

Banishment in Medieval English Political History

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The only form of banishment to receive formal recognition in medieval English common law was the process called abjuring the realm. This originated as a way to dispose of suspected criminals who had fled to the sanctuary of a church. The criminal was given forty days in which to choose between coming out and standing trial, or confessing his crime and abjuring the realm. If he chose the latter, he took a solemn oath to leave the country and never return. He was required to depart within forty days, barefoot, dressed as a penitent and carrying a wooden cross. Death was the penalty for straying from the path or returning to England.¹

Abjuration was sometimes used in other circumstances. Under Henry II's Assize of Clarendon, ordinary criminals accused of notorious wrongdoing were required to abjure the realm if they successfully completed their ordeal (they faced mutilation and abjuration if they failed).

Despite some variations, abjuration usually involved three characteristics. First, it was usually viewed as a merciful substitute for capital punishment. Second, it was often employed when the criminal could make some claim to special treatment, such as the protection of the sanctuary of a church or a successful trial by ordeal, as a guarantee against more severe punishment. Third, an oath to leave the country and never return was required.

In addition to this recognized form of banishment, there were also numerous cases in which the king sent men into exile under different conditions. Many of these irregular banishments are more closely related to political history than to legal history, and represent the exercise of royal prerogative rather than the application of the common law. The purpose of this paper is to examine the changing uses to which such political banishment

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was put and the various forms it assumed. The basic pattern that emerges reveals a gradual development from an essentially informal, extra-legal use of banishment toward a situation in which banishment would become recognized as a regular feature of English politics. This recognition was never quite achieved, and after 1327 banishment faded in importance as a tool in English political life. Two factors seem especially significant in describing these changes. The first is the degree to which banishment was freed from the conditions and formulas of abjuration. The second is the increasing tendency for banishment to be imposed by regular judicial proceedings rather than by simple royal prerogative.

I

The Anglo-Saxon Period: Ambiguity

Banishment was the prescribed punishment for some offenses in the later Anglo-Saxon law codes. There are also frequent references in the chronicles to what may have been political banishments of the kind being considered in this study. Usually, however, the information available is too sparse to be certain that the individuals were not simply forced to flee from their enemies. References in the Anglo-Saxon Chronicles that seem at first sight to suggest the banishment of princes and nobles often prove to be hopelessly ambiguous. "The exile Ealdberht," for example, seems to have fled from his kingdom. The same Anglo-Saxon term may be used to indicate the expulsion of either a political opponent or a Viking army.² Speaking of the best-known banishment of a religious figure in Anglo-Saxon times, a recent biographer of St. Dunstan concluded that there is no way of knowing whether his departure from England in 956 was the result of a sentence of banishment or an escape from a hostile ruler.³ The expulsion of Earl Godwin in 1051 is probably the most fully described example of banishment from the Anglo-Saxon period, and the reports of it are directly contradictory. The *Laud Chronicle of Peterborough* indicates that Godwin and his sons were given five days in which to leave the country, clearly implying a formal royal banishment. The *Worcester Chronicle*, in contrast, reports that Godwin refused to appear before the king, fled by night, and was

outlawed.⁴ The evidence is simply too ambiguous to determine whether the Anglo-Saxon rulers made regular use of sentences of banishment as a political tool.

II

The Anglo-Norman Period: Banishment by Compromise

Several times during the unsuccessful baronial revolts that marked the reigns of William the Conqueror and his sons banishment was agreed upon as a substitute for more severe punishment in the settlement between the king and rebel forces. Banishment instead of death appeared as one of the terms under which the rebels agreed to end their revolt.

The revolt of 1075 provides the first example. The three leading participants were Earl Roger of Hereford, Earl Waltheof of Huntingdon, and the Breton lord Ralph de Gaël, earl of Norfolk. Roger was captured and imprisoned; Waltheof surrendered and was executed under Anglo-Saxon law. Ralph escaped to his lands in Brittany, but his wife Emma remained to defend the castle of Norwich. After successfully holding off the royal forces, Emma and her Breton soldiers were allowed to go into exile. A description of the terms of surrender, contained in a letter from Archbishop Lanfranc to King William, implies that banishment was the result of something like a treaty with the besieged but still unconquered garrison, and not a judicial sentence. The letter's suggestion that only this agreement saved Emma's mercenaries from execution and the harsher punishments imposed on the other leaders of the revolt both support the impression that this banishment was a political compromise and not a judicial decision.⁵

