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The King's Mercy. An Attribute of Later Medieval English Monarchy

Mercy is not a subject that perhaps springs naturally to the lips of the English constitutional historian. Our traditions and training are focused on *justice*: that is, on the development of a rational, formal and increasingly secularised system of law operated through an expanding network of courts that sought, on the criminal side, to preserve public order and, on the civil side, to allow private parties to resolve disputes through peaceable process and definitive judgment.¹ And yet the study of the apparatus of medieval justice is nothing without an understanding of the quality of mercy. A host of text - from the scholastic tradition via the mirrors for princes to political polemic and imaginative literature – pay repeated and consistent testimony to the medieval view that one cardinal virtue, Justice, had constantly to be tested by another, Charity, and tempered by pity and mercy.²

Modern assumptions about medieval justice still tend to see this process of amelioration as merely occasional and exceptional: mercy needed to be applied only where special circumstances made it inappropriate to apply the full rigours of the law. This, however, is seriously to misunderstand both the purpose and the pervasiveness of mercy in the operation of medieval justice. The law and the judicial system were justified primarily in terms of their role in promoting internal peace, and thus in restoring and preserving the wholeness of the body politic. Reconciliation was therefore ultimately more important than vengeance and restitution. And since all humanity was inherently tainted by original sin, medieval Christian culture was much more inclined both to condone criminality and, in turn, to celebrate the spiritual dimensions of secular acts of mercy. This is why medieval juries were so often inclined to offer the benefit of the doubt and bend the letter of the law: not simply (as we often assume) because of social pressure within the community, but also because of a powerful cultural sense of the sanctity of human life.³ And for the same reason political society appreciated, in a manner not easily comprehended by modern readers, that the general pardons dispensed by English rulers from the fourteenth century, far from representing a kind of « criminals' charter », were quasi-sacramental acts of grace that aimed to restore and promote a state of perfect peace within the realm.⁴ Royal mercy, as the supreme act of discretion exercised by the highest human authority in the land, may thus be said to have stood at the apex of a whole series of capacious medieval notions about divine favour, legitimate authority, right justice and good governance.

Where English medieval scholarship over the last generation has addressed the theme of mercy, it has tended to focus on two areas. First, there is the work on acts of intercession for royal mercy, in which a third party – usually a female figure, and very often the queen – publicly appealed to the monarch to release a condemned individual from a judgment of guilt and the resulting penalties of forfeiture and death. While intercession was especially necessary in relation to high-status defendants, queens and others were often requested to intervene in support of convicted criminals across the whole social spectrum. A series of studies by Paul Strohm, John Carmi Parsons and Carolyn Collette have teased out the cultural implications of this process, revealing how otherwise controversial acts of mercy performed by kings could be rationalised and justified by the idea that the masculine quality of justice had been softened by the feminine quality of pity.⁵

The second aspect of mercy that has been a particular focus of recent study is the formalised practice of the royal pardon and, in particular, the development from the fourteenth century of the phenomenon of the general pardon.⁶ Following the leads of Naomi Hurnard, Edward

Powell and others, Helen Lacey has re-examined public attitudes to the pardoning of homicides in return for military service during the Hundred Years War and has elucidated the theological, cultural and political justifications around the first acts of general pardon in 1362, 1377 and 1381.⁷ The two strands of scholarship just mentioned come together neatly in the parliamentary record of the general pardon allowed to the majority of those who had participated in the Peasants' Revolt of 1381: acknowledging the division of opinion among the political elite as to the treatment of the rebels, the king articulated his act of mercy as one performed at the special request of his recently arrived consort-to-be, Anne of Bohemia, and thus represented the act of general pardon as a spontaneous act of good will in the context of public celebrations around his own impending nuptials.⁸

In this short study I want particularly to give attention to the role of mercy in testing and determining the relationship between kings and great lords in later medieval England. Before that, however, I want to establish the wider matrix of ideas and values in which some these great political set pieces were set. First and foremost is the point that mercy was divine. In 1330, when Edward III of England seized his mother's lover Roger Mortimer and his cronies in a coup at Nottingham Castle, Pope John XXII wrote to him in a state of high anxiety lest the young king deal unjustly and over-zealously with the queen and his enemies. Alluding to the awful day when Edward would himself stand before his maker, John XXII reminded him that « mercy is shown to those that show mercy » and beseeched him « to show mercy, so that he himself may find it in the Day of Judgment ». ⁹ For kings, as for their devout Christian subjects, divine mercy was sought by supplication through Christ and the Virgin. In 1353 Edward III expressed his debt to the Madonna and her Son for the mercy that had protected him many times in his travails by land and sea.¹⁰ And a 1441 charter of Henry VI declared Mary « the mother of mercy and fount of pity ». ¹¹ The happy coincidence in French between *merci* in the sense of pity and *merci* in the sense of thanks meant that the multilingual culture of later medieval England could play word games around the human's lot as at once supplicant, beneficiary and propitiator of divine favour. Thus, the phrase « God graunte mercy » or « God gramercy », found in Middle English texts, can mean not only « Thanks be to God » but also « May God grant mercy ». ¹²

