

THE CHIEF JUSTICES OF THE COURTS OF
COMMON PLEAS AND KING'S BENCH, 1327-1377

by

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Chapter 1

Introduction

Since the publication of Edward Foss's The Judges of England in the mid-nineteenth century many pages of legal history have been written, but very few have dealt with the personnel of the common law courts of England in any but a general way.¹

While Foss's work is admirably ambitious in both scope and intention, and has been invaluable to scholars for more than a century, it would seem that the time for further investigation of the histories and careers of these men is overdue. Much material which was unavailable to Foss might now add to, or even alter, the information he provides; and while it seems unlikely that anyone will again attempt a study of all the English judges, we can add substantially to Foss's information through works on individuals or smaller groups--patch-work, as Sayles terms it.²

In this paper I shall be concerned with the seventeen chief justices of the courts of king's bench and common pleas during the reign of Edward III, 1327-1377. The study is largely

prosopographical in its emphasis upon who these men were and what they did before they became chief justices rather than upon following in detail the courses of their careers after they were appointed to that position.

The principal assumptions of the prosopographer, according to George Beech, are that "family ties usually counted for a great deal in personal advancement" and that "personal relationships played a vital, perhaps decisive, role in the internal working of any medieval institutional structure."³

I shall be concerned here primarily with the first of these assumptions as I am studying one group of court personnel rather than the workings of the courts themselves. It is possible, of course, that knowledge about the families and associates of the justices might aid in enhancing our understanding of the operations of the courts they served, but the latter is not within the scope of this particular study. Rather it is upon the early professional and personal histories of these men that I shall focus. The social positions of their families and the families of their wives are of primary importance. I shall try to determine whether they were from established families of the nobility or gentry, from the merchant class, or whether their origins were more humble. Their geographical provenance will also receive attention; in particular, did these men come from a wide range of locations, or did they cluster in or around certain areas? I shall also point out possible connections with influential people who

might have aided these lawyers in the furthering of their careers, as well as possible connections among the judges themselves.

The fourteenth century was a significant one in the development of the English legal profession. Beginning in that century judges were selected solely from the ranks of those with legal training. In the twelfth and the greater part of the thirteenth centuries they had been chosen, to a large extent, from among the royal clerks.⁴ Holdsworth points out that no clerical justice was appointed after 1316, except Hervey of Staunton who became chief justice in 1326.⁵ Plucknett concurs, seeing the year 1300 as the approximate turning point.⁶

Furthermore, the "years round about 1300" were those in which "the profession was acquiring its permanent organization which was to last all through the Middle Ages, survive the desperate trials of Henry VIII's reign, and endure in large part until to-day."⁷ For example, this was the century in which the order of serjeants-at-law became increasingly influential. The serjeants formed the group which eventually became the sole source from which the judges were appointed.⁸

Finally, it was only in the late thirteenth century that the courts of king's bench and common pleas became completely separate bodies.⁹ There still remained some overlapping of jurisdiction, and as late as the reign of Edward I, some confusion still existed concerning which man served on which court.¹⁰

I chose the reign of Edward III because covering all fourteenth-century chief justices would include too many men for a study of this size, and yet Edward's reign was sufficiently long to provide material for possible generalizations about judges in the fourteenth century. Indeed, the first decade of the reign of Edward III "was a time when most important institutions of government, ranging from parliament and the council down, were beginning to settle into usages typical of the fourteenth century."¹¹

Inasmuch as this group of seventeen chief justices has been the subject of no scholarly research in more than a century, and in view of the concurrence among legal historians that work of almost any kind on English judges is overdue, it would seem that this study is justified on those grounds alone. However, its historical significance is broader than the demand for modern research would indicate. First, it is significant for the social history of the period to determine what class of men held these high offices, what, in turn, the position did for the social status of the man holding it, and who may have helped the justices attain those offices. Second, some of the chief justices became trusted advisors of the king. How they reached that status, and whether it was because of their professional qualifications, their personal connections or other qualities might aid us in understanding the workings of English royal administration during the fourteenth century. Finally, discovering more about those who held sway over the highest courts of law in medieval England might, in future research,

help to enlighten us about the quality of justice they dispensed as well as about the efficiency of the courts and the legal system in general.

In the following chapter I shall begin by giving some information on the courts of king's bench and common pleas, so that one can better understand their origins, their sizes, their concerns, and their schedules. Second, I shall give general information about fourteenth-century chief justices: what they did in their roles as judges, as well as their activities in the wider sphere of professional duties. This should enable the reader to gain a clearer impression of the concerns which would normally comprise the professional life of a typical justice during this period. I shall also summarize some general materials on education and preparation for the legal profession and on various ranks within that profession.

In the third chapter I shall present the findings on each of the men who served Edward III as chief justice of the court of common pleas and in the fourth chapter I shall do the same for the chief justices of the king's bench.¹² In these chapters the courses of their early careers will be traced, and information about their families, associates, geographical origins, and properties will be discussed.

Finally, in the fifth chapter, we shall be concerned with elucidating patterns and enumerating conclusions from the information contained in the two preceding chapters. This is the section wherein we shall ascertain whether the early careers of the judges followed similar patterns or whether they

reached their positions by various routes. It is the chapter in which we shall summarize the findings on the social and economic status of the judges and of their families. We shall see what patterns emerge in the geographical provenances of the chief justices. Finally, the evidence for the probable influence upon their careers of prominent acquaintances or professional associates will be reviewed. The patterns and conclusions will enable us to make some statements about the legal profession in general and chief justices in particular at this period. We shall consider the following: the extent to which the serjeants were dominating the profession by this time; the differences among the careers of the justices, whether they were more influential during certain periods in the reign, and why some of them became involved in a variety of activities while others confined themselves, or were confined, to the pursuit of strictly legal duties; the degree to which a single social class of men tended to dominate the profession, or at least this level of it, as well as the degree to which the profession tended to improve the social status of its members; whether the success of the chief justices was a result of their abilities and training or whether it was attributable to the influence of others. Thus we shall evaluate the validity of Beech's contention that "family ties usually counted for a great deal in personal advancement."