The revolt of Bishop Odo of Bayeux in 1088 and his subsequent banishment was similar to the revolt of 1075 in some ways. Odo, holding Pevensey against William II, surrendered when Duke Robert of Normandy failed to come to his aid. The conditions of Odo's surrender clearly suggest a tactical compromise: he was to arrange the surrender of Rochester, as yet not even under siege, and then go into exile. Odo, however, did not carry out his side of the agreement. He escaped into Rochester and again defied the

king. This time there is nothing to suggest an agreement between king and rebel, for Ordericus reports that only the strenuous intervention of the loyal barons forced William to substitute banishment for the death or mutilation he intended for Odo and his garrison. The first sentence of banishment against Odo, on the other hand, very much resembles a political compromise, ensuring that Odo, newly released from William I's prisons, would not be imprisoned by William II, and allowing William to secure Rochester without the trouble of a siege.⁶

Another abortive agreement arising from the revolt of 1088 also represents an example of banishment by mutual agreement. William of St. Calais, the bishop of Durham, was accused of aiding the revolt. Claiming clerical privilege, he refused to plead before the royal court. A compromise was eventually reached. The bishop would appear before the court under the protection of three great English lords. If these guarantors felt that the court's decision was unfair, they swore to return him to Durham. If, on the other hand, the king's case seemed just, they agreed to see that the bishop was allowed to collect his movable property and leave the country after surrendering Durham castle. Although never put into effect, this case again shows banishment as part of a political compromise.⁷

One final example of banishment by compromise in the Anglo-Norman period was the revolt of Robert de Bellême against Henry I in 1102. Henry's rapid capture of Bridgnorth castle broke the back of Bellême's resistance. He was in Arundel castle at the time. When he heard of Bridgnorth's surrender, "Arundel repressed its insolence; putting itself under the king's protection, with this remarkable condition; that its lord, without personal injury, should be suffered to retire to Normandy."⁸

These four cases from the Anglo-Norman period all share the appearance of being essentially compromise agreements between the king and a frustrated but not completely subdued enemy, under which the rebel secured personal safety and the king gained a rapid end to the revolt. There is no evidence that any of them was the result of regular judicial proceedings, although the flexibility of the Norman *curia regis* makes it impossible to be sure. Some of the features of abjuration were present in some cases. The banishment of Countess Emma and the final

banishment of Bishop Odo are said to have been in part the result of the intercession of the loyal barons. Countess Emma was given forty days to depart, and Robert de Bellême had to swear an oath to leave the country. All, to some degree, were banished as a substitute for a more severe punishment. Yet in general, despite the resemblances to common law abjuration, these cases of banishment seem to be essentially matters of political convenience, without much of a judicial character.

III

Stephen to Richard I: Banishment by Arbitrary Command

As the new English monarch's grip on the country became stronger, banishment as the result of compromise between the king and a rebel leader largely disappeared. Henry I, once he was securely in control of the kingdom, is not known to have used banishment against his political opponents. The rebels of 1123, for example, were fined, imprisoned, or blinded. When political banishment reappeared in Stephen's reign, it had lost the character of a compromise. It appears to be a simple exercise of royal will, restricted neither by bargaining with the victim nor by any concern for legality.

The first example is the revolt of Robert of Bampton early in the reign of King Stephen. After being condemned in the royal court for robbery and pillage, Robert escaped from custody and defended his castle against the king. The besiegers captured and executed a member of the garrison. At the threat of similar treatment, the garrison surrendered, and, "since the hard condition was laid on them, would they or not, that they should wander as exiles from all the kingdom until the king's mercy recalled them," Robert and the other defenders departed to Scotland.⁹

The revolt of Baldwin of Redvers seems to have been similar. The surrender of his garrison at Exeter and the speed with which Stephen moved against his refuge in the Isle of Wight apparently ruined his plans. He surrendered himself into the king's hands "as a downcast suppliant" and was banished.¹⁰ Neither case suggests the conditional settlements of the earlier period. If the language

of the chronicle is to be believed, both rebels surrendered unconditionally and were then banished by royal command. Both certainly hoped to be spared, but neither seems to have been able to force the king to guarantee his safety in advance.

