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The Peace Rolls and the King's Bench

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Bristol, situated on the Avon near its junction with the Severn on the southern border of the county, early became the most important port on the west coast. Thus due to topographical conditions the economic life of medieval Gloucestershire was as varied as that of any county in England.

Because these rolls are local records they do not to any large degree reflect the political struggles of the second half of the fourteenth century, the difficulties of the central government, or the defeat of the Commons' efforts to bring about reform. The disorganization at the end of Richard II's reign is illustrated by the failure of the king's bench to handle business arising out of the peace roll of 1395-1398.⁵ Unlike the rolls for some counties those for Gloucestershire, because they contain almost no economic offences, do not give anything approaching an adequate picture of economic or social conditions in the county. Although the west of England was little touched by the great revolt, still Gloucestershire's economic development was so advanced by this time that there must have been pressing questions of wages, prices and the like.⁶ Of these there is nothing. The problem of the salaries of priests, the extent of the manufacture of cloth, and the difficulty of forcing the large religious houses to obey the regulations on fishing, are suggested, though not pictured in full. On the other hand, the constant struggle against lawlessness that went on throughout the country is adequately portrayed. The protection of life and property was a serious problem in medieval Gloucestershire as elsewhere.

II THE PEACE ROLLS AND THE KING'S BENCH

The four peace rolls for Gloucestershire printed in this volume are today among the records in the Public Record Office, the three earlier ones being classified as Assize Rolls and the fourth among Ancient Indictments.⁷ They

⁵ *infra* p. 42.

⁶ For violations of the laws regulating the sale of commodities which appear on a king's bench roll of 1363 see *infra* p. 47.

⁷ Putnam, *Proceedings*, xvii-xviii, lxxv ff.

owe their preservation to four visits made by the king's bench to the county, in Trinity term 1363, Michaelmas 1378, Michaelmas 1387 and Trinity 1398. On these occasions the bench sat in Gloucester, except that in Trinity term 1363 it went also to Bristol, Newport and Worcester.⁸ In Michaelmas term 1378 it may have come to Gloucester because parliament met there from 20 October to 16 November; at this session the ordinance of labourers was made a statute.⁹ The king's bench also sat in Gloucester in Hilary term 1368, but the records of the justices of the peace which were before it at that time have been lost.¹⁰ It is possible that the visit of the king's bench to Gloucester in 1363 and that of parliament in 1378 were connected with an agitation against stipendiary priests who were demanding excessive wages. In 1350 the archbishop of Canterbury attempted to meet the problem in a document known from its initial word as the *Effrenata*. In 1363 a second *Effrenata* was issued, and at the close of the parliament held at Gloucester in 1378 the bishops meeting together formulated a third. The last two dealt not only with the question of wages but also with other misdeeds of the priests.¹¹ When the king's bench was in Gloucester in 1363 it heard indictments against a large number of stipendiary priests who had been taking excessive wages.¹² Also on the peace rolls of 1361-1363, 1378 and 1384-1386 there are indictments of chaplains and some other members of the clergy for various offences.¹³ Since, however, the peace rolls for other counties contain indictments of members of the clergy,

⁸ On the migrations of the king's bench Putnam, *Proceedings*, pp. lix ff., 29 ff.

⁹ *Rotuli Parliamentorum*, III, 32; 2 Richard II, st. I, c. 8.

¹⁰ KB 27/429, Rex, mm. 20d, 21, 24d, 28.

¹¹ B. H. Putnam, "Maximum Wage-Laws for Priests after the Black Death, 1348-1381," *American Historical Review*, (1915-1916), xxi, 12-32.

¹² Ancient Indictments 29, m. 10 and *passim*; KB 27/411, Rex, mm. 17d, 27, 28, 29d; Fines, mm. 2d, 3. At this session the king's bench also heard indictments of economic offences committed in Bristol and the county of Gloucester; *infra* p. 47.

¹³ For example, Roll I, nos. 8, 12, 38; Roll II, nos. 17, 40; Roll III, nos. 58, 59, 74, 118.

it is impossible to tell certainly whether or not the local situation was in any way responsible for the visit of the king's bench to Gloucestershire in 1363 or for the *Effrenata* of 1378 being issued at Gloucester.

These peace rolls were before the king's bench because when it came into a county all inferior jurisdictions, including the justices of the peace, ceased to function. While it is certain that records of completed business would have been sent to the bench only if called for, there is some doubt whether the justices of the peace turned over their unfinished business automatically or only on receipt of a writ ordering the transfer. Although examples of general writs—either of *mandamus* or *terminari*—summoning all unfinished business are rare, it is probable that they were commonly issued. On the other hand, if the bench was not in a county, writs of *mandamus*, *terminari*, *cerciorari* or error were used to remove individual cases.¹⁴ Such positive information as exists concerning the removal of the Gloucestershire peace rolls does not settle the question of the need for a writ.

