁶ but one may say that the king has committed an *injuria*,⁷ and thus charge him with amending it,⁸ lest he [and the justices]⁹ fall into the judgment of the living God because of it. The king has a superior, namely, God.¹⁰ Also the law by which he is made king.¹¹ Also his *curia*, namely, the earls and barons,¹² because if he is without bridle, that is without law, they ought to put the bridle on him. [That is why the earls are called the partners, so to speak, of the king;¹³ he who has a partner has a master.]¹⁴ When¹⁵ even they, like the king, are without bridle, then will the subjects cry out and say 'Lord Jesus, bind fast their jaws in rein and bridle.'¹⁶ To whom the Lord [will answer], 'I shall call down upon them a fierce nation and unknown, strangers from afar, whose tongue they shall not understand,¹⁷ who shall destroy them and pluck out their roots from the earth.'¹⁸ By such they shall be judged because they will not judge their subjects justly, and in the end, bound hand and foot, He shall send them into the fiery furnace and into outer darkness, where there will be wailing and gnashing of teeth.>¹⁹

¹*Supra* i, 131-2 (full collation). This portion including the *addicio* following detached from *supra* 33, n. 19. Its new place required recasting to give prominence to charters rather than acts. E. Kantorowicz, 158 n.; Lewis in *Speculum*, xxxix, 257 n., 262 n.
²*Supra* 33, *infra* 169, iv, 159 ³'ut si' ⁴Drogheda, 132: 'cum eius sit interpretari cuius fuit condere,' 342, 355; not D. 46.5.9; *infra* 302 ⁵*Supra* i, 124-5 (full collation), 332, 378; Schulz in *E.H.R.*, lx, 144-5, 173-5; *supra* 33, n. 19, 109, n. 18 ⁶*Supra* 21
⁷'iniuriam' for 'iustitiam'; *om*: 'et bene . . . quod male,' made necessary by the misreading; Schulz, 173 ⁸*Supra* 33, *infra* 169, iii, 43, iv, 159 ⁹*Infra* iv, 150: 'si iustitiariis suis necessitatem imponat rex quod iudicium reddant' ¹⁰*Supra* 33, *infra* 157, iii, 43, iv, 159 ¹¹*Supra* 33, *infra* 306 ¹²*Infra* iii, 43; Richardson in *T.R.H.S.* (4th ser.) xxviii, 22, *Bracton: the problem of his text*, 31-5
¹³*Supra* 32 ¹⁴'Ideo dicuntur comites quasi . . . magistrum'; cf. Tierney in *Speculum*, xxxviii, 314 [See now Blecker, in *Studi Senesi* xcvi, 66-118. CD] ¹⁵'Ubi'; cf. Schulz, 174-5 ¹⁶Ps. 31:9 ¹⁷Jerem. 5:15 ¹⁸Ezech. 17:9 ¹⁹Matth. 22:13, 13:42; *supra* 22

Of liberties and who may grant liberties and which belong to the king.

[fol. 55b-56a, Thorne ed., p. 2:166-7] We have explained above how rights and incorporeal things are transferred and *quasi*-transferred, how they are possessed or *quasi*-possessed, and how retained by actual use. Now we must turn to liberties [and see] who can grant liberties, and to whom, and how they are transferred, how possessed or *quasi*-possessed, and how they are retained by use. Who then? It is clear that the lord king [has all] dignities, ¹[It is the lord king] himself who has ordinary jurisdiction and power over all who are within his realm.² For he has in his hand all the rights³ belonging to the crown and the secular power and the material sword pertaining to the governance of the realm. Also justice and judgment [and everything] connected with jurisdiction, that, as minister and vicar of God,⁴ he may render to each his due. Also everything connected with the peace, that the people entrusted to his care may live in quiet and repose, that none beat, wound or mistreat⁵ another, [or] steal,⁶ take and carry off by force and robbery another's property, or maim or kill anyone. Also coercion, that he may punish and compel wrongdoers,⁷ ⁸[He in whose power it is to cause⁹ the laws, customs,¹⁰ and assizes provided, approved and sworn in his realm to be observed by his people, ought himself to observe them¹¹ in his own person.] for it is useless to establish laws unless there is someone to enforce them.¹² ¹³rights or jurisdictions in his hand. He also has, in preference to all others in his realm, privileges by virtue of the *jus gentium*. [By the *jus gentium*] things are his which by the *jus naturale* ought to be the property of the finder, as treasure trove,¹⁴ wreck, great fish, sturgeon, waif, things said to belong to no one.¹⁵ Also by virtue of the *jus gentium* [things] which by natural law ought to be common to all, as wild beasts and undomesticated birds, which by natural law ought to be acquired¹⁶ by apprehension and capture or fowling, [or] by occupation and apprehension, [as] of another's property, as where a thing is cast away and taken to be abandoned.¹⁷ Those concerned with jurisdiction and the peace [Those connected with justice and the peace belong to no one save the crown alone and the royal dignity, nor can they be separated from the crown, since they constitute the crown [For to do justice, [give] judgment and preserve the peace is the crown.] ¹⁸without which it can neither subsist nor endure.¹⁹ ²⁰cannot be transferred to persons or tenements, neither the right nor the exercise of the right,²¹ nor be possessed by a private person unless²² it was given him from above as a delegated jurisdiction, nor can it be delegated