Secondly, mercy lay at the heart of medieval understandings of the function and justification of monarchy. The third clause of the coronation oath administered to all rulers in later medieval England required that « You will cause impartial and honest justice and discretion, with mercy and truth, to be done in all your judgments, according to your power ». ¹³ Constitutional historians of the last century have gone out of their way to emphasise that the coronation oath was emphatically not some kind of contract of service by which the polity set the terms and limits of monarchical rule. It was still perfectly possible within normal conventions for literary polemicists and parliamentary politicians openly to discuss potential or actual breaches of the coronation oath. But in such debates the emphasis tended to be on the first coronation oath, that the king should uphold the laws and customs of his predecessors. Contemporaries were well aware that open debate around the third clause was much more hazardous, since the exercise of discretion in the king's judgments went to the very heart of royal prerogative power. Thus in 1351 in a debate on the perceived abuse of charters of pardon for hardened criminals, the commons were quick to reserve to the king his right to respond to special circumstance and thus « keep his oath and his conscience ». ¹⁴ And in 1399 the official record of the parliament roll went out of its way to stress that the new king, Henry IV, had the full exercise of his prerogative of mercy: « All his grace and mercy belong only to himself, above all other estates, on account of his regality ». ¹⁵ In short, the recognition of the essential unworthiness of the beneficiary and the spontaneity of the act of royal grace meant that all sides understood the innate connection between mercy and grace.

My final preliminary point is that mercy was not just a benign act of release from liability to the law but an innate and pervasive force in the legal process at large. All those found guilty of committing a wrong at law were said to be « at the king's mercy ». If a money penalty was applied, as was common for lesser misdemeanours, then this was known as an amercement.¹⁶ Medieval culture readily assumed the etymological relationship between « mercy » and « amerce », and the late fourteenth-century epic dream poem *Piers Plowman*, among others, plays on the relationship between the two:

Loke ye tene no tenaunt but Truthe wole assente;
 And though ye mowe amercy hem, lat mercy be taxour
 [And though you will fine them, let mercy be the assessor]
 And mekenesse thi maister, maugree Medes chekes.¹⁷

When individuals were encouraged, from the late thirteenth century, to use petitions as a means of accessing special royal justice on matters not easily resolvable at common law, it also became commonplace to assert one's status « at the king's mercy » in order to emphasise the helplessness of the plaintiff and his or her willingness to submit to the royal will.¹⁸ When Stephen Cornhill, citizen of London, appealed in the early years of Edward I against what he alleged as a major conspiracy within the city against him, he specifically requested the « grace and mercy » of the king and placed himself « at the discretion of our lord the king ».¹⁹ And when individuals sought remission of various liabilities for which they were accountable to the crown, they also frequently did so in the language of mercy. In 1311 the people of Portsmouth put themselves on the king's mercy for their failure, through destitution, to respond to a recent requests for a ship for the war in Scotland;²⁰ and in 1347 the abbot of Vaudey (Lincolnshire) appealed for « grace and mercy » on his tax debts on the grounds of the general impoverishment of his monastery.²¹

The most dramatic articulation of these conventions of the abject supplicant come in references to individuals « crying mercy » to the king.²² In many cases the oral interaction was imagined rather than real: the whole point about the written petition was that it substituted for the real presence of the suitor before the king. But in others it remained a real, human encounter – and not just one confined to the top levels of society. The imaginative literature of the later Middle Ages, for example, takes it as axiomatic that the only means by which outlaws might be re-admitted to the king's peace was by a face-to-face encounter with the royal person. Thus, in *Adam Bell*, the criminals make their way to court and succeed, through a series of ruses, in gaining admission to the king's presence. And in the *Gest of Robin Hood* the king actually visits the outlaws in their domain of the greenwood and, by first appealing to Robin's own « goodnesse and ... grace », successfully persuades the latter, in turn, to cry for royal mercy.²³ The outlaw tales thus speak to a powerful tradition about the real as well as the merely symbolic role of the king in the dispensation of judicial discretion.

I would like now to move to the main purpose of this paper and focus on a series of dramatic interludes between 1397 and 1404, spanning the great divide of the deposition of Richard II and the usurpation of Henry IV. The violent dislocation of 1399 prompted contemporaries to dwell at length on what made for good and bad kingship and to comment explicitly on the perceived contrasts between the two successive monarchs. Historians have played a lot in recent years on the theme of immaturity and maturity, pointing up the irony whereby Richard and Henry, who were very close in age, were nonetheless represented as opposites - Richard as the wilful boy running riot over reason and ruling by irrational and inconstant whim, Henry as the man who put aside childish things and took upon himself the wisdom, rationality and circumspection of full age.²⁴ It is instructive to go beyond this topos and

consider the specific role that mercy played in this and other constructions of royal reputation. The comparison is especially germane given a particularly striking parallel between the opening orations made in the parliaments of 1395 and 1407. In each case, the assembly was told of three reasons why honour and loyalty was due to the king: that he was a true servant of God and Holy Church; that he was the source and guarantee of good governance; and, vitally for present purposes, because he was fully committed to his third coronation oath.²⁵ We may justifiably ask whether such statements were regarded as vacuous generalisations increasingly distanced from the harshness of realpolitik or whether they did indeed articulate a constant and fundamental element of the constitution which, should it be neglected or contravened, might directly impair the monarch's claim to rule.

