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The Last of the Brimpsfield Giffards, and the Rising of 1321-2

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THE LAST OF THE BRIMPSFIELD GIFFARDS
AND THE RISING OF 1321-2

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NO one can attempt to write on Brimpsfield in the Middle Ages without respectful reference to Mr J. N. Langston's extensive labours in this field. His paper on 'The Giffards of Brimpsfield',¹—a mine for all later students—is based on a detailed examination of a large number of original sources; but at that date (1944) it was not customary to give full references to sources in the *Transactions*. The writer of this study aims at giving the fullest possible references, for the benefit of other students; and she will concentrate on the career of the last of the barons of Brimpsfield, Sir John Giffard II—his share in the stormy events of 1321-2, and his tragic end.

Mr Langston's researches have shown the young John succeeding in 1299, as a boy of twelve, to his father's wide inheritance,—Brimpsfield and Rockhampton in Gloucestershire, Sherrington and Elston in Wiltshire, and the castles of Cortham, Clifford and Iskennan as well as other lands in Carmarthen, with the castle of Llandovery, held of the king in chief; also the manor of Badgeworth and town of Burford held of the Earl of Gloucester, and the castle of Bronllys (Brecon) of the Earl of Hereford. He grew up under the influence of his mother, Lady Margaret (widow of Sir John de Neville, before her marriage to John Giffard the elder); she was a lady of strong character, if we may judge by her tenacity in holding to some of her lands after the death of her son. She had a second son, Edmund, who is not heard of after 1306. The young baron thus tasted early of power; he visited, no doubt, his scattered estates, but probably spent most of his time at Brimpsfield, from which the barony took its name.

¹ *Trans. B.G.A.S.*, Vol. 65, pp. 105-28.

A pleasant estate, this, on which to grow to manhood, with its castle, its park of 200 acres (the wooded valley, with its little stream, still called 'Brimpsfield Park'), its 'coneygarth', and the wood of 300 acres called 'Bocholte'.¹ (This would have included all the Cranham and Buckholt woods, as well as what is now called 'Buckle Wood' nearer to Birdlip.) Then, as now, the pasture was worth nothing, though pannage worth 6s 8d p.a. was paid by those who fed pigs in the beechwoods; then, as now, there were probably foxes and badgers. In 1281 the elder John had a licence to hunt wolves² in the king's forests; had he any in his own woodlands? St. Clair Baddeley writes of a 'wolf-hey & pit at Brimpsfield'. The castle was an important one, standing in a position, about half-way between Cirencester and Gloucester, that commanded a view of the 'Ermine Street' which unites these two towns; this site was chosen in the 12th or 13th century in preference to the lower position, above the stream, originally selected for a Norman motte and fosse.³ It may have been extended by Sir John or his father; it may have included a chapel.⁴ The Giffards, however rough and rude as warriors, were pious in their own way⁵; they almost certainly built the existing church of St. Michael's, Brimpsfield, the greater part of which—with the exception of the tower—dates from the 12th and 13th centuries. This church stood just outside the castle moat; on the other side of the churchyard, to the north, stood the small priory (a cell of the Norman monastery of Fonteney, on whom an earlier baron had bestowed the church of Brimpsfield, as well as some of his Wiltshire lands). To the 14th century belong certain architectural additions to the church—a porch with stone benches, windows and a

¹ Inqu. p. Mortem for Glos. *Trans. B.G.A.S.*, Vol. 65.

² *Trans. B.G.A.S.*, Vol. 20, p. 46.

³ This Norman castle of Brimpsfield is marked on the Ordnance Map, but has never been fully reported on.

⁴ Carved stone heads of unusually good workmanship have been found on the castle ruins. Their date would be about 1240. They are now in the Gloucester Museum.

⁵ John's father founded and endowed 'Gloucester College' for students at Oxford.

piscina in the chancel. Conjecturally these may be the work of Sir John II, for on his death the manor was forfeit and passed rapidly from hand to hand, and the Priory came into the king's hands in 1414.

Sir John was known as 'Le Rych' to his contemporaries, but his inheritance was not only of castles and lands, services and rents; there was also a proud tradition of political independence. His father had been a vigorous adherent of de Montfort, though by the time of this son's birth in 1299 he was reconciled to the king. Father and son were both imbued with the spirit of the Marcher Lords, who from Chester down to Glamorgan 'kept' the Welsh borders, claiming in return immense powers, such as freedom to hold a court and to alienate at will, and resenting the curtailment of these powers by Edward I.

Important among the Marcher Lords were the de Clares, Earls of Gloucester, who held a great part of the Cotswolds, as well as Gloucester Castle and lands in Glamorgan. The Mortimers held a strip on the Severn, opposite to Berkeley, and a block of land on the mid-Wales border, between Ludlow and the Wye. The de Bohuns, Earls of Hereford, held most of Herefordshire and Brecon; Pembrokeshire was a County Palatine held by the de Valence family.¹ The Brimpsfield barons were not tenants of the Earls of Gloucester, but held direct of the king; they mingled freely with the Marcher Lords and shared their independent spirit. Young Sir John won his spurs in warfare against both Welsh and Scots. Together with the Earl of Hereford he was captured at Bannockburn; as soon as they were ransomed, the two barons were sent with the Mortimers, uncle and nephew, to Wales, where they defeated Llewelyn Bren, who had led a rebellion after the Scottish disaster. This (1316) is the date of Giffard's advancement to the honour of banneret and of a short-lived engagement to remain in the king's service for life, with thirty men at arms under him.²

In May 1317, he was ordered to deliver up the lands and castles of the late Gilbert de Clare, lying in Glamorgan and

¹ Cf. map. Tout, *Political History*.