The records of the 1361-1363 sessions were brought before the king's bench on a general writ of *mandamus* issued at Gloucester by Sir Thomas de Ingelby, newly appointed justice of the king's bench, to Lord Gilbert Talbot, presumably *capitalis iusticiarius* of the commission of 20 March 1361 in fact if not in name.¹⁵ The writ ordered him to send all undetermined indictments made before him and his associate justices to the king's bench when it came to Gloucester on 12 June 1363, under penalty of a £40 fine. As the writ was issued on 5 June Talbot had little time to prepare his records if they were not already in shape. That a special roll was drawn up is indicated by the fact that the indictments were arranged not by sessions but by offences, felonies and trespasses being grouped together under appropriate headings. Also the names of the jurors were enrolled separately, presumably to save time.

¹⁴ Putnam, *Proceedings*, pp. lxiv ff. For examples of writs of *cerciorari* see *infra* pp. 142, 143, 160.

¹⁵ *infra* p. 58. For similar activity on the part of Ingelby in Yorkshire in 1362 see Putnam, *YS*, p. xix. On the *capitalis iusticiarius* see *infra* p. 19.

The second extant peace roll for Gloucestershire, containing records of a session held early in 1378, came before the king's bench at Gloucester in Michaelmas term 1378 and the third roll, of sessions covering the years 1384-1386, in Michaelmas term 1387. It too may have been especially prepared for the king's bench, because while the indictments were enrolled under session headings, the felonies presented by each hundred were put first, then the trespasses. If, as is highly probable, general writs were issued for the removal of these records they have not been preserved.

The latest roll, covering the years 1395-1398, is the most interesting of the four. It is really not a roll but a collection of material, some of it enrolled, which appears to have been put together hastily for the visit of the king's bench to Gloucester in Trinity term 1398. It contains indictments for felonies and trespasses made at sessions of the peace held in 1397-1398, indictments for infringement of the statute on salmon with records of the incompleting trials of some of the offenders, and documents relating to the trial of another group of trespassers. At the last session on it, that of 3 June 1398, the justices received an order from the sheriff instructing them to have all their records before the king's bench, wherever it was, by 9 June. They thereupon endorsed the records and sent them in as they were.¹⁶ The next session of the king's bench was held at Gloucester on 12 June this year. The order from the sheriff contrasts with the general writ of *mandamus* on the first roll, which was addressed to the justices directly and specified the place where the bench was sitting.

Even if the specific orders for the removal of some of these records had not been preserved, evidence that the rolls were before the king's bench would not be lacking. The number of offenders indicted before the justices of the peace who were summoned before the king's bench are discussed below.¹⁷ Over a few indictments determined by the king's bench the clerk wrote *quietus* or *finem fecit*.¹⁸

¹⁶ *infra* p. 159.

¹⁷ *infra* pp. 49-52.

¹⁸ For example, Roll I, no. 21; Roll III, no. 31.

Also in making up lists of persons indicted before the justices of the peace who were to be brought before the king's bench in 1378 and 1387 the clerk followed the order of the indictments on the peace rolls, felons, trespassers and accessories being summoned in separate groups.¹⁹ The nature of each offence was noted in the margin of the roll, possibly to facilitate the making of these lists. One such list for 1387 contains names that are not on the extant roll, and so indicates that the records of some sessions of the peace held at approximately the same date as those that are extant may have been lost.²⁰ While the king's bench at its session held at Gloucester in 1398 took no action on the indictments on the latest roll—presumably because of the unsettled state of the government—after the accession of Henry IV this roll was searched and proceedings begun against some of the offenders indicted on it. Also pardons granted by Richard II were noted on it.²¹

While the rolls of the king's bench have yielded a large amount of material relating to the Gloucestershire justices of the peace, the same is not true of other records of the central government. The extant rolls of the justices of gaol delivery contain but three cases that were tried on indictments on the extant peace rolls, though there are on them trials of indictments made before the justices of the peace at other dates.²² The records of chancery and the exchequer contain practically nothing that relates to the functioning of the Gloucestershire justices of the peace at the dates of the rolls printed in this volume.

III (A) COMMISSIONS OF THE PEACE

The Commissions for the Sessions

The sessions of the peace recorded on the rolls printed below were held under six commissions issued for Gloucestershire and for other counties on 20 March 1361,

¹⁹ KB 27/471, Rex, mm. 24d, 26d; 506, Rex, mm. 20d, 21.

²⁰ KB 27/506, Rex, m. 21.

²¹ *infra* pp. 143, 163.

²² *infra* p. 50.