Richard II is not a ruler in whom historians have seen much evidence of the quality of mercy. When not moderated by the compassionate tendencies of his mother and his wife, Richard is normally considered to have been often vindictive and vicious, quick to anger and slow to forgive.²⁶ It is easy therefore to read as so much hypocrisy the statement in the opening of parliament in 1395 that Richard « is, and has forever been, full of pity and mercy, without willingly inflicting harm or exacting revenge ».²⁷ And yet there is also some indication that, until the very end of his reign, Richard understood and observed the requirement of moderation within the dispensation of royal justice. In 1397 that king launched a major attack on his enemies among the political elite of the realm. His enmity towards the group stemmed back a decade to the time that royal authority had been put into commission in the parliament of 1386 and a group of five leading nobles, the so-called lords appellants, had appealed various royal supporters of treason in the parliament of 1388. The sentences of treason and resulting executions had been highly controversial, and had given the 1388 assembly the contemporary epithet of the « Merciless Parliament ».²⁸ The chronicler Henry Knighton conveniently explains that this telling label was something of a critique of the appellants and contained within it hints of their perceived usurpation of the king's prerogative: « mercy was extended to none without the consent of the lords ».²⁹ When, a decade later, Richard chose to take his vengeance on the appellants, it therefore behoved him to act within the conventions of moderation and assert the moral high ground over his enemies through the divine act of clemency.³⁰

A re-reading of the parliamentary record of 1397 in this context proves instructive. Tensions certainly ran too high to allow for any easy resolution to the dispute between the king and the former appellants and some spillage of blood was almost inevitable. In hindsight, we know that Richard had ordered the murder of his uncle, the duke of Gloucester, in advance of the parliament.³¹ This, however, was not revealed at the time, and the confession extracted from Gloucester at Calais was employed as the basis for a lawful judgment of treason imposed posthumously on the duke in parliament.³² The earl of Arundel refused to demonstrate any sense of blame or contrition for the offences that he was alleged to have committed against the king's regality, and claimed that he was covered by a royal pardon granted six years earlier but revoked at the beginning of this parliament. Advised that he ought for his own sake to seek Richard's mercy, the earl simply responded, according to one chronicle, that he would prefer to submit himself to the mercy of the « supreme king » in heaven.³³ The other great lord brought to trial in person, the earl of Warwick, behaved very differently, not only grovelling for mercy but also breaking down and, though hysterical sobs, admitting his offence and revealing that he had been led astray by the discredited Gloucester.³⁴ Warwick's abjection saved his life: the St Albans chronicler claims that he raised the emotional temperature sufficiently to turn everyone to tears of pity and mercy; and the Kirkstall chronicle, deploying the motif of the female intercessor, asserts that the infant Queen Isabella made a successful plea for mercy on the earl's behalf.³⁵ But Warwick also behaved in just

such a way as to justify the brutal treatment that Richard was even now taking against the other leading appellants: « By St John the Baptist, Thomas of Warwick », declared the king, « that confession of yours is more precious to me than the value of all the lands of the duke of Gloucester and the earl of Arundel ». ³⁶ It was only once the king's vengeance was assuaged that more conventional acts of mercy could therefore be straightforwardly performed, as in the case of the king's cousin, Henry Bolingbroke: « ... I now know and fully confess my offences and misdeeds ...; therefore, my lord, I cry you mercy, and ask you to pardon me ». ³⁷ Whereas conventional historiography casts the parliament of 1397-8 as the beginning of Richard II's so-called regime of tyranny, ³⁸ a discussion of the politics of mercy suggests that the king actually managed the assembly with some conscious sense of moderation, observing an appropriate degree of proportionality between the harshness meted out against Arundel and Gloucester, the grace that allowed Warwick the compromise of perpetual exile, and the acts of clemency allowed to Bolingbroke and others. ³⁹