Ralph de Diceto's flattering account of Henry II's improved justice says that Henry terrified evildoers with his punishments. Murderers were hanged, traitors sent into exile, and lesser crimes punished by the loss of limbs.¹¹ While this idealized statement is of interest for its recognition of banishment as the proper punishment for political crimes, it also suggests that banishment was imposed in a regular judicial setting. There is no way of knowing whether or not Robert of Bampton or Baldwin of Redvers was sentenced to banishment in a formal trial. The banishment of Becket's dependents, Richard I's brothers, and William Longchamp show that banishment could be imposed under clearly non-judicial circumstances.

The exile of Archbishop Becket was essentially self-imposed. English prelates frequently quarreled with their king and found it necessary to flee his wrath. But the mass banishment of Becket's relatives and dependents represents a clearly arbitrary and non-judicial use of banishment by Henry II. There was no trial of any sort; indeed, part of the purpose of the expulsion seems to have been to impress upon Becket how many innocent people were suffering because of his stubbornness.¹²

Before setting out on his Crusade, Richard I forced his brother John and his half-brother Geoffrey to swear to remain outside of England for three years.¹³ This, of course, was purely arbitrary; neither was accused of any crime. In 1191, during Richard's absence, the governing council he had set up in England was faced with the opposition of William Longchamp, the disgraced but still dangerous chancellor who earlier had tried and failed to gain full control over the government. Lacking the king's power to order Longchamp to leave the realm, the council adopted the less direct but equally arbitrary and non-judicial method of banishment through mass intimidation. "The queen wrote; the clergy wrote; the people wrote: all with one voice urged the chancellor, for his own safety, to make the leap and cross the sea without delay, unless he wanted to listen to threats and live with armed guards." Longchamp took the hint and left.¹⁴

The most obvious feature of the five examples of political banishment between Stephen and Richard I is the completely unrestrained power of the king to punish his enemies as he saw fit. Rebellious nobles no longer made bargains with the king; they threw themselves upon his mercy. On the other hand, no need was felt yet to secure formal judicial sanction for the king's sentence, and some of the banishments were clearly unjust. The period which J. E. A. Jolliffe described as the time of the English monarchy's greatest freedom of action also, not unnaturally, seems to display its most unrestricted use of banishment.¹⁵

IV

Henry III and Edward I: Judicial Banishment

Banishment in the reigns of Henry III and Edward I, as would be expected, was affected by Magna Carta and the growing concern with legality in government and jurisprudence. This demand for legality is seen in two quite different changes in the nature of political banishment. The first is the use of formal judicial sentences of exile in cases where earlier rulers would have imposed it by arbitrary royal command. The second change, of less importance, is a tendency to imitate the common law practice of abjuration.

Falkes de Breauté was one of King John's mercenary captains who helped to expel the French after John's death. The great power exercised by Falkes and others of John's castellans caused Hubert de Burgh, justiciar for young Henry III, to order the surrender of their castles in 1223. Falkes at first obeyed, but then rebelled when his reduced power caused his enemies to launch a swarm of successful law suits against him. The justiciar attacked him with unusual severity. When the royal forces captured Bedford castle, Falkes's brother William and the eighty men of the garrison were hanged. Falkes himself was forced to flee to western England, where Earl Ranulf of Chester and the bishop of Coventry persuaded him to throw himself on the king's mercy.¹⁶ While it is unlikely that he actually took sanctuary at Coventry cathedral, as one version has maintained,¹⁷ it does seem that he was considered to be under the protection of the Church. He was

not imprisoned after his surrender, but rather placed in the custody of the bishop of London. His fate was decided by the great council, which spared his life as an act of mercy and imposed perpetual banishment. The sentence was a formal condemnation for treason by the judgment of "rex Anglorum cum magnatibus suis" meeting "ad colloquium".¹⁸ The influence of abjuration is also clear. Banishment was regarded as a merciful substitute for death. The execution of his brother shows that death was a real possibility. The official reason for this mercy was his long service to John and Henry III. His contact with the bishop of Coventry, the fact that he was entrusted to the keeping of the bishop of London, the intercession of the pope on his behalf, and the wording of his royal safe conduct all imply the recognition of some sort of ecclesiastical protection, similar to that obtained by a sanctuary seeker, which would encourage the council to spare his life.¹⁹

The expulsion of the Poitevins in 1258 began the history of the expulsion of the king's friends by the king's opponents. The Provisions of Oxford ordered Henry III's Poitevin relatives to surrender their lands and swear to uphold the baronial government. When the Poitevins refused and defied the barons, they were condemned by the captive king and the barons in parliament and sentenced to banishment.²⁰ As in the previous example, the banishment was the result of a formal legal procedure; the fact that the barons rather than the king were actually in control had no legal significance. The elements of abjuration, however, were entirely absent. There was no merciful substitution of punishments, no intercession for the accused, no oath to abjure the realm. This kind of political banishment, with the full sanction of a regular trial and without the trappings of abjuration, was destined to play a major part in the political struggles of Edward II's reign.