without ordinary jurisdiction remaining with the king himself. Those called privileges, however, though they belong to the crown, may nevertheless be separated from it and transferred to private persons, but only by special grace of the king himself;²³ if his grace and special grant do not appear time does not bar the king from his action. Time does not run against him here since there is no need for proof.²⁴ For it ought to be apparent to all that such things belong to the crown unless the contrary can be shown by a special grant.²⁵ In other matters, however,²⁶ where proof is needed, time runs against him just as against all others.²⁷

¹McIlwain, *Constitutionalism Ancient and Modern*, 77; Schulz in *E.H.R.*, lx, 143, 172. This portion belongs *infra* 304, at n. 12
²*Infra* iv, 281, 298 'omnes' ³E. Kantorowicz, 153 ⁴*Supra* 20, *infra* 305, 412 ⁵'tractet' for 'contractet', as *infra* 171; 'verberaverunt et male tractaverunt'; 296, 325: 'verberaverit, vulnaverit et male tractaverit', 439, iii, 21 ⁶'ne quis rem alienam contractet,' as *infra* 425 ⁷*Supra* 21, *infra* 304; 'coerceat,' as V and Fleta, i, ca. 17; 'coercet,' CE, LA, MB, MG, OA, OB, OC
⁸Belongs *infra* 306, at n. 5 ⁹'faciat'; 'Ille qui habet' ¹⁰'consuetudines,' as Fleta; customs are 'approbatas,' *supra* 22 ¹¹'eas' for 'sua' ¹²*Supra* 23, *infra* 305; Drogheda, 36 ¹³Reading: 'rex habet [omnes] dignitates, iura sive'; *om*: 'Habet . . . huiusmodi,' a connective ¹⁴*Supra* 41, 47, *infra* 339 ¹⁵*Supra* 42, 58, *infra* 293, 339 ¹⁶'adquiri'; 'communia' has erroneously been twice copied ¹⁷*Supra* 41, 42, *infra* 339 ¹⁸*Om*: 'et' ¹⁹*Supra* 58, *infra* 305; D. W. Sutherland, *Quo warranto*, 13, 103-4 ²⁰*Om*: 'Huiusmodi . . . iurisdictiones,' a connective ²¹'neque ius neque' ²²'neque . . . possideri nisi hoc' ²³*Supra* 58, *infra* 339
²⁴*Supra* 58, *infra* 293; E. Kantorowicz, 168 ²⁵Sutherland, 14 ²⁶'vero' ²⁷*Supra* 58

Of the judge's power.

[fol. 107a-107b, Thorne ed. p. 304-6] The judge, that his judgments may be valid, must have jurisdiction, ordinary or delegated. Nor does it suffice to have jurisdiction unless he has the power of coercion;¹ could he not ensure the execution of his judgment, his judgments would be illusory.² Nor does a judge ordinary have jurisdiction and execution in every case,

Of the division of jurisdiction; of the church and the realm.