Chapter 2

The Courts and the Lawyers

The origins of the courts of common pleas and king's bench have been subjects of debate in the past, and even now eliciting certainties from the extant documents and the variety of interpretations is a ticklish job. There seems to be general agreement, however, that 1178 is a date significant in their development as that is the year in which Henry II made provision for a law court to remain in a fixed place, the king's court, to hear cases.

Prior to Maitland's work in the late nineteenth century, there were many who believed that in this provision rested the beginning of the court of king's bench and others who saw in it the origin of the court of common pleas.¹ However, Maitland's thesis that herein lay the beginning of the court of common pleas has, with certain modifications, been accepted as the correct one.

During the reign of King John the court of the provision was divided in two: one court which remained at Westminster and

one which accompanied the king. This latter was the infant court of king's bench, which was a distinct body by 1234.²

In the fourteenth century, although the court of king's bench was theoretically still held in the presence of the king, in reality this did not always occur. It was, without doubt, more mobile than the court of common pleas, but it often sat at Westminster when the king was elsewhere.

Sayles says that in 1234, the aforementioned year of legal reorganization, the jurisdictions of the two courts were defined as follows: "Let the court at Westminster remain in existence as the 'Common Bench' and have particular jurisdiction over real actions and personal actions of debt, detinue, covenant and account, in other words, the pleas that touched property rights and needed formal and unhurried procedure and could be most conveniently heard in a sedentary court. Then let the king have a court of his own, the King's Bench, to accompany him as he travelled about the country with a special interest in his 'private pleas.' . . . On the whole, the king agreed to leave property actions to the Common Bench."³ Sayles concludes that, with the exception of the distinctions just enumerated, the two courts exercised a parallel jurisdiction, although the king's bench had superior jurisdiction over the common bench in that the former could review the decisions of the latter.

Maitland notes that the court of common pleas was the "central court for all cases between subject and subject. . . . It had a concurrent jurisdiction with the King's Bench in

actions of trespass in which mention was made of king's peace, while all other civil cases belonged of right to it."⁴

Plucknett's differentiation is similar. "There was the Bench, or Court of Common Pleas, where the common law forms of action were developed and where the bulk of the important litigation of the country took place (with the exception of the smaller matters which went before the local courts). Then there was the King's Bench which had a jurisdiction in error from the Common Pleas, and an original jurisdiction over the pleas of the Crown of unusual importance: it was the proper place for state trials and for matters which closely concern the King."⁵

The reason for mentioning this problem of jurisdiction is that while there seem to have been some differences between the jurisdictions of the two courts, these differences do not appear to have affected the selection of the justices, so far as we can tell. Of the fifty-one judges who served in the two courts during the reign of Edward III, fourteen served in both.

From 1327 to 1377 the number of judges on the two benches varied. As a general rule, however, the king's bench was about half the size of the common bench in numbers of justices. According to Margaret Hastings, the court of common pleas had its "heyday" in the fourteenth and fifteenth centuries and was much busier than the court of king's bench.⁶

The king's bench ranged from two to five justices, including the chief justice, but most often had two, three or four. One point of interest here is that, generally speaking,

the larger numbers of judges are to be found in the first half of the reign. From 1350 on the number of justices was consistently two, with the exception of a short time in 1357 when Thomas Seton was appointed as a third justice.⁷

In the years from 1327 to 1377 the number of justices on the common bench varied from three to nine, but most often ranged from four to seven, only rarely rose to eight, and to nine but once and then for just a brief period in the year 1340. From 1350 until the end of the reign the number of justices exceeded six only once when there were seven during the Hilary term of 1354.⁸

The two courts at Westminster were in session for relatively short periods of time. There were four terms in the legal year: Hilary, Easter, Trinity, and Michaelmas, each of which was only a few weeks long. The lengths and dates of the terms were determined by a number of factors: the courts did not meet on holy days; the church forbade the taking of oaths at various times of the year; and harvest was a time when both lawyers and litigants were occupied with matters other than court business.⁹

The weeks he sat in court did not constitute the whole of a chief justice's legal responsibilities. He might be assigned to commissions of various kinds: assize, gaol delivery, oyer and terminer, trailbaston. He might also act as a commissioner of array or be appointed to consult on such matters as geographical boundaries.

In addition to their strictly judicial duties, many of the chief justices figure in administrative, advisory and diplomatic capacities. Some, for example, were appointed chancellor, treasurer or barons and chief barons of the exchequer, while a number served on foreign embassies.

They were often summoned to the king's council to advise on legal matters.¹⁰ The term 'council' seems to connote a variety of bodies at this time. Councils were held both in the king's presence and in his absence. There were council sessions in chancery and at the exchequer; there was the council in parliament.¹¹ As far as it is possible to determine, it seems that although the personnel of these various councils shifted and overlapped, the chief justices, and often other judges, were frequently present.¹²

The chief justices were also summoned to parliament. There are four groups who were called by means of individual summons. The first three are bishops, abbots, and barons.¹³ With the fourth group "we are conscious of approaching the true centre and heart of Edward III's parliaments."¹⁴ The members of this group, in contrast to the other three, were summoned to be "present with us and with others of our council."¹⁵ During the first ten years of the reign a list of those summoned as councillors would contain forty-two names, only two of whom were summoned to every parliament: the chief justices of the courts of common pleas and king's bench. "A seat on either of the benches did not carry with it a summons to parliament . . . nevertheless, the judicial element,

as we have seen, was constant, if not strong. No doubt the legal business before parliament required the best expert attention, but it must also be remembered that these judges did not confine themselves to legal problems. They were men of affairs and administrators who had sometimes reached the bench after careers in the civil service as well as at the bar."¹⁶

Finally, the chief justice of one of the benches often opened parliament, speaking for the king regarding the causes of summons. This speech was called the pronuntiatio.¹⁷ The first of these, as far as we know, dates from 1275 when it was delivered by the chief justice of the common bench. The first recorded on the parliamentary rolls was delivered in 1316 by William Inge "then probably chief justice elect."¹⁸ It was only in the last years of Edward III's reign that the chief justices became less closely associated with parliamentary business. In fact between 1347 and 1362 one of the chief justices regularly made the "formal declaration of the causes of summons."¹⁹

It would be both interesting and enlightening to know the nature of the education of these men who seem to have been so active in the judicial, administrative and political arenas. For those of the fourteenth century, however, not only their early education, but also their legal training must be guessed at from the evidence of the scantest of records and from the nature of legal education in subsequent centuries. There is, of course, another factor which must be kept in mind when we are making general statements about possible or probable education.