It was part of the perversity of his character, however, that Richard II managed so quickly to destroy this delicate balance. To some extent his position was already compromised by existing covert and public operations: by the end of 1397 there were grounds for understanding that the king had ordered the murder of Gloucester; and the later articles of deposition complained specifically about the revocation of Arundel's pardon and the contravention of the laws of property in relation to the seizure of Warwick's estate. ⁴⁰ It is quite possible, however, that Richard could have recovered from this position had it not been for a series of much more controversial actions undertaken in 1398-9. First, the king dealt with a serious dispute between the duke of Norfolk and Henry Bolingbroke by exiling not just the guilty party, Norfolk, but the innocent one too, on the specious argument that this was the best way to preserve order in the realm. ⁴¹ Secondly, on the death of his uncle, John of Gaunt, in 1399, Richard refused to allow the estates of the duchy of Lancaster to pass, *in absentia*, to Bolingbroke. ⁴² When the latter took up arms in defence of his inheritance and invaded the realm, usurping the throne for himself, he was not surprisingly quick to exploit the discourse of mercy in defence of his position. Richard, it was claimed, had contravened the obligations of mercy contained in his coronation oath by ordering that no-one should intercede with him for clemency towards his cousin Henry. ⁴³ The new king then went out of his way to demonstrate the extent of his own magnanimity and mercy. Not a single member of the peerage was sentenced to death by implication in Richard II's own offences against Bolingbroke and others. Richard's principal supporters in the parliament of 1397-8, the dukes of Aumale, Surrey and Exeter, the marquis of Dorset and the earl of Gloucester, were stripped of the titles and lands they had acquired since 1397 but otherwise retained their noble status and wealth on the understandable condition that, should they do anything to plot or abet the restoration of the imprisoned former king, they would immediately be charged with treason. Meanwhile, the earl of Warwick and the heir to the earldom of Arundel were released the sentences of 1397. ⁴⁴ By any measure, the leniency demonstrated by Henry IV in 1399 was truly remarkable.

The contrast between the unreasonable vengeance of Richard II and the liberal mercy of Henry IV was hardly accidental. The official record of the deposition parliament strongly hints that the assembly marked a wider debate about the exercise of royal discretion in justice. In the opening speech of the assembly, Henry's return from exile was explicitly represented as an act of divine mercy upon the realm. ⁴⁵ There was a still more revealing statement later in the assembly that aimed at once to assert the king's absolute right of discretion in the dispensation of mercy and his own declared conviction that such acts should nonetheless be performed by the good counsel of the great lords. ⁴⁶ And yet it may be that Henry's very eagerness to conform to the model of benign monarchy and collegial

governance was itself a cause of some liability and public concern. The Ricardian peers put to trial in 1399 did not apparently feel bound to plead guilty or abject themselves as a necessary prelude to restoration. In fact, most of them specified that they were content to stand by their honour and prove it in trial by combat. It is only Salisbury who seems to have come close to the kind of histrionics observed in 1397, with his statement that « inasmuch as he, through fear and terror of his life, did not acquit himself like a loyal man, he cried mercy of God, of the king, of the crown and of the parties ».⁴⁷ The chronicler Thomas Walsingham, perhaps with the benefit of the knowledge that so many of these lords would very soon betray the trust of the new king and take part in an attempted restoration of Richard II, argued that it was inappropriate that Henry should free « men whom the people considered to be utterly wicked and thoroughly deserving of death », and even hinted that the acts of mercy had been bought by bribery.⁴⁸ Just because royal magnanimity was founded in the ideology of mercy does not mean that contemporaries were automatically impressed by Henry IV's rather blatant efforts to cast himself as the great reconciler.

Ironically enough, then, we might argue that Henry's apotheosis as merciful monarch came less from the acts of grace in 1399 and more from the royal reactions to political defection over the following five years. The Epiphany Rising of 1400 and the successive rebellions of 1403 and 1405 proved that royal grace alone could not guarantee the loyalty of the great lords.⁴⁹ Most of the aristocratic leaders of these revolts died on the battlefield or were put to death under martial law, in which context the more nuanced political calculations of mercy simply did not apply. It is indicative of the change in Henry's self-representation as both sword of justice and fount of grace, though, that the earl of Northumberland, heavily implicated in the 1403 revolt of his son, Henry Hotspur, had to abase himself in the parliament of 1404, emphasising his unworthiness and dependence, and reminding the assembly of how he had thrown himself upon the king's grace on every occasion that he had been brought within the royal presence since the time of his son's great treason.⁵⁰ Thus, while the general political mood of the 1404 parliament was clearly favourable to the restoration of the earl of Northumberland,⁵¹ there was now a much more heightened requirement for a judgment of guilt and an act of contrition as the prelude to royal pardon. Finally, the gross inconstancy of the earl, who paid back his lucky escape in 1404 by a further act of rebellion in 1406, made it possible for Henry IV at once to proceed, with the full consent of parliament, to an unconditional condemnation of Northumberland and to preserve intact his own credentials as a ruler of reason and moderation. The parliament of 1407 was told that « since the time of his coronation, [King Henry IV] has shown such great compassion and clemency that, in the case of anyone who had offended against him, either by way of treason of any sort or by any kind of wrongdoing, and who has been willing humbly to acknowledge his offence and beg for grace and mercy for it, the king has been so full of compassion that he had been quicker to show mercy than the person who has committed the offence has been to request it ».⁵² Herein lies a vivid example of how mercy worked on two levels, at once a very practical tool of politics and an ideological abstraction of just rule.