² See Langston, p. 124.

Morgannwg, of which he had been made keeper the year before.¹ From this time he passes from the rôle of mere warrior to that of baronial politician.

To assess the part played by Giffard in the stormy events which led to his death, it is necessary to examine the history of these years more closely. Can we find a way through what appears at first sight a mere waste of baronial quarrels and royal maladministration?

The young King Edward II deserves our pity for more reasons than for his tragic fate in Berkeley Castle. Unfitted in character for the part of mediaeval king, he was faced from the outset of his reign by a crushing burden of debt, a resurgent Scotland led by Robert Bruce, and a baronial revolt against the centralized administration and parliamentary innovations of his mighty father. His reign is a long tale of baronial experiments, all of them aiming in different ways at the control of the king's officers and the substitution of a small body of 'Magnates' for the larger Council of royal advisers and barons great and small. The 'Ordinances', to which the king was forced to submit in 1311, subjected the executive to baronial control. All chief officers were to be appointed in Parliament; but though many knights of the shire attended the Parliament of 1311, the actual selection of the ministers was by the 'Ordainers', a commission composed of the Archbishop, the Chancellor, fourteen earls and barons and five bishops. The king, though obliged to consent to the exile of Gaveston, his favourite, tried to entrench himself among the officers of his household and also behind three barons, married to the three co-heiresses of Gilbert, Earl of Gloucester, his brother-in-law, who had fallen at Bannockburn (1314); these were Hugh le Despenser the younger, to whom fell the Welsh lands of de Clare, Hugh d'Audley, who received the castle of Newport, and Roger d'Amory, who was made custodian of the castle of Gloucester and later of the castle of St. Briavels and of the Forest of Dean. (Here, already, lay the seeds of strife with the Gloucestershire baronage.)

¹ Cal. of Close Rolls, 1307-13; pp. 263 and 415.

Edward's cousin, Thomas, Earl of Lancaster, always a disturbing element—neither definitely for nor against the king—was discredited by his slackness against the Scots and the disaster of Bannockburn. Another cousin, de Valence, Earl of Pembroke, made a tremendous effort to build up a middle party, to lead, rather than coerce, the king. He succeeded in including d'Amory and Bartholomew de Badlesmere, a knight of the late Earl of Gloucester.

In August 1318, Edward was persuaded to renew the Ordinances at the Treaty of Leek. Even Thomas of Lancaster exchanged with him the kiss of peace, though he showed his view of the baronial position by an indenture with the king, who agreed that special 'pières de la terre' should attend the next Parliament, '& totes choses convenables soient redressez par eux'. (According to Professor Pollard, this is probably the first instance of the use of the term 'peers' in a political sense,¹ though it had of course occurred in Magna Carta in the phrase 'judgment by peers'.) Edward placed great confidence in Pembroke, and matters looked hopeful for a short time. It was the Despensers' intransigence that broke up the coalition,—above all the ambition of Hugh the younger to build up his position in Wales. Not content with his share of Gloucester's lands in Glamorgan, he now aimed at the lordship also of Gower. William de Braose, lord of Gower, had granted the Honour to his son-in-law, John de Mowbray, who at once took possession of Swansea Castle. Despenser instigated Edward to attempt the seizure of Gower, on the ground that he had never licensed the alienation. The Marcher Lords took fire at this violation of the 'custom of the Marches'—Bohun of Hereford and Hugh d'Audley notably. Pembroke's middle party split in two: Hereford appealed to Lancaster, who, either from pique at the offensive conduct in the north of the elder Despenser, or from personal ambition, now joined the opposition party of the Marchers.

Can we trace the part played in these tangled events by our

¹ Pollard, *Evolution of Parliament*, p. 99.

baron of Brimpsfield? He ranked among the 'barones majores' and was summoned regularly to Parliament. By marriage he was connected with both parties. His father-in-law, Sir Hugh Courtney, was one of the Ordainers (1311)¹; but Sir Hugh's wife was a daughter of the elder Despenser, and John Giffard and Aveline Courtney were enfeoffed of Kings Stanley manor by Amaury, one of the Despenser clan.² Giffard remained for a time loyal to the middle party. He was one of the 'Magnates' added to the Council, during the reforming period, 1318-19.³ He was approached by young Hugh le Despenser, who tried to form a 'bill of alliance' with him, but Sir John evidently resisted this attempt, though it was couched under constitutional terms. He probably also resisted a royal summons, dated 28 March 1321, to attend an extraordinary meeting of the 'Magnates' to be held at Gloucester on 5 April 1321,⁴ in consequence of the disturbances in the Marches; for by this time, according to Knighton's *Chronicle*, a baronial league had been formed, pledged to the downfall of the Despensers, and including not only the Earls of Lancaster and Hereford, Sir Roger Mortimer, Sir Roger de Clifford, Sir John de Mowbray, but also 'Sir John de Giffard le Rych'.⁵ Henceforward his story is that of the baronial opposition or 'contrariants', who ran their vehement course from March 1321 to March 1322.

Despite futile orders from the king forbidding 'illegal assemblies' the Marcher Lords ravaged the Despenser lands, especially attacking their cattle and game⁶; while, in the north, Thomas of Lancaster held two unauthorized gatherings of magnates, one at Pontefract, and one at the parish church of Sherburn, Yorkshire, where an indenture was entered into to secure the dismissal of evil councillors. Humfrey, Earl of Hereford, was

¹ Stubbs, *C. Hist.*, II, p. 343.