We are dealing here with a group of men whose combined careers spanned more than a century, so it is probable that the education of those who were reaching adulthood around the beginning of the fourteenth century differed from that of those who lived into the first decade of the fifteenth.

A fourteenth-century lawyer needed a working knowledge of both Latin and French, and by the middle of the fifteenth century, a knowledge of English was also necessary. Even before then, however, "at least by the middle of the thirteenth century the anomalous situation was developing whereby French was still widely used by the upper classes for conversation and literary purposes and by lesser men at least for legal and commercial reasons, while many of the population who were ambitious to enter and take part in these spheres had been brought up to speak only English."²⁰

The places wherein a youth might pursue studies were a private household, perhaps of the nobility, schools run by the religious orders, song schools, and grammar schools. The church was the original source of training for literacy, but by the time with which we are concerned, secular schools were also prevalent.²¹ Orme notes that in the thirteenth century Ely and Rochester were the only cathedral cities which were not shown in records to have had grammar schools.²² While it is impossible to determine whether any of our seventeen judges received early education in any of the then extant schools (no pupil lists go back that far), it is at least worthwhile to note that the education was available.

Information about the nature and structure of legal education in the centuries prior to the fifteenth is largely made up of inference and guesswork since the records of the Inns of Court do not commence until 1422 with the Black Books of Lincoln's Inn.

Since the universities taught only civil and canon law, not the common law, the training of would-be lawyers was secured in a setting and by methods somewhat different from those of the large medieval universities.²³ The students read legal treatises and sat in at court sessions. Cohen believes that the Year Books were compiled for the use of law students. "The beginner would need something more than Bracton, Britton, the Registrum Brevium and a few thirteenth century tracts."²⁴

The students or apprentices probably lived in hostels in London which may have been the forerunners of the lesser Inns of Chancery and the greater Inns of Court of the fifteenth century. Schoeck places the origins of Lincoln's Inn at the end of the thirteenth century.²⁵ Roxburgh, too, agrees that "Lincoln's Inn had been in existence for many years before 1422."²⁶ Douthwaite cites evidence to show that Gray's Inn was an Inn of Court before 1370.²⁷ Williams dates the founding of Gray's Inn in 1316, the Middle and Inner Temples in 1336, and Lincoln's Inn in 1338.²⁸ Cohen believes that legal hospices date from at least 1290, and that by 1322 there were many where the serjeants and apprentices could meet.²⁹ Bolland concurs in such estimates of early schools. "We do not, consequently, seem to be assuming too much if we suppose that by 1250 there

were organized law schools in London of such repute that their certificate was accepted by the Justices as a qualification for the right of audience."³⁰ Thorne believes that the early hostels were not schools, but associations of those with a common interest or purpose: "a combined club, business office and hotel."³¹ Williams postulates that the early legal inns were administrative and government offices, societies of students and the like.³²

By the reign of Edward I, and perhaps already in that of Henry III, there existed a legal profession, the members of which were called attorneys and narrators.³³ The distinctions in their functions are not relevant here; the important fact is that it was the narrator who evolved into the serjeant-at-law. This latter title came into use early in the fourteenth century and eventually denoted the elite of the legal profession.

In the course of the fourteenth century the serjeants consolidated their position, becoming a close guild in complete control of the legal profession. Within their fraternity are united the bench and the leaders of the bar; the junior practitioners (who have developed out of the old class of apprentices) are outside the guild but under its supervision and so too is the whole system of legal education. By the close of the fourteenth century the judges are all members of the order of serjeants, and serjeants alone can be heard in the principal court, that of Common Pleas. Their dignity increased with their emoluments, which must have been

enormous; they ranked as knights and surrounded themselves with elaborate and costly ceremonial.³⁴

From the available evidence it would seem that the law was a lucrative profession in the Middle Ages, and this point, too, will be more fully illustrated in the treatment of individual judges. Sayles quotes typical salaries for 1340: a chief justice received forty pounds per year and a puisne justice forty marks for the same period. He adds that a chief justice often received considerable money for expenses of his office in addition to his salary. His example is the receipt by Geoffrey Scrope and William Herle of one hundred pounds each as chief justices of the eyres of Northampton and Derby respectively in 1329.³⁵

Obviously, then, salaries were not their only source of income. They received grants of various sorts from the king and from other large landowners and also received fees for a variety of services.³⁶ Hastings points out that the "most important source of a justice's income was neither his salary and other rewards from the king for his services at Westminster nor his salary for service on special and general commissions. It was the fees which he received from the parties to suits in court."³⁷ And, finally, Sayles notes that they received "pensions from important people and abbeys in return for legal assistance,"³⁸ and observes that while a modern might see this as bribery, it was not, for the most part, so regarded in the Middle Ages.

Chapter 3

The Chief Justices of the Court of Common Pleas

During the reign of Edward III seven men served as chief justice of the court of common pleas: William de Herle, John de Stonor, Henry le Scrope, Roger Hillary, Robert de Thorp, William de Fyncheden, and Robert Belknap. Scrope will be treated with the chief justices of the king's bench as he was chief justice of the common pleas for one day only.