For all the complexity of detail, then, the moral of this story appears to be clear. Richard II in 1397 and Henry IV in 1399 both attempted, for a whole mixture of pragmatic and ideological reasons, to apply the art of magnanimity. Neither monarch, however, found it necessarily easy to establish an appropriate line between punishment and mercy, or to persuade all of their subjects of the worthiness of their motives. Indeed, as these cases show, royal acts of remission could very easily be read as admissions of weakness or hypocrisy. Richard II lost his throne in part because, through the subsequent revealing of his involvement in the murder of Gloucester and the blatant hostility that he showed towards Bolingbroke, he was proved to have veered markedly from the very model of merciful monarchy to which he himself had

supposedly subscribed in 1397. And Henry IV managed to keep his title less because of the unrestrained acts of pity he meted out to Richard's supporters in 1399 and more because the shock of subsequent betrayal taught him the limitations that ought properly to obtain to the dispensation of mercy.

We have to move forward some fifty years to the reign of Henry VI and the parliament of 1459 before we again find such a keen articulation of these principles. But this assembly deserves a special final notice here because, most unusually, it provides direct evidence of an explicit and sustained public debate around the theme of royal mercy. The parliament took place at a moment of high political drama. The king's cousin, critic and enemy, the duke of York, had come close to a head-on battle with Henry at Ludlow a month earlier, and had fled to Ireland.⁵³ At the beginning of the parliament, the crown brought forward a bill of attainder against York and his principal supporters. The bill refuted the protestations of loyalty that the Yorkists had made persistently over some years, and exposed them as ungrateful and unnatural traitors deserving of the most terrible of punishments: not only the loss of life and the confiscation of property that were the standard penalties of treason, but the terrible prospect of the barring of their heirs from any expectation of future restoration. The official text of the attainder on the parliament roll placed great emphasis on the king's previous and persistent inclination to generosity and forgiveness and thus on the malicious act of betrayal committed against Henry's person and office: the « diabolical inhumanity » that York and his associates had allegedly demonstrated was ultimately to give the assembly its nickname of the « Parliament of Devils ».⁵⁴

Out of the resulting controversy emerged two unusual texts that give us important clues as to the moral and legal arguments developed before and during the parliamentary debate.⁵⁵ The first, in the Latin register of Abbot Whethamstede of St Albans, imagines a debate between the sisters Justice and Mercy, conducted before the king, and presents the arguments for and against the application of the full rigours of attainder against the Yorkists, with the author aligning himself fairly obviously with the majority view (as he claims) of the lords and commons and promoting a policy of severity.⁵⁶ The second text, the incomplete *Somnium vigilantis*, is a Middle English commentary written apparently with the express intention of influencing Henry VI away from his instinct to allow mercy to his cousin of York.⁵⁷ Both sources are clear that pity was an essential attribute of monarchy: kingship without mercy, as the *Somnium vigilantis* strikingly puts it, is nothing more than tyranny. And yet both are highly aware of the conditions that ought to apply before royal mercy can be fully justified. In the case of the duke of York, who (like the earl of Northumberland under Henry IV) had blatantly broken the trust placed in him by repeatedly rebelling against legitimate authority, and who appeared completely incorrigible and lacking in contrition, no pity should prevail.

Both the official and the unofficial accounts of the ensuing process in parliament serve to stress that the decision as to how to treat York and his supporters in the Coventry parliament was in many respects the deciding moment of Henry VI's kingship. York retained much sympathy in the country, and the harsh measures proposed in parliament were thought by many to be out of proportion to the perceived offences of the duke and his supporters.⁵⁸ It is a mark either of Henry's own obligation to his monarchy or at least of his followers' understanding of the performance of kingship that the crown did not simply condemn the Yorkists en bloc in 1459 but instead attempted a process of reconciliation. The parliament roll says that, when the bill of attainder was enacted, the king asserted his prerogative « to show such mercy and grace as shall please his highness, according to his regality and dignity, to any person or persons whose names be expressed in this act ».⁵⁹ The test of worthiness for such grace, as the *Somnium vigilantis* also makes clear, was the appropriate expression of guilt and the willingness to abase oneself before the king's majesty. Walter Devereux and a

number of other unnamed knights and esquires accordingly entered parliament « in hair shirts and [with] halters in their hands, falling before the king », receiving release from further trial and punishment.⁶⁰ So far, then, the process conformed closely to the required expressions of abject submission. But Whethamstede makes two very telling observations: that such acts of grace were against the general consensus of the lords and commons; and that the king insisted on his right to amend the act of attainder by creating further exceptions outside the context of parliament.⁶¹ In both respects, the king's mercy could very easily be misconstrued as contravening the collegial nature of rule so much emphasised in contemporary articulations of the constitution.⁶² And by the same token, the king's refusal to admit the absent York back into his grace could easily be read as an effective admission of desperation and defeat. It was the height of folly to subject the duke to a judgment of such severity as almost inevitably to drive him to armed resistance.

Henry VI was offered one final opportunity for reconciliation when the duchess of York appeared in parliament and, in another striking piece of political theatre, took up the role of female intercessor in pleading forgiveness for her husband.⁶³ It is hard, of course, to say what might have happened had the king responded positively to this final attempt to heal the enmity between the houses of Lancaster and York. But it is difficult to resist the conclusion that Henry VI's government was seriously misled by the mood of vengeance that prevailed in the Parliament of Devils, and that the ensuing usurpation of the throne by York's son, Edward IV, in 1460-1, owed itself in significant measure to the mismanagement of royal mercy in 1459.