² Langston, p. 124.

³ See Cole's *Documents*, p. 11.

⁴ Palgrave, *Parl. Writs*, II (3), pp. 917-18.

⁵ Knighton, *Chronicon* (R.S.), p. 422.

⁶ *Vita Edwardi Secundi*, by 'The Monk of Malmesbury': ed. N. Denholm Young. (From this date a valuable source, the author being contemporary and from the West-country.)

also at Sherburn, thus signaling the coalition of North and West. Led by Earl Thomas, in August 1321 the barons marched on London, seized the Despensers, and obtained their outlawry, 'against the will of the king'.¹

Some of the charges against the Despensers are worthy of note. 'Hugh le Despenser the son was despitiful against the king and made a Bill, upon which Bill he desired to have in alliance Sir John Giffard de Brymmesfeld . . . and others for the purpose of leading the king by violence to act according to his will'. The tenor of which Bill follows: 'Homage and oath of allegiance is more by reason of the Crown than by reason of the person of the King. . . . Wherefore if the King by chance be not guided by reason, his subjects are bound by the oath made to the Crown to guide the King and the Estate of the Crown back again to reason. When the King will not redress the matter . . . it is to be determined that the thing be removed by violence, for he is bound by his oath to govern the People, and his Liege Subjects are bound to govern, in Aid of him and in his default'. (This reads almost like an echo of the barons in the time of Henry III, but in the 14th century the constitutional party, or 'contrarians', preferred to keep such political theorizing for their own use. They were not to be trapped by a Despenser, aiming at his own personal desire to govern the king.) The charge continues: 'Also they (the Despensers) caused to be indicted by false jurors . . . the Peers of the Land—that is to say, the Earl of Hereford, Monsieur John Giffard of Brymmesfeld . . . and other good men, so that what ought to be for the Maintenance of the Peace and of the good (les bons) and the punishment of the bad, they perverted to the disherison of the Great Men and the destruction of the people'.² May we hear the voice of Thomas of Lancaster in this fresh invocation of 'the Peers'? Or is it an echo of the Great Charter?

The Despensers were exiled, and a Parliament at Westminster, 15 July 1321, passed an Ordinance for the pardon of all

¹ Knighton, *Chron.* (R.S.), p. 422.

² *Stat. Realm*, I, 182.

who had taken part in the proceedings against them. Among these was a lengthy pardon to 'Giffard de Brymmesfeld, Johan, for all homicides, robberies, felonies, trespasses, etc. committed in the "pursuit", and also, upon his testimony, to fifty-five of his followers by name'.¹ He is also included in a pardon to Humfrey de Bohun of Hereford for anything done against the Despensers, son and father, between 1 March and 19 August.² Both documents are dated 20 August 1321.

How the victors spent the rest of that summer, the chronicles do not tell. Giffard may have gone home to his wife, so often left alone by her too-active husband, and have seen the harvest in at Brimpsfield; he must certainly have attended to the stocking and defence of his castle, and to the gathering and training of as many men as possible from his scattered manors. Miserden, adjoining Brimpsfield, had already passed to a Despenser, and may have been a storm-centre. Each side knew that its victory was incomplete. But the 'contrariants' had not calculated on the fury of energy which his late humiliation engendered in the king. Pembroke, when once the Despensers were removed, rallied to the middle party and drew a number of barons after him, and London stood by the king.³ On 16 October a writ summoned the barons to bring their levies to the king at Leeds, in Kent, where he seized Badlesmere's castle. Six earls obeyed; and the king moved towards Wales, attempting attacks on the castles of de Bohun, Audley and d'Amory⁴ and inciting the Welsh to attack their lords, as rebels to the king. This aroused Thomas of Lancaster, always unwilling to agree wholly with any one set of men; he summoned a 'convention of barons' to assemble at Doncaster on 29 November. The king replied with vigour; Lancaster was accused of 'usurping the royal dignity'. Giffard (as well as many others) received a special writ from the Crown ordering him to abstain

¹ Palgrave II (2), 166-7.

² *Cal. Pat. Rolls*, 1321-4, p. 18.

³ Conway Davies, *Baronial opposition to Edward II.*

⁴ Stubbs, C. H., II, 365.

from attending this illegal convention (12 Nov.).¹ The western lords could hardly have left their own country to travel north, for by this time the king had decided on a vigorous western campaign. On 30 November the Sheriff of Gloucester was ordered by writ to summon all persons able to serve as foot-soldiers to come to Cirencester by Sunday, 13 December, with leaders to be appointed by the sheriff. All sheriffs in England received similar writs.² This was an attempt by the king to raise the national militia, the 'posse comitatus' of the shires, against the barons. He even began to talk of the recall of the Despensers, and obtained an opinion from the clergy that the proceedings against them had been illegal.³ The younger Hugh, who had never gone abroad but had lurked near the coast—sometimes as a pirate—may have already rejoined him.⁴ On 7 December, John Giffard was declared the king's enemy,⁵ and Oliver de Ingham and Robert Lewes were ordered to arrest him and other rebels, and cause them to be kept in prison by the sheriff in whose bailiwick they were found. The barons were busy pulling down the king's castles and carrying off cattle in Wales.⁶

Giffard must have had to stay near home, for the assembly at Cirencester was a direct challenge to his position, so close to the main road to Gloucester. The king spent Christmas 1321 at Cirencester. On 26 December, a writ of aid was directed to the knights and others of the County of Gloucester for 'John de Hampton, sheriff of the County and Robert de Aston, bailiff of the liberty of the Abbot of Gloucester, whom the king has appointed to level the castle of Brymmesfeld⁷.' Again on 27 December an order was sent to the Sheriff to take into the king's hands and keep safely all castles, lands, goods and chattels of John Giffard of Brymmesfelde. The sheriff no doubt

¹ Palgrave, II (3), 918 and Div. I, p. 267.