William de Herle served three separate terms as chief justice of the court of common pleas. He was first appointed to that court as a judge on 6 August 1320 in the reign of Edward II.¹ His appointment to the chief justiceship of that same court came on 29 January 1327.² He was replaced by John de Stonor who was appointed on 3 September 1329.³ Herle was reappointed on 2 March 1331,⁴ was succeeded by Henry le Scrope on 18 November 1333,⁵ but Herle was reappointed on 19 November 1333 when Scrope was made chief baron of the exchequer.⁶ Herle served as chief justice until 1335 when he was succeeded again by John de Stonor.⁷

Foss states that Herle "was brought up to the law,"⁸ a statement which is less than self-explanatory. He finds Herle's name in the Year Books for the reign of Edward II, and says that he was "summoned as an assistant to parliament, apparently in the character of a serjeant-at-law" in 4 and 6 Edward II.⁹ He found Herle employed in a special commission as early as 12 Edward II.

Herle was a practising advocate even earlier than Foss suggests, however, as he is mentioned in the Year Books for 30 and 31 Edward I¹⁰ and from that time forward seems to have been active in the central courts.

His earliest service on a commission was in 1310 when he was a justice of assize.¹¹ In the following year he was assigned to a commission of oyer and terminer,¹² and from that time until his retirement almost twenty-five years later he was appointed to numerous commissions and frequently served as a justice in eyre.

By the second half of the reign of Edward II Herle had become involved in a variety of duties. A few examples should suffice to illustrate not only the varied character but also the increasing importance of his professional activities. In 1311 he was summoned to the parliament at London as an "assistant or Clerk of the Council."¹³ From 1313 on he was summoned to numerous parliaments "amongst the Justices and others of the Council."¹⁴ In 1319 he was acting in affairs of the king;¹⁵ in 1320 he was summoned to a council in the exchequer;¹⁶ in 1322 he was one of the justices "empowered to

pronounce judgment and award execution upon the Mortimers."¹⁷
 In 1324 he was a member of a group empowered to make a final peace with Robert de Brus, king of the Scots.¹⁸ In 1325 he was ordered to ready himself to go with Edward II to France.¹⁹ In 1331 he was one of the group sent to treat for a marriage between the count of Gueldres and Eleanor, sister of Edward III.²⁰

Of Herle's origins there is little certain information. Prince claims that Herle was from Devonshire,²¹ although Foss feels that Leicestershire is more likely since Robert de Herle, whom Foss thinks was William's father, was summoned from Warwickshire and Leicestershire in 1301 to perform military service.²² In 1324 William de Herle was summoned from the same counties to a council at Westminster.²³ Foss also believes that Leicestershire is a more likely choice since most of Herle's property was located in that county. His Devonshire lands, on which Prince partially bases his case, came to him through his wife, according to Foss.²⁴

There are, of course, other explanations for Herle's possessing land in Devon. The calendar of close rolls for 1313 contains an entry to the effect that John de Carreu owes William de Herle 10*l*. If Carreu was unable to pay the debt, it would be levied against his lands and chattels in Devon.²⁵

More definitive evidence of Leicestershire as Herle's home county is contained in the records of the trial of Walter Langton, where there is a reference to "Willelmus Herle de comitatu Leyc'."²⁶

It is possible that Justice Herle's father was also a lawyer. In 1308 a Robert de Herle was nominated to serve as attorney for John Comyn, earl of Buchan, who was going to Scotland for the king.²⁷ The fact that a William de Herle and his brother, Robert, witnessed a charter for John Comyn, earl of Buchan and constable of Scotland, sometime between 1290-1308,²⁸ and that in 1343-1344 William de Herle and his son, Robert, witnessed a charter for Alice de Beaumont, countess of Buchan, constabilatrix of Scotland and niece of the aforementioned John Comyn,²⁹ lend credence to the contention that the Robert de Herle who served as attorney for the earl of Buchan was of the same family as the chief justice. Furthermore, Caldecote Manor, one of the manors mentioned in an inquisition after the death of William de Herle, was sold to Robert de Herle (apparently the judge's father) in 1304 by one Margaret Paynel. It would seem that through the efforts of Robert de Herle, Margaret was acquitted of the murder of her husband. The manor passed from Robert de Herle to our William and his wife Margaret in 1320.³⁰

Both Prince and Foss believe that Herle was married to Margaret, the daughter and heiress of William Polglas and his wife Elizabeth. Elizabeth was the daughter and heir of Sir William Champernon, knight.³¹ Judge Herle's mother-in-law is described by Prince as "a frolic lady," presumably because she married Polglas three days after the death of her father and married John Cergeaux two days after the death of Polglas.³²

There seem to have been Herles in Northumberland. There is an order to the sheriff of Northumberland in 1309 to have a coroner elected to fill the vacancy created by the death of William, son of William de Herle.³³ Whether, or how closely, the chief justice was related to the Northumberland Herles is not known, but it is certain that he had numerous connections with properties in that county.

When he died Justice Herle left a number of properties in Northumberland, Warwickshire and Leicestershire.³⁴ Further, he held the manor of Adderstone in Northumberland (except for some related acreage) of Roger Colyn and his wife Alice.³⁵ And Hedley, in discussing the Barony of Styford, says: "The Lancaster moiety of the barony passed, probably by marriage, to the Herles of Kirkharle who held it until the death of Robert de Herle in 1364 when he was succeeded by his sister Margaret wife of Sir Ralph de Hastings of Allerston, Yorks."³⁶ This entry certainly refers to the family of Judge Herle, for he had a son named Robert who died in 1364³⁷ and a daughter Margaret who married Ralph de Hastings of Yorkshire.³⁸ Ralph de Hastings was the son and heir of Sir Nicholas Hastings and his wife Emeline. Sir Nicholas was descended from a younger son of the earl of Pembroke and Emeline was the daughter of Walter de Heron.³⁹

In addition, the above entry might give further support to a connection between the family of the chief justice and the Northumberland Herles. There is a reference dated 3 Edward II to William, son of William de Herle, in relation to property in

Kyrkeherle in Northumberland.⁴⁰ The fact that Hedley refers to the family of the chief justice as "the Herles of Kirkharle" seems to suggest that Judge Herle belonged to the family of Herle of Northumberland.