The relation between common law abjuration and political banishment becomes particularly difficult when a great political figure takes sanctuary to escape the king's wrath. Two such cases occurred in the thirteenth century, and both are hard to interpret. In 1232 the justiciar, Hubert de Burgh, was disgraced by Henry III. He fled to sanctuary at Brentwood Chapel to escape arrest. Under the procedure of normal abjuration, he should have been

allowed forty days in sanctuary, after which time he would either confess his crimes and abjure the realm or give himself up and stand trial. It is not certain, however, that Henry would have allowed a figure of de Burgh's importance to abjure the realm like an ordinary thief. Henry's response to the pleas of one of de Burgh's supporters stated that de Burgh did have the opportunity to abjure while in sanctuary. His order to the sheriff guarding Brentwood Chapel, saying that if de Burgh expressed a desire to come out he should be put under guard and sent to the Tower, implies that he would not have been allowed to abjure.²¹ De Burgh himself offered to submit to temporary banishment, but in the end he surrendered himself into royal custody. It has been suggested that he refused to abjure because to do so would have required him to confess to the charges made against him. These included such enormities as the poisoning of the earls of Salisbury and Pembroke.²²

The banishment of chief justice Thomas de Weyland is even more difficult to explain. Weyland was one of many English officials charged with gross misconduct in office by Edward I when the latter returned to England after a long absence in 1289. Both his high office and the magnitude of his offenses, which included complicity in murder as well as ordinary corruption and false judgment, made him a special object of Edward's wrath.²³ Because it was the royal justices themselves who were to be tried, the trials could not be before the regular royal courts. Instead Edward appointed a tribunal from among the men who had served him faithfully in Gascony. Such a panel would have been more prestigious than any ordinary court.²⁴ Weyland escaped from custody and fled to the Franciscan convent at Bury St. Edmunds. As in the case of Hubert de Burgh, it is doubtful whether he was given the option of abjuring the realm while in sanctuary. A letter from Archbishop Pecham to the king urging that mercy be shown to Weyland, written while the fallen chief justice was still in sanctuary, implies that he would not have been allowed to abjure.²⁵ His actions seem to have confused even his contemporaries. At one point during his forty days in sanctuary he assumed the robe of a friar, but then gave it up before surrendering himself. Florence of Worcester noted that he took the friar's habit "when it was least expected."²⁶ After he

surrendered and was taken to the Tower, he was finally given the choice of standing trial or abjuring the realm. He chose the latter, and departed.²⁷ It is unlikely that he would have taken sanctuary and then surrendered himself if the opportunity to abjure while in sanctuary had been open to him, and it is unlikely that Edward would have given him the chance to abjure while in custody if that choice had been available to him earlier. This case, even more than that of de Burgh, stands on the border between ordinary abjuration and the political form of banishment.

The general tendencies noted in the reigns of Henry III and Edward I involve an increased concern for legalism, reflected primarily in the use of formal judicial procedure to impose banishment, and to a lesser degree in the imitation of some of the features of common law abjuration. The simple fact that three of the four examples considered in this period involved men who had fled to sanctuary or were otherwise under the protection of the Church may make the influence of abjuration seem more important than it actually was. At the very least, however, it should be noted that they had enough confidence in the government's respect for church sanctuary and its associated rights to make it seem worthwhile to assume the status of sanctuary seekers.

V

Edward II and Richard II: The Summit and Decline of Political Banishment

The use of political banishment by both the king and the king's opponents became particularly important during the reign of Edward II. It is not the purpose of this paper to examine the legal and constitutional significance of the state trials during this reign; that is a different and far larger question. It will be enough to show that an effort was made to give at least an appearance of legality to the condemnations. What is of interest is the way in which banishment was used. The elements of abjuration disappeared almost entirely; banishment was imposed simply as banishment, not as a merciful alternative to execution or as a concession to ecclesiastical protection. More importantly, however, banishment proved ineffectual as a political tool under

Edward II. It reappeared in the conflicts of Richard II's reign only in a drastically altered form and in a much less important function.