² Palgrave, II, Div. I, p. 269.

³ Adam de Murimuth, *Chron.* (R.S.)

⁴ Dugdale *Baronage*, I, 391.

⁵ Palgrave, II, Div. I, p. 270.

⁶ Knighton, p. 423.

⁷ *Cal. Pat. Rolls Ed. II*, Vol. IV, 42.

found this a dangerous enterprise, for on 4 January 1322, the order was repeated to the Sheriff of York.¹ Perhaps it was this provocation that drove Sir John to the attack on the royal baggage train, the story of which, popularized by Bazeley,² has been often repeated, but without direct reference to sources. It occurs briefly in Dugdale³ who quotes from Leland. After an account of the baronial rising and of the fact that the 'Hugones Spensarii' were recalled, Leland's quotation continues: 'Dominus Joannes Giffard bigas regis, cum armis versus Walliam tendentes, spoliavit. Unde rex, habita magna deliberatione, versus castrum dicte Joannis, videlicet Bremesfeld, properavit et funditus demolitus est'.⁴

It is difficult to be sure of the exact date of the waggon skirmish or of the demolition of the castle. On 15 January, Richard Lovel, constable of Bristol castle, was ordered to arrest the Earl of Hereford, Roger Mortimer, Maurice de Berkeley and John Giffard.⁵ On 8 February 1322, the king, dating from Gloucester, recounts to Lancaster all the misdeeds of the insurgents, some of whom had chased and put to flight certain of the king's lieges being at Cirencester.⁶ This may refer to the waggon incident, which one would conjecture to have occurred near to Brimpsfield—perhaps in the dip of Ermine Street where the 'Golden Heart' now stands, at Nettleton, 1 mile S.E. of Birdlip.

One chronicler says definitely '*In the month of February* the king seized the castles and fortresses of Wales and destroyed the castle of Sir John Giffard in Brymaris feld'.⁷ But against this date is a petition to the king (dated May 1322) from John le Galeys of Paganhill, who says that 'though he was

¹ Cal. of Fine Rolls, 1319-27, III, 84.

² *Trans. B.G.A.S.*, Vol. 20, 239.

³ Dugdale, *Baronage*, p. 501.

⁴ Joannis Lelandi Antiquarii *de rebus Britannicis Collectanea*. Ed. Thos. Hearne, 1765, p. 274. Leland's quotation is from a continuation of Gervase of Canterbury, probably by a 14th century author.

⁵ Rhymer, *Foedera*, III, 923.

⁶ Palgrave, II, Div. I, p. 274.

⁷ *Le Livre de Reis de Britannie*, ed. J. Glover, p. 341.

despoiled of all his goods and imprisoned in Gloucester castle during the whole time that John Giffard and other contrariants of the king held the castle and town of Gloucester against the king, because he was *present at the demolition of Brymmesfeld castle*, yet his lands were taken into the king's hands'.¹ Giffard and the other barons had left Gloucester by at least the third week in January, so that John of Paganhill's imprisonment in the castle must have been in that month. It seems not improbable that 'two bites' were made of Brimpsfield castle, one early in the New Year, before or just after the attack on the waggons, and a second in February, when the king's headquarters were in Gloucester. A complete demolition 'from the foundations' would have been a lengthy job; allusions to the castle occur for some time later, and a fragment of the 13th century gateway survives to this day, as well as the moat and heaped-up outlines of the walls.

All this time, says a chronicler, 'hatred and strife increased daily'. The 'contrariants' must have left a garrison in Gloucester while they sped away to oppose the king's passage to Wales at Worcester. Tewkesbury had a bridge over the Avon, but not over the Severn, so no clash occurred there. Bridgnorth held the next possibility of crossing the Severn, and Edward sent soldiers ahead to seize the bridge, but was again foiled by the rebel army, which now included not only Giffard and other Gloucestershire men, but also the two Roger Mortimers,—uncle and nephew, lords of Chirk and Wigmore,—who had been harrying the Marches. They set fire to Bridgnorth and broke down the bridge, but the king 'left the town on his left hand'² and 'with an unexpected multitude of foot-soldiers'³ moved towards Shrewsbury. Here at last his enemies showed signs of faltering, owing to the non-arrival of the aid they had expected from the Earl of Lancaster. The Mortimers, abandoning their allies, threw themselves on the mercy of the king⁴, who sent

¹ Cal. of Close Rolls, 1316-23, p. 447.

² *Chron. Ed. I and II* (R.S.), II, 264.

³ Knighton, p. 423.