Herle lived for twelve years after his resignation as chief justice.⁴¹ His retirement in 1335 was due to advanced age, and, while excused from his duties as chief justice, he was ordered to remain a member of the secret council.⁴²

Herle was succeeded by John de Stonor on 7 July 1335.⁴³ Stonor served until 8 January 1341 when he was replaced by Roger Hillary,⁴⁴ but was reappointed on 9 May 1342⁴⁵ and served until early in 1354 when he was succeeded by Hillary on 20 February.⁴⁶

The first mention of Stonor in the Year Books is in 1310 when he was acting as counsel.⁴⁷ He figures in the Year Books throughout the remainder of Edward II's reign, was summoned to parliaments from 1313 on,⁴⁸ and from 1317 was often assigned to commissions.

He was appointed to a justiceship on the common bench in 1320.⁴⁹ Sayles lists him as a justice of the king's bench from Michaelmas 1323 through the same term for the following year.⁵⁰ On 3 May 1324 he was reappointed a justice of the common pleas.⁵¹ In 1325 he was one of a group sent to discuss the marriage arrangements of Eleanor, the king's daughter, and Alfonso, king of Spain.⁵² In 1326 he became keeper of Wallingford Castle, the headquarters of Isabella during the rebellion of 1326.⁵³ On 22 February 1329 he was appointed

chief baron of the exchequer.⁵⁴ On 3 September 1329 he was appointed chief justice of the court of common pleas as a replacement for Herle.⁵⁵ When Herle was reappointed chief justice in 1331 Stonor was appointed second justice on 1 April of that year.⁵⁶

The hiatus in his service from 1341 to 1342 occurred when Edward III returned from Flanders, removed a number of his officials and had them imprisoned in the Tower. Stonor was one of those who fell victim to Edward's rage.

John de Stonor retired from the bench in 1354 because of old age and infirmity, but was requested by the king to remain on the privy council.⁵⁷ He did not long survive his date of retirement as he died 24 August 1354⁵⁸ and is buried at Dorchester Abbey in Oxfordshire.⁵⁹

C. L. Kingsford, who has edited the letters and papers of the Stonor family, says that the family "was certainly established at Stonor in Oxfordshire about five miles north of Henley early in the reign of Edward I, and no doubt derived its name from the place at which it has now had its home for over six centuries."⁶⁰

Kingsford traces the Stonor family to one Richard de Stonor, the grandfather of the chief justice. He married Margaret de Harnhull and their son Richard was the father of John de Stonor. Almost nothing is known of this second Richard, according to Kingsford, except that his wife's name was Cicely and they had two sons, John, the elder, and Adam. Kingsford notes that John's date of birth must have been

around 1285. He characterizes John de Stonor as "the founder of his family and the most notable name in its history."⁶¹

Kingsford points up the busyness of Stonor's career, the fact that he was a trusted official of two kings (and Isabella and Mortimer), and the length of his tenure on the bench. "The dullness of the record of Sir John de Stonor's career is perhaps the best indication we can obtain as to the excellence of his good qualities. He was no doubt a prudent, trustworthy, and competent judge, who not concerning himself in politics was able to serve on the bench for over thirty years. It seems to have been sufficient that the prizes of his profession enabled him to amass great wealth."⁶²

Stonor married Maud Fitz Lewis.⁶³ The couple, according to Kingsford, had six children, all boys.⁶⁴

When John de Stonor died he left properties in London, cos. Middlesex, Kent, Gloucester, Lincoln, Devon, Bedford, Buckingham, Berkshire, and Southampton.⁶⁵

Roger Hillary first served on the court of common pleas when he was appointed to a justiceship 18 March 1337.⁶⁶ He was appointed chief justice on 8 January 1341 as the replacement for Stonor during the judicial shake-up when Edward returned from Flanders. When Stonor resumed his position Hillary remained on the bench as a puisne justice until 1354⁶⁷ when he was appointed chief justice on 20 February.⁶⁸ He was chief justice of the common bench for something over two years and was succeeded by Robert de Thorp who was appointed on 27 June 1356.⁶⁹

On 16 September 1329 he was appointed chief justice of the bench in Ireland.⁷⁰ Foss says that Hillary remained in that position for eight years,⁷¹ but Ball believes that Hillary never acted as chief justice of the Irish bench.⁷²

Hillary's professional activities seem to have begun in the reign of Edward II. In 1318 he acted for Alice Dargentein to secure her dower.⁷³ In 1322 he and his brother Dominus Richard Hillary, a monk, were procurators for the abbot of Ramsey at the parliament at York.⁷⁴ In August of the same year there is mention of an inquest being taken by a Robert de Stok and Roger Hillary.⁷⁵ The earliest commission to which I find him assigned was one of oyer and terminer in 1322.⁷⁶ In 1324 and 1325 he was one of the procurators for the prior of Coventry at the parliament at Westminster.⁷⁷ Putnam finds the earliest reference to Hillary as a pleader in the common pleas to be in 1324.⁷⁸ During his later years he served on the Black Prince's council. He is mentioned as a member in 1347, 1353, and 1355.⁷⁹

Foss notes that the Hillarys were an ancient family possessing property in cos. Lincoln, Warwick and Stafford,⁸⁰ and Justice Hillary was most likely from Staffordshire. There were Hillarys in that county at least as early as the reign of Henry III, for a William, son of Roger Hillary, is listed on the assize roll for 55 Henry III.⁸¹

Roger Hillary, the justice, was the son of William Hillary.⁸² Foss says that his mother's name was Agnes,⁸³ but I have not located any reference to her. Henry Hillary, who

was keeper of Kinver Forest in Staffordshire in 1327 and 1330,⁸⁴ may have been a member of the same family as the chief justice.