There is, of course, much more to the politics of mercy than can possibly be articulated within the confines of this short account. I hope, nonetheless, that the foregoing considerations offer some insights into the complex relationship that often obtained between theory and practice, between the symbolic and the substantive, in medieval political life. In particular, a consideration of the issues raised by the depositions of Richard II and Henry VI helps us to adjust some prevailing assumptions about the parameters of the constitution and to allow the theme of mercy a more influential (and even perhaps instrumental) role in determining the fates of medieval monarchs. The discourses of mercy that obtained in late medieval England were not some empty cliché of benign monarchy, but often literal articulations of the responsibilities of power; and as such they were central features of a wider debate, gathering significant force in the fourteenth and fifteenth centuries, over the moral basis of a monarch's right to rule.

¹ Such approaches have been very usefully challenged in the last generation by a series of studies that emphasise the political, social and cultural context of the law: among major contributions, see E. Powell, *Kingship, law, and society: criminal justice in the reign of Henry V*, Oxford, 1989; A. Musson

and W. M. Ormrod, *The evolution of English justice: law, politics and society in the fourteenth century*, Basingstoke, 1999; A. Musson, *Medieval law in context: the growth of legal consciousness from Magna Carta to the Peasants' Revolt*, Manchester, 2001.

² For a classic statement in the thirteenth-century legal treatise, *Glanvill*, see *Crime, law and society in the later Middle Ages*, éd. A. Musson with E. Powell, Manchester, 2009, p. 24-25. Among innumerable examples in English official documents, see the reference to the king's act of « tempering justice with mercy » in the pardon of the former chief justice, William Thorpe, in 1351: *Calendar of the patent rolls preserved in the Public Record Office, Edward III*, IX (1350-1354), London, 1907, p. 61-62. And for an example from the mirror for princes genre, see the *Tractatus de regimine principum* (late 1430s) in *Four English political tracts of the later Middle Ages*, ed. J.-P. Genet, London, 1977, p. 128-133. P. McCune, *Justice, mercy and late medieval governance*, in *Michigan law review*, 89, 1991, p. 1661-1678, provides a convenient overview of ideas of justice and mercy in the period.

³ T. A. Green, *Verdict according to conscience: perspectives of the English criminal trial jury, 1200-1800*, Chicago, 1985; J. G. Bellamy, *The criminal trial in later medieval England: felony before the courts from Edward I to the sixteenth century*, Toronto, 1998; Roger D. Groot, *Petit larceny, jury lenity and parliament*, in J. W. Cairns and G. McLeod (éd.), *The dearest birth right of the people of England: the jury in the history of the common law*, Oxford, 2002, p. 47-61; S. M. Butler, *Degrees of culpability: suicide verdicts, mercy, and the jury in medieval England*, in *Journal of medieval and early modern studies*, 36, 2006, p. 263-290.

⁴ W. M. Ormrod, *Fifty glorious years: Edward III and the first English royal jubilee*, in *Medieval History*, new series 1, 2002, pp. 13-14; M. Wilks, *Wyclif: political ideas and practice*, Oxford, 2000, pp. 130-2.

⁵ P. Strohm, *Hochon's arrow: the social imagination of fourteenth-century texts*, Princeton, 1992, p. 95-119; J. C. Parsons, *The queen's intercession in thirteenth-century England*, in J. Carpenter and S.-B. MacLean (éd.), *Power of the weak: studies on medieval women*, Urbana, 1995, p. 147-177; J. C. Parsons, *The pregnant queen as counsellor and the medieval construction of motherhood*, in J. C. Parsons and B. Wheeler (éd.), *Medieval mothering*, New York, 1996, p. 39-61; J. C. Parsons, *The intercessionary patronage of Queens Margaret and Isabella of France*, in M. Prestwich, R. H. Britnell and R. Frame (éd.), *Thirteenth century England*, VI, Woodbridge, 1997, p. 144-156; C. P. Collette, *Joan of Kent and noble women's roles in Chaucer's world*, in *Chaucer review*, 33, 1999, p. 350-362; C. P. Collette, *Performing polity: women and agency in the Anglo-French tradition, 1385-1620*, Turnhout, 2006.

⁶ For a convenient overview of the place of pardons within the formal legal system see *Crime, law and society*, éd. Musson with Powell, cit., p. 137-144.

⁷ N. D. Hurnard, *The king's pardon for homicide before A.D. 1307*, Oxford, 1969; Powell, *Kingship, law, and society*, cit.; H. Lacey, *The royal pardon: access to mercy in fourteenth-century England*, York, 2009. See also K. J. Kesselring, *Mercy and authority in the Tudor state*, Cambridge, 2003.

⁸ *The parliament rolls of medieval England*, VI, éd. G. Martin and C. Given-Wilson, Woodbridge, 2005, p. 223; W. M. Ormrod, *In bed with Joan of Kent: the king's mother and the Peasants' Revolt*, in J. Wogan-Browne, R. Voaden, A. Diamond, A. Hutchinson, C. M. Meale and L. Johnson (éd.), *Medieval women: texts and contexts in late medieval Britain. Essays for Felicity Riddy*, Turnhout, 2000, p. 288.