⁴ *Monk of Malmesbury*, p. 119.

them to the Tower. On 22 January 1322, he entered Shrewsbury, thus turning the lines of his hesitating opponents. These 'greatly dumbfounded', hurried northwards to Thomas of Lancaster, and told him all 'with tears'. The Earl took them under his protection and swore to fight in their quarrel.¹

The king's outburst of energy was not yet abated. While at Shrewsbury he handed over the Great Seal to de Ayremynne, Keeper of the Chancery Rolls, and did not resume it till 3 March at Merivale². During this period, though the movements of his official staff may be traced by the dates and places given on writs and letters patent, this cannot be said of the king, who is playing the unaccustomed rôle of an active commander in the field. One after another of the castles on the Marches fell into his hands, including that of de Bohun of Hereford, who was with the rebels. By 6 February he at last entered Gloucester, where he received the submission of one of Giffard's friends, Maurice de Berkeley, whose castle he occupied. And he must surely have been still in Gloucester on 11 February, when the two Despensers were formally recalled. On 13 February several of Giffard's manors, including Brimpsfield, were committed to the charge of Simon de Dryby³; who also had the custody of Gloucester castle. At the same date the Sheriff, John Haward received stringent orders to raise 500 foot-soldiers, together with knights, esquires and men-at-arms, and march them to Coventry. Another 1,500 men were demanded a fortnight later.⁴ About mid-February probably the king left Gloucester, and engaged in 'mopping-up' operations. He had refused an urgent request, tendered in person by Sir Andrew Harclay, Sheriff of Cumberland, to bring his army northward, to defend the country against Robert Bruce. 'Return to your country', said the king, 'and keep the strongholds committed to you: I shall pursue my traitors whithersoever they betake themselves, and shall not turn back till

¹ *Chron. Ed. I and II*, ii, 264.

² Palgrave II, I, 272 and 282.

³ *Cal. of Fine Rolls*, III, 96.

⁴ Palgrave II, Div. I, 276 and 278.

they are brought to nought'.¹ The remainder of the month must have been spent in 'mopping-up' operations, by Edward, before he led his forces to the rendezvous at Coventry.

Sir John Giffard and the rest of the rebels were thus cut off from their own territory, and seem to have moved about in Lancaster's sphere, committing what a hostile chronicler describes as 'plunderings, burnings, murders and other crimes'. Three precious weeks were wasted in besieging the royal castle of Tickhill. Then, on the news of the king's advance by Coventry, a large force, led by Lancaster, seized Burton-on-Trent, where they held the bridge for three days. The king, however, forced a crossing by a ford higher up the river; the lords were dismayed by the desertion of Robert Holland, with Earl Thomas's treasure, and fled northwards, abandoning Tutbury castle to the king, who issued thence on 11 March, a series of writs to all the sheriffs in England, bidding them 'raise the hue and cry against the Earls of Lancaster and Hereford, and against Bartholomew de Badlesmere, Roger de Clifford, John Giffard de Brymesfelde, Henry Tyes and other rebels'.² It was a little early to raise the hue and cry,—a force intended for the pursuit of fugitives and outlaws,—but the end was not far off.

Lancaster and his party seem to have lost heart at this point. They made no stand at Earl Thomas' castle of Pontefract, but pressed northwards hoping, perhaps, for aid from the Scots, but with no definite plan. The king was pressing in their rear, the countryside was hostile or indifferent; and they had to reckon with Andrew Harclay, trained in long Border fighting, and goaded by his monarch's scornful commands. On 16 March, this notable warrior, with forces immensely smaller than those of the baronage, stood at bay near Boroughbridge, posting his men on the north bank of the River Ure, which could only be crossed by a long narrow bridge, hardly wide enough for one armed horseman. Hereford, dismounting, attempted the bridge, but was slain by a Welshman, whose spear pierced him

¹ *Monk of Malmesbury*, p. 121

² *Palgrave II*, 1, 283.

through from beneath the bridge.¹ Lancaster tried to lead the armed horsemen across a ford, but was stopped by a heavy rain of arrows. He asked for a truce till the next day, when he and most of the leaders surrendered. But some of the rebels 'left their horses, and putting off their armour looked round for ancient worn-out garments, and took to the road as beggars'; but their caution was of no avail. 'O calamity!' cries the chronicler, 'To see men lately dressed in purple and fine linen now attired in rags, bound and imprisoned in chains'.² That this is no empty rhetoric is shown by an 'inquest of enquiry', held at Sherburn, Yorkshire, soon after the battle, to discover what had become of the prisoners, horses, armour and articles of clothing scattered about the countryside. Among the numerous responses was one by a certain Matthew, who confessed that he had a red doublet (jupel) which belonged to Sir John Giffard, value 40s.³ So very costly a garment, worthy of one called 'the Rich', can hardly have been cast away in battle, but must have been in Sir John's baggage. We are told definitely that he was taken 'in arms' on 17 March, and was borne to Pontefract castle, along with the greater men.⁴

Lancaster was brought before the king and magnates, was condemned as a traitor and beheaded on 22 March, at Pontefract.⁵

Rendered desperate by the danger which he had barely escaped, Edward showed mercy to none of his captives. Many were sent south at once, to be imprisoned in London under orders for trial. A commission was issued from Pontefract on 23 March, to Ralph Savage, Hamo de Chigwell and Walter de Shorn to render judgment upon Henry Tyes⁶ and John Giffard of Brymmesfeld, traitors, 'according to a schedule which the king is sending to them under his half seal (*sub pede sigilli*); they were to meet at the Tower of London, on a day to be

¹ *Chron.* Galfride le Baker, p. 11 and Knighton, p. 423.

² *Monk of Malmesbury*, pp. 124-5.

³ *Cal. of Inquisitions*, Misc. II, 132.

⁴ Palgrave, II, 200 (No. 189).