Roger Hillary's wife's name was Katherine⁸⁵ and they had a son, Roger, who was a lawyer.⁸⁶ He may also have been the Roger Illary who was appointed sheriff of Warwickshire and Leicestershire on 12 October 1372.⁸⁷ Roger and Katherine Hillary also had a daughter, Elizabeth.⁸⁸ She married William de la Plaunke who died leaving her pregnant in or before 1347.⁸⁹

It is likely that Hillary knew William Sharesnull, another chief justice, before they associated professionally. They were both Staffordshire men, and in 1309 Sharesnull, Hillary and a number of others were involved in a court case for tearing down a fence of one Walter le Marchis claiming rights of common.⁹⁰ Whether either of these men was instrumental in furthering the career of the other we cannot say, but the possibility exists. If such were the case, it would be more likely that Hillary would aid Sharesnull since Hillary was from an old and prosperous family, while, as we shall see, Sharesnull's origins were more humble.

Both Hillary and Sharesnull may well have had other influential help. Wrottesley, in discussing the list of appointments to a commission of the peace for Staffordshire in 1351, makes the point that those serving on the commission were appointed by Sir Roger Hillary, "a very large landed proprietor in Staffordshire,"⁹¹ and by Ralph, earl of Stafford, who "held all Staffordshire in the hollow of his hand. He was Steward of the King's Household, and nobody ventured to oppose him in

Staffordshire. . . ."92 Again, we cannot say whether Hillary and Shareshull aided each other; we can probably surmise, however, albeit cautiously, that each owed something to the earl of Stafford for his success.

Hillary died on 1 June 30 Edward III, leaving a small number of lands and rents in Warwickshire and Leicestershire and many holdings in Staffordshire.⁹³

Hillary was succeeded by Robert de Thorp who was appointed chief justice on 27 June 1356.⁹⁴ Thorp has been the subject of confusion. Foss states that he "was a native of Thorpe, near Norwich, and was educated at Cambridge, in which university he laid the foundation of the divinity schools, with the chapel over them, in 1356, and was afterwards master of Pembroke College."⁹⁵ Others have perpetuated this error, but Emden points out that Foss has confused the chief justice and chancellor with Magister Robert de Thorpe, master of Pembroke Hall.⁹⁶ This confounding of two homonymous individuals demands that Foss's other information on this judge receive special scrutiny.

Additional confusion arises because of the existence of a Robert de Thorp, justice during the reign of Edward II. Robert de Thorp, the chief justice, died in 1372,⁹⁷ so it is just possible, though improbable, that the justice referred to as the queen's attorney in 1318⁹⁸ and involved in a commission of oyer and terminer in 1320⁹⁹ is the future chief justice and chancellor. However, a career in royal service spanning fifty-five years seems unlikely.

If we have in fact two different Robert de Thorps here, there is difficulty in distinguishing them in the documents during those years when their legal careers may have overlapped. Further, it is possible that the earlier Robert de Thorp is the father of the later, in which case the activities of both are relevant, or, of course, he may not be the father of Robert but may be the father of William de Thorp, who was appointed chief justice of the king's bench in 1346.¹⁰⁰

Additional complications arise from the fact that there seem to be a number of William de Thorps in the documents. Almost any of these might be William, the future justice, or the father of William, or the father of Robert, or the father of both William and Robert, or the brother of Robert.

In view of the situation I shall summarize some of the activities of these various Thorps, and attempt to give some order to them, if only for the purpose of eliminating certain possibilities.

As early as 1308 there is a reference to a Robert de Thorp, king's clerk and keeper of the king's mine in Devon.¹⁰¹ In 1311 a Robert de Thorp was appointed "to hear and determine trespasses."¹⁰² From 1317 to 1332 Robert de Thorp (or more than one) was appointed to various commissions, served as a justice in eyre and a justice of gaol delivery, and was ordered to go overseas on the king's service.¹⁰³ A man of that name also appears as M.P. for Northamptonshire in 1323-1324 and in 1340.¹⁰⁴

In 1337 the sheriff of Northampton was ordered to arrest, among others, Robert de Thorp, knight, and his son William.¹⁰⁵

During this decade we also begin to find entries for a William de Thorp, who may have been the later chief justice of the king's bench.

In 1332 a William de Thorp went beyond the seas on the king's service.¹⁰⁶ A similar entry for 1334 announces that Thorp was going to Scotland.¹⁰⁷ In 1339 he is referred to as lately appointed to commissions of array, of the peace and of oyer and terminer.¹⁰⁸ In 1341 there is a notice that the king wishes William de Thorp to serve as his serjeant in the eyre of Robert Parving.¹⁰⁹ In May 1345 he was serving as a justice of the court of king's bench and was chief justice less than eighteen months later.¹¹⁰

In 1350 William de Thorp was accused of accepting bribes while in the office of chief justice,¹¹¹ but was pardoned of the sentence of hanging because the king was grateful for his previous services.¹¹² Although there is no documentary evidence to establish certainty, it would appear that Thorp did spend some months in prison and forfeited his lands and goods.¹¹³

It would seem, however, that if the accused chief justice is the same William de Thorp who was appointed second baron of the exchequer in 1352,¹¹⁴ he was not out of favor for long.

In 1356 there is a reference to a William de Thorp "the younger, apprentice of the the [sic] Common Bench,"¹¹⁵ so we must be dealing with at least two different people in the entries during this period.

In 1358 a William de Thorp was appointed one of "the plenipotentiaries to treat of alliances between the king and Wenceslau, duke of Luxemburgh, Lorraine, Brabant and Lemburgh and marquess of the Holy Empire."¹¹⁶ In 1360 he was referred to as a member of the council of the Black Prince.¹¹⁷ In 1374, 1375, 1376, and 1377 a number of entries note the appointment of a William de Thorp to commissions.¹¹⁸ Again, it would seem likely that these references are to more than one William de Thorp, primarily because of the fourteen-year absence of entries between 1360 and 1374.