⁹ *Calendar of entries in the papal registers relating to Great Britain and Ireland*, II (1305-1342), éd. W. H. Bliss, London, 1895, p. 498.

¹⁰ *Calendar of the patent rolls, Edward III*, IX (1350-1354), cit., p. 488.

¹¹ *Calendar of the patent rolls preserved in the Public Record Office, Henry VI*, IV (1441-1446), Nedeln, 1971, p. 3.

¹² H. Phillips, *God grant mercy! A pun in Malory?*, in *Notes and queries*, March 1992, p. 24-25. The double sense, and according ambiguity in literary usages, is still evident in Shakespeare's time: T. Pyles, *Rejected Q2 readings in the New Shakespeare Hamlet*, in *ELH*, 4, 1937, p. 125.

¹³ *Foedera, conventiones, literae et cujuscunque generis acta publica*, II, éd. T. Rymer, London, 1816, p. 36; *The parliament rolls of medieval England*, VIII, éd. C. Given-Wilson, Woodbridge, 2005, p. 14.

¹⁴ *The parliament rolls of medieval England*, V, éd. W. M. Ormrod, Woodbridge, 2005, p. 18.

¹⁵ *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 85-86.

¹⁶ For references in official documents to amercements of persons put « in mercy », see e.g., Kew, The National Archives [hereafter TNA], C 49/66/5; TNA, E 370/1/6.

¹⁷ W. Langland, *The vision of Piers Plowman: a complete edition of the B-text*, éd. A. V. C. Schmidt, London, 1978, Passus VII, ll. 38-40.

¹⁸ TNA, SC 8/4/156, summarised in *The parliament rolls of medieval England*, III, éd. J. R. S. Phillips, Woodbridge, 2005, p. 395; TNA, SC 8/66/3260A; TNA, SC 8/181/9048; SC 8/312/E19; SC 8/346/E1397.

¹⁹ TNA, SC 8/340/16041. See also TNA, SC 8/125/6236, summarised in *The parliament rolls of medieval England*, IX, éd. C. Given-Wilson, Woodbridge, 2005, p. 310.

²⁰ TNA, SC 8/67/3340. For the order thus contravened, see *Calendar of the patent rolls preserved in the Public Record Office, Edward II*, I (1307-1313), Nedeln, 1971, p. 352.

²¹ TNA, SC 8/239/11914. For the outcome of the case see TNA, C 81/323/18775; *Calendar of the patent rolls preserved in the Public Record Office, Edward III*, VII (1345-1348), London, 1903, p. 403.

²² TNA, SC 8/75/3733, printed in *The parliament rolls of medieval England*, II, éd. P. Brand, Woodbridge, 2005, p. 126; TNA, SC 8/148/7392; TNA, SC 8/202/10061; TNA, SC 8/220/10968, printed in *The parliament rolls of medieval England*, I, éd. P. Brand, Woodbridge, 2005, p. 363-364; TNA, SC 8/269/13404, printed in *Parliament rolls*, I, éd. Brand, cit., p. 351.

²³ *Robin Hood and other outlaw tales*, éd. S. Knight and T. Ohlgren, Kalamazoo, 2000, p. 142, 256-258; W. M. Ormrod, *Robin Hood and public record: the authority of writing in the medieval outlaw tradition*, in R. Evans, H. Fulton and D. Matthews (éd.), *Medieval cultural studies: essays in honour of Stephen Knight*, Cardiff, 2006, p. 67-69; W. M. Ormrod, *Edward III*, London, 2011, p. 380.

²⁴ See C. D. Fletcher, *Richard II: manhood, youth and politics, 1377-99*, Oxford, 2008, and other discussions cited there.

²⁵ *The parliament rolls of medieval England*, VII, éd. C. Given-Wilson, Woodbridge, 2005, p. 286; *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 419-420.

²⁶ For recent assessments of Richard II's character, see N. Saul, *Richard II*, London, 1997; N. Saul, *The kingship of Richard II*, in A. Goodman and J. L. Gillespie (éd.), *Richard II: the art of kingship*, Oxford, 1999, p. 37-58; M. J. Bennett, *Richard II and the revolution of 1399*, Stroud, 1999; N. Saul, *The three Richards: Richard I, Richard II and Richard III*, London, 2005.

²⁷ *Parliament rolls VII*, éd. Given-Wilson, cit., p. 286.

²⁸ For a detailed study see A. Goodman, *The loyal conspiracy: the lords appellant under Richard II*, London, 1971.

²⁹ *Knighon's chronicle, 1337-1396*, éd. G. H. Martin, Oxford, 1995, p. 414-415.

³⁰ Note also the king's act of leniency towards Thomas Haxey in 1397: *Parliament rolls*, VII, éd. Given-Wilson, cit., p. 318; A. McHardy, *Haxey's case, 1397: the petition and its presenter reconsidered*, in *The age of Richard II*, éd. J. L. Gillespie, Stroud, 1997, p. 102-103; Bennett, *Richard II and the revolution*, cit., p. 86.