⁵ *Chron. of S. Albans*, Vol. IV, and Rhymer, *Foedera* III, 923-4

⁶ Of Chilton, Wilts.: see *Monk of Malmesbury*, xxiii.

appointed by them, to pronounce judgment in the form aforesaid; the sheriffs of London to be intendant to the said commissioners for the execution of the said judgment'.¹ Sir Henry Tyes was brought before his judges at the Tower on 3 April.² Giffard's fate dragged on more slowly. We cannot be certain that he was ever brought to London. One chronicler speaks of the prisoners being consigned 'to different prisons'.³ I can find no record of his name in the 'Gaul delivery of the Tower of London', quoted by Palgrave from a *Coram Rege* Roll for Hilary Term, 1322.⁴ He may have been brought down south by the Fosse Way to Cirencester. A commission (dated York, 28 April) orders John de Hampton (? sheriff) John Danesleye and Peter de Helion⁵ to render judgment upon him at Gloucester. He must have been sent down from London or York at once, riding along the Cotswolds in all the cold beauty of early spring, with the beeches bursting into leaf; seeing his own half-ruined castle from the high causeway of Ermine Street as he passed. Perhaps some of the Brimpsfield folk,—monks from the Priory, or men-at-arms, returned, fugitive, from Yorkshire—ventured out to see him pass. Perhaps some of his men of Birdlip, or lower down the hill at Badgeworth, watched the weary journey.

On 6 May, judgment was passed at Gloucester, and immediately executed; 'Johannes Giffard', together with one Sir Roger Elmridge⁶ 'trahitur et suspenditur'.⁷ The actual findings of the so-called judges survive, dated 'In festo S. Johannis ante portam latinam (6 May): Que vous Johan Gyffard de Bremesfeld treteor tretereusement et feloneusement preistes la ville et la chastel nostre seigneur le Roy de Gloucester et iloges ses liges

¹ *Cal. Pat. Rolls*, 1321-24, p. 148.

² Palgrave, II, I, p. 290.

³ *Le Livre des Reis de Brittanie*, op. cit.

⁴ Palgrave, II, Div. I, p. 290.

⁵ Wrongly spelt *Hebon* in *Cal. of Pat. Rolls*, 1321-4, p. 149. The name also occurs as *Helyon*.

⁶ Probably an ex-sheriff of Herefordshire, taken prisoner in February at Gloucester. See *Monk of Malmesbury*, p. 119, footnote.

⁷ Knighton, p. 427, and *Chron. Ed. I and II*, p. 78.

gentz feloneusement et robastes et tuastes et sa ville de Briggenorth tretereusement enlumastes ilouques ses liges genz feloneusement robastes et tuastes et au pount de [? Bourgh] suz trente [probably Burton-on-Trent] nostre seigneur le Roy encountre vostre ligiance ove banere desplie tretereusement assaillystes et la distes ville de Burton feloneusement enlumastes et ses liges genz ilouques robastes et tuastes et de ilouques differaunt . . . au pounte de Bourgh [Boroughbridge] ces liges genz robastes et tuastes tretoreusement et feloneusement . . . vous fustes ilouques et par ces liges genz pris et arestu com felon et tretour sans agard cestè court que vous . . . pur les tresons trenee et pur les felonies pendu.

Et pretextu commissionis predicto predicti justiciarii pronuntiaverunt et reddiderunt iudicamentum super dominum Johannem Gyffard de Bremesfeld juxta tenorem cedulae predicti quod predictum iudicamentum exercitum fuit apud Glouc' die et anno predictis'.¹

A chronicler speaks of a deliberate policy on the king's part with regard to the punishment of the rebels: 'In partibus in quibus magis dominebantur ad majus eorum scandalum et opprobrium, tracti sunt equis & suspensi in patibulis . . . (names given and places) . . . apud Glocestriem Johannes de Giffard & Rogerus de Elmburgh'.²

The 'finding', quoted above, was sent to Edward III in the first year of his reign, as a step in his 'appeasement policy' of reversing the sentences passed on the contrariants. Peter de Helyon, one of the original three commissioners had been ordered to send in the judgment upon John Giffard of Brymmesfeld, by a writ dated 29 January, 1 Edward III (Helyon's return includes copies of the two writs which had ordered the judgment, 28 April 1322).

Four days after Giffard's execution his manor and *castle* [sic] of Brimpsfield, together with Syde, Badgeworth and some of his Wiltshire lands were granted to his enemy, the elder

¹ Chancery Misc. Bdle. (P.R.O.) C. 47/59/3. No. 99. (MS. not completely legible).

² Melsa, *Chron.* (R.S.), II, 343.

Dispenser.¹ His Welsh lands and castles—Iskenny and Caer-kennan—went to the younger Dispenser.² Mr Langston has traced in detail the highly involved later history of the Giffard inheritance.

To complete our study of Giffard and his fate, we should be able to assess the justice or injustice of the summary trials and executions that followed Boroughbridge. It is not easy: we are dealing with a period of uncertain but rapidly developing law.

First, we must ask, before what court did they take place? Was it Council, or King's Bench? This question cannot be answered satisfactorily, for the Council had no judicial roll of its own; its judgments, in Bracton's time, were recorded in the rolls of the Bench as 'coram rege'.³ In Edward I's time, Council, King's Bench and even Parliament were so indistinct organically that for a record of an important trial (such as that of Nicolas Segrave) we may have to consult the Roll of Parliament.⁴ Thomas of Lancaster's trial (25 March 1322) is described as a 'Placitum Coronae coram ipso domino Ed. Rege'. A list of the magnates present is given; the charges—'treacheries, homicides, burnings, plunderings and fighting with banners displayed' are notorious to all the magnates and the people of the realm; the lord king makes record of them: dom: Rex recordatur.⁵ According to the 'Monk of Malmesbury', the judges refused to let Earl Thomas speak, because he had been already condemned, and the Earl cried aloud: 'Mighty is this court, and greater than an imperial power,⁶ (Fortis est hec curia et major imperio), where no reply is heard nor any defence admitted'.