As far as later entries for Robert de Thorp are concerned, he (as well as William) appears as a narrator or counsel in the Year Book for 16 Edward III.¹¹⁹ In 1347 he was called one of the prince's serjeant tellers,¹²⁰ and was referred to as a member of the prince's council in 1352,¹²¹ 1353,¹²² 1355,¹²³ 1358,¹²⁴ and 1360.¹²⁵

In 1362 he became one of the guardians in England, Wales and Ireland of the king's ward, Humphrey de Bohun, son of the earl of Hereford.¹²⁶ In 1363 he was referred to as a member of the council.¹²⁷ In 1366¹²⁸ and 1367¹²⁹ his association with Humphrey de Bohun was renewed when he was nominated as one of the earl of Hereford's attorneys in England. In 1371 he was appointed chancellor,¹³⁰ in which position he remained until his death on 29 June 1372.¹³¹

The manor and related properties of Combe in Suffolk seem to figure in connection with the Thorps. In 1328 the manor is mentioned in a grant to queen Isabella of fifteen pounds to

be paid by Robert de Ufford and Robert de Thorp of Combe.¹³² However, it is not likely that this Robert is the father of the future chief justice Robert, for in 1331 the manor is again mentioned as "late of Robert son of John de Thorp" and is being held during the minority of another John.¹³³ This may be the branch of the Thorp family, discussed by Blomefield, which held properties in Norfolk, Suffolk, Cambridge, and Essex.¹³⁴

In 1344 there is a reference to "William son of Robert de Thorpe, knight (militis)," and concerns the abbot and convent of Combe.¹³⁵ In 1357 William de Thorp is mentioned again in connection with Combe,¹³⁶ but this William died in 35 Edward III.¹³⁷

There was a Robert de Thorp who was serving as steward of the abbot of Peterborough in 1317 and 1330.¹³⁸ The steward "was the leading lay official in the administration of the abbey's properties. He was usually a layman, often one of the abbey knights."¹³⁹ Cokayne suggests that this Robert de Thorp may be the father of Robert de Thorp the chief justice and perhaps also of another son named William.¹⁴⁰

The only seemingly certain bit of information about the family is contained in an entry dated 1373. It is a license for John Knyvet, Richard Treton, John de Herlaston, and John de Bretton to found a chantry to celebrate divine service for a number of individuals, among them "Robert de Thorpe, 'chivaler,' late the chancellor, William de Thorpe, his brother, Robert de Thorpe, knight, his father, and Margaret, his wife,

mother of the said Robert and William . . ."¹⁴¹ If this entry is correct, we can at least identify the parents of the chancellor as Robert de Thorp and his wife Margaret.

Obviously, then, Robert de Thorp the chief justice had a brother named William. This assumption is supported by the list of grants of properties from Robert de Thorp to Knyvet, Treton, Herlaston, and Bretton after his death in 1372,¹⁴² and the releases to the same men by William de Thorp in 1373.¹⁴³

There are three references to Robert and William de Thorp, brothers, which ought to be mentioned even though it is difficult to determine how, or even if, they relate to the chief justices. They are both referred to as knights, sons of William de Thorp, knight.¹⁴⁴ The entries are all dated in the mid-1370s, by which time William, the father, and Robert were both dead.

It is difficult to believe that the two chief justices were brothers, as is often postulated. William appears in a professional capacity about ten years earlier than Robert, and disappears after about 1360. The hiatus of more than a decade before the name William de Thorp reappears would seem to indicate that the entries for the mid-1370s refer to another man of the same name. Obviously if William, the chief justice, were the brother and heir of Robert he would have had to live past 1372, the date of Robert's death. Indeed, the grave of Sir William de Thorp, brother and heir of the chancellor, is in Ely Cathedral and it is believed that he died in or before 1398.¹⁴⁵

In addition, Robert de Thorp, the chief justice and chancellor, does not appear to have been particularly affluent; the inquisition after his death lists small amounts of property in Hertford, Cambridge and Northampton.¹⁴⁶ In contrast, the properties to be confiscated from William de Thorp in 1350 when he was accused of misdeeds in office lay in London,¹⁴⁷ cos. Essex, Hertford, Nottingham, Derby, Surrey, Sussex, Cambridge, Huntingdon, Wiltshire, Rutland, Northampton, Oxford, Berkshire, Leicester, Warwick, and Kent.¹⁴⁸ Furthermore, we find an order to the prior of Spaldyng to the effect that many of William de Thorp's possessions are in his priory and that he must permit Thomas de Bremore, king's clerk, to survey them and transport the said goods to the treasurer and chamberlain at Westminster.¹⁴⁹ The same order was given to the abbots of Pippewell, Revesby, Kirkested, Croyland, Thorneye, Waltham Holy Cross, and to the abbot of Combe.¹⁵⁰

Robert de Thorp was succeeded by William de Fyncheden who was appointed on 14 April 1371.¹⁵¹ I should like to quote the whole of Foss's information on Fyncheden as it seems to represent all the work previously done on this chief justice.

No other trace of the locality of this family occurs than the appointment of a Richard de Fyncheden as a commissioner of array in Yorkshire in 33 Edward III. The name of William de Fyncheden is mentioned as an advocate in the Year Books from the twenty-fourth year of that reign, and he was made a king's serjeant

in the thirty-sixth year, being also employed as a justice of assize two years after. On October 29, 1365, 39 Edward III., he was raised to the bench of the Common Pleas; and was advanced to its head on April 14, 1371, 45 Edward III., in the room of Robert de Thorpe. Robert Bealknap, his successor as chief justice, was appointed on October 10, 1374; but whether the vacancy was occasioned by the death or retirement of Fyncheden does not appear.¹⁵²

The earliest reference to anyone of this name, in a professional capacity, is on 26 February 1324 wherein a William de Fyncheden was nominated as one of the attorneys for three years for John Darcy, "le neveu," who was going to Ireland on the king's service.¹⁵³ On 5 November 1324 John Darcy, by this time justiciary of Ireland, nominated William de Fyncheden as one of his attorneys in England for one year.¹⁵⁴ In 1327 and 1328 a William de Fyncheden was assigned to a number of commissions.¹⁵⁵ On 30 June 1329 William de Fyncheden was nominated for two years as an attorney for John Darcy, "le Cosyn," then in Ireland.¹⁵⁶ A similar entry appears in 1330,¹⁵⁷ and in 1331 John Darcy, "le Cosyn," "puts in his place William de Fyncheden."¹⁵⁸ On 16 July 1331 "Master William de Fynchedene" was again nominated as one of the attorneys for John Darcy,¹⁵⁹ and on 12 January 1333¹⁶⁰ and 3 February 1335¹⁶¹ William de Fyncheden was nominated as one of John Darcy's attorneys. By 1335 Darcy was justiciary of Ireland. There is a similar entry for the following month,¹⁶² and one for 6 October 1337,¹⁶³ except that

Darcy is now referred to as "steward of the household." For reasons which should become apparent, the above entries probably refer to the father of the chief justice. What is impossible to determine is at what point the references change from father to son.