Piers Gaveston, the unpopular favorite of Edward II, has the distinction of having been banished from England on three different occasions. Edward I, fearing his influence on Prince Edward, forced him to abjure the realm in 1307. This action, which "the king ordained and ordered for certain reasons", seems to have been simply an exercise of the royal will, with no judicial character at all.²⁸ Gaveston, at that time, was scarcely important enough an individual for his expulsion to be regarded as political banishment. This quickly changed when Edward II became king. Gaveston returned, and his low birth, his arrogance and greed, and his control over the king made him an object of hatred to the aristocrats. Aristocratic pressure forced Edward to banish his favorite at the parliament of 1308. The charges against Gaveston, set forth most fully in Archbishop Winchelsey's decree of automatic excommunication if he should return, are very vague.²⁹ But Edward himself had to admit that the condemnation was properly issued by the prelates and barons of the realm with his consent.³⁰ He nevertheless had the sentence annulled by the pope, and Gaveston was back within the year. Edward was forced to banish him again under the Ordinances of 1311. This time the charges against him, although still rather vague and general, were listed in the parliament roll. The Lords Ordainers' authority for his banishment was claimed "by virtue of the Commission our Lord the King has granted us . . ." ³¹ Whether or not such an award was legal, the Lords Ordainers clearly intended to act in a legal, judicial fashion. Each successive banishment of Gaveston had been more formal and judicial in nature; the first was by royal command, the second by king in council, and the third as the result of something like a regular trial and condemnation before parliament. But on each occasion Gaveston returned. It was only his execution by the king's aristocratic enemies that ended his role in English politics. Banishment was unsuccessful in this case.

Piers Gaveston was replaced in the royal favor by the two Hugh Despensers, who quickly became as unpopular as Gaveston had been, and for the same reasons. They were banished in 1321 at the demand of the aristocratic party. Again, the legal and

constitutional details of the trial are less important to this topic than the fact that banishment was imposed by an explicit judicial process. The charges were set forth in detail before parliament. Their guilt was declared to be notorious, and they were banished by the earls and barons in the king's presence.³² Despite an obvious effort to follow legal forms, Edward was able to have the condemnations annulled in the parliament at York in 1322. More important than the legal points raised by the annulment is the clarity with which it demonstrated the principal weakness of banishment in the chronically unstable world of late medieval English politics. Any banishment, however legal, could be reversed. The Despensers, like Gaveston, were finally executed by their enemies.

Except for the oath to leave the kingdom imposed on Piers Gaveston in 1307, there is very little that resembles abjuration in the banishments of Edward II's reign. Banishment appears to have become the accepted way of removing unpopular royal favorites. It was imposed by formal judicial sentence, and it was entirely free of the trappings of abjuration. Banishment appears to have become established as a regular part of English politics. But in the disorder of Edward II's reign the banished favorites kept returning. This fact was not forgotten when severe factional strife again broke out during the reign of Richard II. Only the prelates and some of the minor figures were banished under Richard; the great leaders paid for failure with their lives. The form of banishment imposed on even the lesser figures changed. Many of the features of abjuration reappeared, in an artificial, stylized form. Efforts were made to retain some control over the banished men, either by direct supervision or by pensions and promises. In the one case in which great secular magnates were banished, the sentence was patently unjust and extremely irregular.

The Merciless Parliament of 1388 passed death sentences upon the main supporters of Richard and executed those whom they could catch. The only exception was Alexander Neville, the archbishop of York, who was sentenced to death but then banished instead in recognition of his clerical status.³³ The banishment of the six royal justices who had approved Richard's "questions" in 1387 is more significant. This document was a

condemnation of the legality of the baronial council that had been imposed on Richard the year before and a statement that those who had imposed it were guilty of treason. The procedure used against the justices seems to have been an ordinary impeachment. The secular lords condemned them as traitors and sentenced them to death. The prelates then intervened in what was clearly an artificial and prearranged appeal to have the lives of the justices spared. They first asked the temporal lords to respite the execution of the sentence until they could appeal to the king, as if they expected the justices to be hanged on the spot. They then addressed the king, whom they knew to be under the domination of the lords, and asked him to spare the lives of the justices. The king agreed, and the justices were imprisoned "a la volonte le Roi". The whole affair appears to have been a solemn farce. When sentence was finally imposed, the six justices were exiled to Ireland. Each was sent to an Irish town and ordered to remain within two miles of that town (except for the chief justice, who was allowed an extra mile). The justices were also granted a yearly pension.³⁴