The words 'by the record of the King' are used again of the judgment on Giffard—it was *sub testimonio regis et Dispensatorum*. 'Qui terminus vocatur "Le Roi Recorde".'⁷

¹ *Cal. Pat. Rolls*, iv, 128 and 189.

² *Cal. of Charter Rolls*, Ed. II, p. 444.

³ Maitland, *Bracton's Note Book*, I, 58.

⁴ . . . *Mem. de Parlamento*. (R.S.)

⁵ Rhymer, *Foedera*, III, 936, and Palgrave, *App.*, p. 196.

⁶ Or 'greater still in authority'. *Chron. Ed. I and II*, Vol. II, 70.

⁷ Knighton, p. 427.

This testimony is mentioned by Bracton; 'The king's testimony by charter or viva voce exceeds all other proof.'¹ The doctrine had been repeated in 1292 in a case between the Earls of Gloucester and Hereford. 'It appears to the King's Council that the lord king . . . is the superlative and most high record, having precedence over all his ministers, and processes and records of rolls.'² Against this doctrine, it was possible to quote Magna Carta, cl. 39. 'No free man etc.' and this was done when the life-sentence upon the Mortimers (22 July 1322) (of which the king had given record) was reversed in the first year of Edward III.

At this date distinct reference was made to the failure to grant them opportunity of defence or legal judgment of their peers; and to the fact that the 'trial' had been in time of peace, when the Chancery and the justices of each bench were in session.³ As already said, we are in an evolutionary period when the border-line between Council and Court (the three Benches) is still indistinct.

But the Mortimers' case was a type of the others; the judgments against Giffard and most of the 'contrarians' were reversed at about the same time (July 1327).

On what charge had these men been condemned? They were 'drawn' for treason, hung for felonies and robberies. The felonies are clear enough in the long list of acts of violence committed in the campaign that ended at Boroughbridge. Treason—always used as a term of contumely—was not defined, till Edward III's Act of Treason 1352. As Maitland points out,⁴ this Act probably preserved a good deal of current doctrine—the ancient idea of betrayal of a lord, the newer Roman law doctrine of 'lèse majesté', (alluded to in one of Edward II's letters to Thomas of Lancaster⁵) but it included for the first time 'Levying war against the King'. Until Edward

¹ Maitland, *B.N.B.*, II, 192-3.

² *Rot. Pavl.*, I, 74.

³ *Cal. Pat. Rolls*, 1327, pp. 141-3.

⁴ Pollock and Maitland, *Hist. of Eng. Law*, II, 505.

⁵ Rhymer, *Foedera*, III, 924-5.

III declared himself rightful heir to the throne of France, any English king would have been awkwardly placed in his relations to the French Crown if he had admitted this doctrine. The feudal baronage never had admitted it, nay, they had included in the last clause of the Great Charter the right to coerce a king who did not rule according to law. The barons of Henry III's wars made a similar claim; 'if the king seeks to degrade his own men, they would be mad to obey him,' says the 'Song of Lewes'¹ written by one of de Montfort's party. The barons defeated by Henry III and his son had to submit to heavy forfeitures, but not to the penalty of death.

Had a new theory grown up with the legal growths of Edward I's reign? David of Wales and William Wallace of Scotland both suffered death from Edward as traitors. In their case, clearly, their crime (if it was crime) was open war. Giffard, Mortimer and others are always accused of having ridden 'with banner displayed' (*banere desplie*),—*vexillis explicatis*, the chronicles use the same term. It is of this open war that the king must have 'given record'. War, as has been said by a modern jurist, is 'self-evident'.

Some notion of outlawry was perhaps included in the charge. The order to the sheriffs to raise the 'posse comitatus' against the rebels (11 March 1322) had been issued by the king and Magnates *by whom they had been declared to be rebels and traitors*.² No trial or opportunity of defence was given to them, when taken. Their judges are told to 'give judgment', simply on the 'king's record' in Council, or according to a schedule sent them under the king's half-seal,—*sub pede sigilli*. This was a form sometimes used for documents which did not run in the king's name.³ Edward was adept in evading legal control by changes in methods of sealing. The Ordainers and contrarians were unhappy in their date; it was a transition period both as to courts and to legal theory. Was the law above the king, or the king above the law? Even lawyers held divergent

¹ Kingsford, *Song of Lewes*, p. 31.

² Palgrave, II, 1, 283.

³ Maxwell Lyte, *The Great Seal*, p. 307.

views. Bereford, one of the most famous judges under Edward I declared 'Le Roi est sur le ley'.¹ Bracton, in his 13th century treatise on the laws of England, had written: '*The King has no superior save God*'. But a later gloss continues: '*likewise save the law, by which he was made King; likewise his court—that is, his earls and barons. . . . Thus the King has a superior*'² Maitland attributes this gloss to a judge in Edward II's reign. It certainly agreed with the theory of the Ordainers; from the time of Gaveston's execution they enforced it by violent means; and their violent end was a triumph for the earlier theory of kingship.

The country at large, if unlearned in the law, was probably shocked by the violence of the king. Thomas of Lancaster was revered as a saint. All who took part against him, says a chronicler, came to a violent end. Not least of these was the king himself; and as we have seen, almost the first step made towards popular favour by his son was an enquiry into and reversal of the sentences of 1322.