³[There are spiritual causes, in which a lay judge has neither cognisance nor (since he has no power of coercion) execution, cognisance of which belongs to ecclesiastical judges who govern and defend the priesthood, and secular causes, jurisdiction over which belongs to kings and princes who defend the realm, with which ecclesiastical judges must not meddle.] since their rights or jurisdictions are limited and separate, except when sword ought to aid sword,⁴ for there is a great difference between the clerical estate and the realm.⁵

Of the regulation of jurisdictions in the realm (as to the ecclesiastical estate nothing for the present).

Since nothing relating to the clerical estate is relevant to this treatise, we therefore must see who, in matters pertaining to the realm, [has ordinary jurisdiction,⁶ and then who] ought to act as judge. It is clear that it is the king himself and no other, could he do so unaided, for to that he is held bound by virtue of his oath. For at his coronation the king must swear, having taken an oath in the name of Jesus Christ, these three promises to the people subject to him.

Of the oath the king must swear at his coronation.

⁷In the first place, that to the utmost of his power he will employ his might to secure and will enjoin that true peace shall be maintained for the church of God and all Christian people throughout his reign. Secondly, that he will forbid rapacity to his subjects of all degrees. Thirdly, that he will cause all judgments to be given with equity and mercy, so that he may himself be shown the mercy of a clement and merciful God,⁸ in order that by his justice all men may enjoy unbroken peace.

For what purpose a king is created; of ordinary jurisdiction.

⁹To this end is a king made and chosen, that he do justice to all men [that the Lord may dwell in him, and he by His judgments may separate]¹⁰ and sustain and uphold what he has rightly adjudged, for if there were no one to do justice peace might easily be driven away and it would be to no purpose to establish laws (and do justice) were there no one to enforce them. The king, since he is the vicar of God on earth, must distinguish *jus* from *injuria*,¹¹ equity from iniquity,¹² that all his subjects may live uprightly, none injure another, and by a just award each be restored to that which is his own.¹³ He must surpass in power all those

subjected to him, [He ought to have no peer, much less a superior,¹⁴ especially in the doing of justice,¹⁵ that it may truly be said of him, 'Great is our lord and great is his virtue etc.,'¹⁶ though in suing for justice he ought not to rank above the lowliest in his kingdom.]¹⁷ nevertheless, since the heart of a king ought to be in the hand of God,¹⁸ let him, that he be not unbridled, put on the bridle of temperance and the reins of moderation, lest being unbridled, he be drawn toward injustice. For the king, since he is the minister and vicar of God on earth, can do nothing save what he can do *de jure*,¹⁹ [despite the statement that the will of the prince has the force of law,²⁰ because there follows at the end of the *lex* the words 'since by the *lex regia*, which was made with respect to his sovereignty'; nor is that anything rashly put forward of his own will,²¹ but what has been rightly decided with the counsel of his magnates, deliberation and consultation having been had thereon, the king giving it *auctoritas*.] His power is that of *jus*, not *injuria*²² [and since it is he from whom *jus* proceeds,²³ from the source whence *jus* takes its origin no instance of *injuria* ought to arise,²⁴ and also, what one is bound by virtue of his office to forbid to others, he ought not to do himself.]²⁵ ²⁶as vicar and minister of God on earth, for that power only²⁷ is from God, [the power of *injuria* however, is from the devil, not from God, and the king will be the minister of him whose work he performs,] whose work he performs.²⁸ Therefore as long as he does justice he is the vicar of the Eternal King, but the devil's minister when he deviates into injustice,²⁹ For he is called *rex* not from reigning but from ruling well, since he is a king as long as he rules well³⁰ but a tyrant when he oppresses by violent domination the people entrusted to his care.³¹ Let him, therefore, temper his power by law, which is the bridle of power,³² that he may live according to the laws, for³³ the law of mankind has decreed that his own laws bind the lawgiver,³⁴ and elsewhere in the same source, it is a saying worthy of the majesty of a ruler that the prince acknowledge himself bound by the laws.³⁵ Nothing is more fitting for a sovereign than to live by the laws,³⁶ nor is there any greater sovereignty than to govern according to law,³⁷ and he ought properly to yield to the law what the law has bestowed upon him,³⁸ for the law makes him king.³⁹ And since it is not only⁴⁰ necessary that the king be armed with weapons and laws but [with wisdom],⁴¹ let the king learn wisdom that⁴² he may maintain justice, and God will grant wisdom to him,⁴³ and when he has found it he will be blessed if he holds to it,⁴⁴ ⁴⁵for there is honour and glory in the speech of the wise and the tongue of the imprudent is its own overthrow;⁴⁶ ⁴⁷the government of the wise man is stable, and the wise king will judge his people, but if he lacks wisdom he will destroy them,⁴⁸ for from a corrupt head corruption descends to the members, and if understanding and virtue do not flourish in the head it follows that the other members cannot perform their functions.⁴⁹ A king ought not only to be wise but merciful, his justice tempered with wisdom and mercy. Yet though there is greater safety in having to render a final account for mercy rather than judgment,⁵⁰ it is safest that [a judge's] ⁵¹eyes precede his steps,⁵² that judgment not become uncertain through unconsidered discretion nor mercy debased by indiscriminate application, for mercy is indeed unjust when it is extended to the incorrigible.⁵³ Nor does the grace of our august liberality extend to those who, having been pardoned an earlier offence, take it to be approved by custom rather than deserving of punishment.⁵⁴ And when a judge is indulgent to the unworthy, does he not expose all to the infection of regression?⁵⁵ Let him therefore be merciful to the unworthy in this way, as always to feel compassion for the man. And let him not in judgment show mercy to the poor man,⁵⁶ that is, the mercy of remission, though to him there ought to be shown, as to all men, the mercy of compassion. And to whom and in what fashion a judge⁵⁷ should be merciful, the merits or demerits of persons shall instruct him.