Like the Lords Appellant in 1388, Richard in 1397 sentenced his greatest enemies to death. He arranged the murder of the duke of Gloucester and executed the earl of Arundel. Archbishop Arundel was banished because his clerical status precluded execution. The only other individual who might be said to have been exiled in 1397 was Thomas, earl of Warwick. He, like Gloucester and Arundel, was charged with treason, but instead of defending himself he admitted his offenses and begged for mercy. "And like a wretched old woman he made confession of all contained therein, wailing and weeping and whining that he had done all, traitor that he was . . ." ³⁵ He was sentenced to a traitor's death, but Richard granted him his life, being moved, it is said, by pity, reverence for God, and the prayers of the whole parliament. No doubt Arundel's gratifying confession was more important in saving his life. Thomas was ordered to spend his life "in perpetual prison outside of the kingdom on the Isle of Man." ³⁶ As with the six justices, the sentence of banishment had the character of a merciful substitute for death. The punishment itself, although sometimes referred to as exile (John Capgrave, for example, reported that Richard "exiled him to prison" ³⁷), was in fact

merely imprisonment. The location of the prison could have made little difference to Earl Thomas. It might be regarded as a logical extension of the treatment of the six justices.

The banishment of Henry of Hereford and Thomas of Norfolk in 1398 provides a fitting conclusion for this study of political banishment. The quarrel between these two men was supposed to have been decided by a judicial duel, but Richard prevented them from fighting and ordered both into exile. The official reasons given for this action were intended to convey the impression that Richard was both upholding justice and exercising mercy.³⁸ The use of a judicial vocabulary, however, cannot hide the fact that no trial had taken place, that both men were being punished on the lame excuse of preserving their honor and the peace of the realm and not for the charges over which the duel was to have been fought, and that Richard's action was arbitrary and tyrannical. The conditions imposed on the exiles show that Richard was aware of the risks he was taking by banishing these men. Each was forbidden to communicate with the other or with the exiled Archbishop Arundel, and Norfolk was ordered to live in Germany, Bohemia, or Hungary on pain of death. Richard was clearly aware that a combination of these great exiles could be dangerous. He had no excuse to impose harsh restrictions, like those placed on the six justices. To prevent a combination, he had to provide Hereford and Norfolk with reasons to behave themselves. Hereford's banishment was only temporary; the promise of his eventual return would secure his obedience. Norfolk, on the other hand, lost his property and was banished for life, supposedly as punishment for vaguely stated offenses against the king. But he was allowed a revenue of a thousand pounds a year.³⁹ It also seems likely that Richard gave Norfolk reason to hope that he too might one day be restored.⁴⁰ Having taken these precautions, Richard apparently decided that they were no longer necessary. He destroyed Norfolk's hopes of returning, and disinherited Hereford. Norfolk died soon afterwards. Richard was less fortunate with Henry of Hereford, who joined forces with Archbishop Arundel and returned to England in 1399 to depose Richard.

VI

Conclusion

It is impossible to determine whether Anglo-Saxon rulers made use of political banishment; the evidence is not precise enough to be certain whether an individual has been banished or whether he has fled to escape capture or death. The reigns of William the Conqueror and his sons, the period when the Norman dynasty was establishing its full control, saw several cases in which the king came to terms with a rebellious magnate, promising to limit his punishment to banishment in return for a rapid end to the rebellion. With the establishment of full royal control in the reign of Henry I, such compromises disappear. Stephen (in the period before the outbreak of civil war made banishment meaningless) and the early Angevins seem to have imposed banishment at will, unlimited by either the need to compromise with enemies or by any concern for legality. This arbitrary power was replaced in the years after Magna Carta by a growing concern for legality. The banishments under Henry III and Edward I display a respect for judicial procedure and for the principles (if not the details) of common law abjuration not seen in earlier reigns.