In Giffard's case, what was his actual fate? The drawing and hanging were undoubtedly carried out, all the records mention this, but I have found no record of the 'quartering', given in D.N.B. and repeated by subsequent writers. There is another, and less terrible story. Mr Arthur Fane has described what he conjectures to be our baron's tomb in the church of Boyton, Wiltshire. The church contains several chantries; in one is an altar tomb, believed to be that of Lady Margaret Giffard, mother of Sir John. In the north chapel is 'a very magnificent slab of Purbeck marble containing the matrix of a superb brass, which seems to have been of a warrior, and from the canopy work the probable date would be of the reign of Edward II or a little later. On removing the stone in 1853 for some repairs, a stone coffin was found . . . and a skeleton nearly perfect, with the skull placed on one side of the body, as though the body had been decapitated. . . . It

¹ *Year Book*, Series xvii, 74.

² *B.N.B.*, Introd.

is hardly a rash conjecture that this chapel was erected for the interment of the last male Giffard'.¹ No document that I have seen mentions this decapitation, but no other Giffard is known to have been executed. Boyton was one of the Giffard manors; Hugh le Despenser was granted its reversion,² the Lady Margaret having successfully asserted a claim to its life-tenure. She ended her days there in 1338 and so may well have had time to collect the mutilated remains of her slaughtered son, to cover them with a worthy tomb, close to the spot where she planned to rest herself, and to provide for masses for his soul and her own. We are here in the realms of conjecture, but a link with the troubled events, which we have been following, is the existence of a stained glass window in the chapel, showing an early 14th century shield of Earl Thomas of Lancaster.

One other item seems to connect Boyton with these events. A jug, with over 4,000 silver coins, the latest date being 1316, was found near the church in 1936. This may well have been a hoard of John 'the Rich', hidden when the rising began.³

Some hard facts are available, to complete this sad chapter in the history of Brimpsfield. They are to be found in two 'Inquests post mortem' on the Manor of 'Brimesfelde', held in February 1327, just after the 3rd Edward's succession, and in 1338.

(i) *12 Feb. 1327.* 'A ruined castle, with a court (curia) outside the ditch'.

Of the manor a full extent is given; it includes a sheepfold, two parks, a great wood of beech containing 300 acres, liberty of toll upon Wortewolde, and services in ploughing and harrowing due from tenants of the abbot of St. Peter's, Gloucester. The manors of Syde, Badgeworth and Rockhampton are also mentioned and extents given, and other portions of land in

¹ *Wilts. Arch. and Nat. Hist. Mag.*, 1, 238.

² *Cal. Pat. Rolls Ed. II*, Vol. IV, 128.

³ (The Jug and some of the coins are in Salisbury Museum). G. E. Chambers of the R. Commission on Hist. Monuments.

Dorset, Surrey and Wiltshire (including Boyton), as well as in Wales.

Of Syde the Lady Margaret stoutly maintains 'she never remitted the manor to Hugh (le Despenser) nor changed her estate therein'; though it had been actually granted to him and his heirs.¹

(ii) An inquest held before the King's Escheator in 1338 gives many similar details. 'A castle in a bad state; a court outside the castle ditch, the easements of the houses of which are worth 6s 8d per annum, 5 carucates of land, worth £12; a sheephouse and close adjoining with 15 acres of pasture, worth 6s p. annum. A park of beeches, 200 acres; a coneygarth of 60 acres of pasture, but no coneys; and a wood called Bocholte, 300 acres; a toll of carts, wains and drays worth 3s 4d.

Total value £28 6s 8d²

Comments

The 'liberty', i.e. privilege, of toll on 'Wortewolde' is interesting. The name occurs in a Letter patent of Elias Giffard, ancestor of John, whereby he grants to the abbey of Cirencester right of way for carts going to Cheltenham or Cranham over 'Wortwold in my manor of Brumesfeld' (date, *cir.* 1225). A marginal note (*cir.* 1378) has 'the road called Wortwold'.³ There is still a 'Wortle Gate,' adjoining a green lane which cuts through near Starveall Cottages, Buckle Wood, Birdlip, and continues through fields to the Ermine Street, at a point now called 'The Catch Bars'. Of the two parks: one is clearly 'Brimpsfield Park', now the farm already mentioned—a fine place for rabbits, which would naturally disappear with no resident lord,—or only one so hated, as a Despenser. There is, however, no evidence of the exact location of the Coneygarth. The 'houses outside the ditch' must have stood in the 'Castle

¹ *Cal. Inq.*, P.M. Vol. VII, No. 78.

² 'Inqu. P.M. for Glos.', printed in *Trans. B.G.A.S.*, 1910, Vol. v, p. 275.

³ Cirencester Cartulary, Vol. B photostat 165 (by courtesy of the Rev. F. W. Potto-Hicks).

field', where cottages stood almost in living memory. The second park was probably 'Hazelhanger', surviving as a small wood near Climperwell Farm, on the Brimpsfield-Cranham Road. It appears as Haselanger Park in a manorial record of 1448, at which date a *toll* of waggons and ploughs is also mentioned.¹ The sheephouse and enclosure I cannot place, but early in Richard II's reign there are records of sheep-farming on a considerable scale at Brimpsfield.²

The chapter fades out upon a dreary chord:—the downfall of the vigorous family that had dominated Brimpsfield since the Conquest; the downfall, too, of the castle, for long a landmark in the countryside; the coneygarth, so strangely empty of coneyes,—though the stewpots of the cotters might have told a more comfortable tale.

¹ *Min. Accounts* (P.R.O.) Bdle. 850, No. 26.

² *ibid.*, No. 22.