³ *Infra* iii, 46, 121, 123, iv, 63; Tancred, 97; Richardson in *Traditio*, vi, 69-70 ³ Drogheda, 112, 115, 137, 165 ⁴ *Infra* 383, iv, 278, 327, 375 ³ Br. and Azo, 198-9 ⁴ *Infra* 383, iv, 278, 327, 375 ⁵ *Infra* iv, 248, 281, 298 ⁶ The portion *supra* 166, n. 2 belongs here; a portion belonging et 306, n. 5, has been transferred with it; see also 306, n. 24 ⁷⁻⁸ Coronation oath, third recension: Richardson in *Speculum*, xxiv, 44; Hoyt in *Traditio*, xi, 238, 251 ⁹ Schulz in *E.H.R.*, lx, 137-43; Richardson in *Traditio*, vi, 76 ff. E. Kantorowicz, 143 ff.; Lewis in *Speculum*, xxxix, 253 ff. ¹⁰ Belongs *infra* n. [9]; 'ipse per' ¹¹ *Supra* n. [8] ¹² D.1.1.1.1; 'aequum,' as D., *infra* iii, 52 ¹³ Inst. 1.1.3; D.1.1.10.1; *supra* 166 ¹⁴ Glanvill, vii, 10; *supra* 33, 157, *infra* 253, iv, 159, 281 ¹⁵ *Supra* 33 ¹⁶ Ps. 146:5 ¹⁷ Om: et licet . . . praecellat,' a connective ¹⁸ Prov. 21:1; C.1.1.8.3; *supra* 20 ¹⁹ Cf. E. Kantorowicz, 155 ²⁰ Inst. 1.2.6; D.1.4.1.pr.; *supra* 19. Cf. Schulz, 171, Richardson, 76, but 77 n. 11, E. Kantorowicz, 152 ²¹ Inst. 1.2.6, gl. v. 'placuit,' 'non omnis vox iudicis est sententia, et sic nec omnis vox principis est lex.' ²² *Infra* iii, 184: 'Est enim ius et eius contrarium iniuria' ²³⁻²⁴ C.8.4.6.pr.; cf. E. Kantorowicz, 155 ²⁵ D.8.5.15: 'quod alium facientem prohibere ex officio necesse habuit, id ipse committere non debuit'; 'quod,' 'ipse,' as D; *infra* iv, 244 ²⁶ Om: 'Exercere . . . iuris,' a connective ²⁷ 'sola' for 'solius' ²⁸ Cf. Schulz, 140, 171; Richardson, *Bracton*, 29 ²⁹⁻³⁰ Leges Angl. 11, 1 B 7: Liebermann, i. 637 ³¹ *Policraticus*, viii, 17 (777d) ³² *Supra* 33, 110 ³³ 'quia,' as Schulz, 171 ³⁴ D.2.2; 2.2.1; Schulz, 141, 166 ³⁵ C.1.14.4; Azo, *Summa Inst.* proe.