During the reign of Edward II, banishment almost became a regular part of the English political system. It had escaped from the influences of abjuration and was repeatedly used as a regular judicial punishment. The continued instability of English politics, however, provided repeated opportunities for banished favorites to return. When the political struggle resumed under Richard II, the danger posed by powerful exiles appears to have been recognized. Except in the case of prelates and the highly unusual banishment of Hereford and Norfolk, only a few less important figures were banished. The freedom of the exiles was restricted either by close regulation or by pensions and promises of eventual reconciliation. The characteristics of abjuration reappeared in an artificial form, suggesting that banishment was again being regarded as an extraordinary act of royal mercy and not as a regular political tool. The return of Henry of Hereford to become King Henry IV provided the ultimate example of the dangers of banishing major political opponents. Political banishment was not much used in the fifteenth century.

NOTES

- 1 Henry de Bracton, *De Legibus et Consuetudinibus Angliae*, ed. and trans. Samuel E. Thorne (Cambridge, Mass., 1968), II, 382-83; André Reville, "L'Abjuration regni; histoire d'une institution anglaise," *Revue historique*, 50 (September, 1892), 14-17.
- 2 *The Anglo-Saxon Chronicle*, ed. and trans. Dorothy Whitelock (London, 1961), p. 27; *Two of the Saxon Chronicles Parallel*, ed. Charles Plummer (Oxford, 1892-99), I, 62-63, 154-55.
- 3 Eleanor S. Duckett, *Saint Dunstan of Canterbury* (New York, 1955), p. 57.
- 4 *Anglo-Saxon Chronicle*, pp. 118-21.
- 5 Ordericus Vitalis, *Historiae Ecclesiasticae*, ed. August le Prévost (Paris, 1838-55; rpt. New York, 1965), II, 264; *Anglo-Saxon Chronicle*, p. 157; Edward A. Freeman, *The History of the Norman Conquest* (Oxford, 1867-79), IV, 582-83.
- 6 *Anglo-Saxon Chronicle*, p. 167; William of Malmesbury, *De Gestis Regum Anglorum*, ed. William Stubbs, Rolls Series 90 (London, 1887-89), II, 362; Henry of Huntingdon, *Historia Anglorum*, ed. Thomas Arnold, Rolls Series 74 (London, 1879), p. 214; Ordericus, *Historiae Ecclesiasticae*, III, 276-77.
- 7 Edward A. Freeman, *The Reign of William Rufus and the Accession of Henry the First* (Oxford, 1882), I, 89-94.
- 8 William of Malmesbury, p. 472: "Quo audito, ab incepto tumore Arundellum destitit, regali se addicens clientelae; egregia sane conditione, ut dominus suus integra membrorum salute Normanniam permetteretur abire." Translation based on J. A. Giles, trans., *William of Malmesbury's Chronicle of the Kings of England* (London, 1847), p. 430.
- 9 *Gesta Stephani*, ed. and trans. K. R. Potter (London, 1955), pp. 18-20, quotation p. 20.
- 10 *Ibid.*, pp. 28-30.
- 11 Ralph de Diceto, *Opera Historica*, ed. William Stubbs, Rolls Series 68 (London, 1876), I, 434.
- 12 Nesta Pain, *The King and Becket* (London, 1964), p. 156.
- 13 *Gesta Regis Henrici Secundi . . . The Chronicle of the Reigns of Henry II and Richard I*, ed. William Stubbs, Rolls Series 49 (London, 1867), II, 106.
- 14 Richard of Devizes, *Cronicon De Tempore Regis Richardi Primi*, ed. and trans. John T. Appleby (London, 1963), p. 63.
- 15 J. E. A. Jolliffe, *Angevin Kingship* (London, 1963).
- 16 Clarence Ellis, *Hubert de Burgh, a Study in Constancy* (London, 1952), p. 83.
- 17 William Hunt, "Falkes de Breaté," *Dictionary of National Biography*, VI (New York, 1885), 250.
- 18 Matthew Paris, *Chronica Majora*, ed. Henry Richards Luard, Rolls Series 57 (London, 1872-83), III, 94.
- 19 Walter Waddington Shirley, ed., *Royal and Other Historical Letters Illustrative of the Reign of Henry III*, Rolls Series 27 (London, 1862-66), I, 543-45 (letters from Pope Honorius III to Archbishop Stephen Langton and to Henry III), 235 (letter patent of Henry III to all sheriffs, bailiffs, and others).

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