³¹ Saul, *Richard II*, cit., p. 378-379.

³² *Parliament rolls*, VII, éd. Given-Wilson, cit., p. 411-416; *The chronicle of Adam Usk, 1377-1421*, éd. C. Given-Wilson, Oxford, 1997, p. 32-33.

³³ *Eulogium historiarum*, III, éd. F. S. Haydon, London, 1863, p. 374-375. See also the more extended accounts of this episode derived from a lost ur-text and found in *Chronicle of Adam Usk*, éd. Given-Wilson, cit., p. 26-31, and in *Historia vitae et regni Ricardi Secundi*, éd. G. B. Stow, Philadelphia, 1977, p. 141-144, and discussed by C. Given-Wilson, *Adam Usk, the monk of Evesham, and the parliament of 1397-8*, in *Historical research*, 66, 1993, p. 329-335. The account in *Parliament rolls*, VII, éd. Given-Wilson, cit., p. 410, simply says that Arundel refused to respond.

³⁴ R. F. Green, *A crisis of truth: literature and law in Ricardian England*, Philadelphia, 2002, p. 224.

³⁵ *Annales Ricardi Secundi et Henrici Quarti*, éd. H. T. Riley, Oxford, 1866, p. 219-20; *Chronicles of the revolution, 1397-1400*, éd. C. Given-Wilson, Manchester, 1993, p. 96.

³⁶ *The St Albans chronicle, II: 1394-1422*, éd. J. Taylor, W. R. Childs and L. Watkiss, Oxford, 2011, p. 96-99. See also the accounts in *Chronicle of Adam Usk, 1377-1421*, éd. Given-Wilson, cit., p. 34-35; and *Historia vitae et regni Ricardi Secundi*, éd. Stow, cit., p. 145.

³⁷ *Parliament rolls*, VII, éd. Given-Wilson, cit., p. 387.

³⁸ *Chronicles of the revolution*, éd. Given-Wilson, cit., p. 71; A. Steel, *Richard II*, Cambridge, 1941, p. 217-259; C. M. Barron, *The tyranny of Richard II*, in *Bulletin of the Institute of Historical Research*, 41, 1968, p. 1-18.

³⁹ See also the comments of Saul, *Richard II*, cit., p. 381

⁴⁰ Bennett, *Richard II and the revolution*, cit., p. 98; *Chronicles of the revolution*, éd. Given-Wilson, cit., p. 174; Green, *Crisis of truth*, cit., p. 221-230; C. D. Ross, *Forfeiture for treason in the reign of Richard II*, in *English historical review*, 71, 1956, p. 560-575.

⁴¹ *Parliament rolls*, VII, éd. Given-Wilson, cit., p. 422-525.

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- ⁴² C. Given-Wilson, *Richard II, Edward II, and the Lancastrian inheritance*, in *English historical review*, 109, 1994, p. 553-571.
- ⁴³ *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 17.
- ⁴⁴ *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 31-32, 53-58, 80-90.
- ⁴⁵ *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 25-27.
- ⁴⁶ *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 85-86.
- ⁴⁷ *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 83-84.
- ⁴⁸ *St Albans chronicle II*, éd. Taylor, Childs and Watkiss, p. 276-277.
- ⁴⁹ For a detailed narrative of these events see J. L. Kirby, *Henry IV of England*, London, 1970.
- ⁵⁰ *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 231-233.
- ⁵¹ *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 233-234.
- ⁵² *Parliament rolls*, VIII, éd. Given-Wilson, cit., p. 420.
- ⁵³ For the political background see B. P. Wolffe, *Henry VI*, London, 1981, p. 313-322.
- ⁵⁴ *The parliament rolls of medieval England*, XII, éd. A. Curry, Woodbridge, 2005, p. 448, 453-464; Wolffe, *Henry VI*, cit., p. 320-321.
- ⁵⁵ M. Kekewich, *The attainder of the Yorkists in 1459: two contemporary accounts*, in *Bulletin of the Institute of Historical Research*, 55, 1982, p. 25-34.
- ⁵⁶ *Registrum abbatiae Johannis Whethamstede*, I, éd. H. T. Riley, London, 1872, p. 345-356.
- ⁵⁷ J. P. Gilson, *A defence of the proscription of the Yorkists in 1459*, in *English historical review*, 26, 1911, p. 512-525.
- ⁵⁸ Wolffe, *Henry VI*, cit., p. 321.
- ⁵⁹ *Parliament rolls*, XII, éd. Curry, cit., p. 464.
- ⁶⁰ *The historical collections of a citizen of London*, éd. J. Gairdner, London, 1876, p. 207.
- ⁶¹ *Registrum abbatiae Johannis Whethamstede*, I, éd. Riley, cit., p. 356.
- ⁶² See J. Watts, *Henry VI and the politics of kingship*, Cambridge, 1996.
- ⁶³ *Historical collections*, éd. Gairdner, cit., p. 207; *Parliament rolls*, XII, éd. Curry, cit., p. 450-451.