Azonis, no. 1 ³⁶C.6.23.3 ³⁷C.1.14.4; E. Kantorowicz, 104 ³⁸Azo, *Summa Cod.* 1.14, no. 16; *supra* 33 ³⁹*Supra* 33, 110
⁴⁰'solum,' as Schulz, 141, 172; Kantorowicz, 44-6 ⁴¹*Supra* 21 ⁴²'ut,' as Fleta, i, ca. 17 ⁴³⁻⁴⁴Prov. 3:13; 3:18 ⁴⁵⁻⁴⁶Eccl. 5:15
⁴⁷⁻⁴⁸Eccl. 10:1; 10:3; *Policraticus*, v. 11 (567d), v. 7 (554b) ⁴⁹New paragraph ⁵⁰C. 26, qu. 7, c. 12: 'nonne melius est propter
 misericordiam rationem dare quam propter crudelitatem?' ⁵¹⁻⁵²Prov. 4:25 ⁵³⁻⁵⁴C.1.4.3.4 ⁵⁵C. 23, qu. 4, c. 33: 'Nonne cum uni
 indulget indigno, ad prolapsionis contagium provocat universos?' ⁵⁶*Ibid.*, c. 44; Exod. 23:3 ⁵⁷Not the king, as Schulz, 172.

Against whom the assise [of novel disseisin] lies and in what ways one falls into the assise . . .

[fol. 171b, Thorne ed. p. 3:42-3] Among other things we must see who it is that ejects, a prince by virtue of his power or another in his name, or a judge who has decided improperly, or a private person. If it is the prince or king or another who has no superior except God,¹ the remedy by assise will not lie against him; there will only be opportunity for a petition, that he correct and amend his act.² If he fails so to do, let it suffice him for punishment that he await God the Avenger, who says, 'Vengeance is mine and I will repay,'³ unless one says that the *universitas regni* and his baronage may and ought to do this in the king's own court.⁴ But if another is in seisin by the act and disseisin of the prince, immediately or after a time, though he falls into the assise and is subject to a penalty, or only to restitution according as seisin has come to him at once or after a time, he nevertheless may not be sued by the assise without the prince, because, though in one sense he has committed the disseisin, he has not done so alone but with another, that is, with the prince, and thus cannot answer without him.⁵ The assise, therefore, does not proceed. But indirectly and, so to speak, incidentally, even without writ, the person of the prince may be brought in, to the extent that he amend his deed, or the *injuria* will clearly fall upon him. For example, suppose that the assise is brought only against him to whom the thing was transferred, who is bound both to restitution and a penalty, or at least to restitution, and he replies that he ought not to answer without the prince because the prince, by himself or by his people, committed the *injuria*, [or] both together did; from then on the act and the *injuria* will be on the head of the lord king, who ought to be called the warrantor, so to speak, of the act, and from then on he can if he wishes amend his act, compelled, so to speak by the law, which, since he is subject to it, he ought faithfully to observe.⁶ ⁷<If a bailiff or servant committed the disseisin in the name of the king, the assise must be taken, but must not proceed to judgment until the king's will is ascertained.>⁸

¹ *Supra* ii, 110 ² *Supra* ii, 33 ³ *Supra* ii, 21; G. Post in *Proceed. Third Int. Congress of Medieval Canon Law*, 113; W. C. Jordan in *L.Q.R.*, lxxxviii, 25 ⁴ *Supra* ii, 110; *B.N.B.*, no. 857 ⁵ *Infra* 118 ⁶ *Supra* ii, 166; Tierney in *Speculum*, xxxviii, 316
⁷ *Supra* i, 393 ⁸ *Supra* 35, *infra* 139