On 18 February 1342 there is a reference to "the king's clerk, Master William de Fyncheden."¹⁶⁴ In July and August 1342 there are two more entries involving Darcy and Fyncheden. The earlier is their assignment to a commission to survey the priory of Torkeseye in Lincolnshire;¹⁶⁵ the later commits the lands of the abbot of Lire to the custody of Darcy and Fyncheden.¹⁶⁶

In 1345 William de Fyncheden was an attorney for John Darcy, "le piere."¹⁶⁷ In 1346 John Darcy, "le fitz," and William de Fyncheden owed money.¹⁶⁸ In 1347 there is a reference to William de Fyncheden, the elder,¹⁶⁹ and twice in 1348 a witness is called William de Fyncheden, the younger.¹⁷⁰ In 1351 Fyncheden is referred to as one of the justices of the North Riding,¹⁷¹ and in 1352 he was a collector of a tenth and fifteenth in the West Riding.¹⁷² He was appointed to commissions in 1347,¹⁷³ 1350,¹⁷⁴ 1353,¹⁷⁵ 1354,¹⁷⁶ 1355,¹⁷⁷ 1356,¹⁷⁸ and 1357.¹⁷⁹ In the entries for the last two years William de Fyncheden is specified as "the younger."

In 1358 an entry appears in the Register of the Black Prince: "Order to Sir Peter de Lacy, the prince's clerk and receiver-general to pay to William de Fifhid and John Knyvet, king's serjeants in the Common Bench, whom the prince has

retained to be of his counsel and to plead in all places where the prince shall need them, 50 s. a year for their fees from Easter last until now, and from now onwards. . . . The like order in favour of William de Fyncheden and William de Wicchyngham."¹⁸⁰

In 1359 Fyncheden was a justice of oyer and terminer in York.¹⁸¹ "William de Fyncheden and his fellow justices of Henry, Duke of Lancaster" were sitting at Preston from September 1359 until August 1361.¹⁸² In 1360 Fyncheden was appointed to a commission¹⁸³ and was to make an inquisition.¹⁸⁴ In 1363 he is referred to as "serjeant" and also as a member of the council.¹⁸⁵ On 29 October 1365 he was appointed a justice of the common bench.¹⁸⁶ In 1367 he was appointed to a commission,¹⁸⁷ and in the following year was nominated as one of the attorneys in England for one year for the prior of Monk Bretton.¹⁸⁸ In 1369 he is referred to as "the king's justice"¹⁸⁹ and as "knight."¹⁹⁰ He was summoned to parliament in 1373¹⁹¹ and, finally, in 1374 he is referred to as "late chief justice"¹⁹² and "now deceased."¹⁹³

Fyncheden seems also to have known and served John of Gaunt. He is listed as a member of John of Gaunt's council in a charter of 1369.¹⁹⁴ During the years 1371-1375 he is termed one of the six unofficial members of the duke's council,¹⁹⁵ men who stood "in an intimate relation to the Duke."¹⁹⁶ He served John of Gaunt in a number of capacities. He was steward of the Honor of Tickhill in April and May of 1373.¹⁹⁷ He was appointed to that position on 16 August 1372 and also to the

stewardship of Gringley and Wheatley.¹⁹⁸ He was in office as steward of Pontefract on 29 April 1372 and in May 1392,¹⁹⁹ and is referred to as "seneschal of the honour of Pontefract" from Michaelmas 1373 to Michaelmas 1374.²⁰⁰ The man in office in 1392 might be the son or another relative of the chief justice.

Although government records contain no reference to Fyncheden except in his official capacities, they reveal that he was most often assigned to commissions for Yorkshire. An examination of Yorkshire documents yielded some information about the Fynchedens. There was a Henry,²⁰¹ a Richard²⁰² and more than one William.

There was a William de Fyncheden somewhere in the vicinity of Kirkstall Abbey between 1304 and 1313. The abbot during those years, John de Bridesall, was, on this occasion, away from the abbey and was writing home. In his letter he greets "our dear friends William de Finchden. . . ."²⁰³

There is an entry for 1315 regarding property in Wakefield. "Master William de Finchedene, 2 s. to take a piece of waste land in Wakefield, outside the eastern end of the graveyard of the church of that town, 50 feet x 24 feet; rent 12 d."²⁰⁴

In 1321 we find this statement: "I, WILLIAM DE FINCHDEN, proctor of Sir John son of Sir Roger Darcy, knight, in the execution of the will of his venerable mother, Dame Isabel, late deceased, have received £10 for the nuts [?] of the said Dame Isabel, sold at Newby, by the hands of John de Calverly, the co-executor of the said will."²⁰⁵ Obvious

questions about the nuts aside, this is the earliest entry which involves both a Darcy and a Fyncheden, a relationship which will receive attention subsequently.

Obviously, the Fynchedens had some connection with Wakefield and Wakefield Manor.²⁰⁶ Two entries for the years 1322 and 1331 which mention Richard de Fyncheden relate to Wakefield Manor.²⁰⁷ The Fyncheden connection is further demonstrated in a seventeenth-century description of Dewsbury Church where the Fyncheden arms are found in the "North quier window belonging to the High Lodge in Wakefield Park."²⁰⁸

More than one William de Fyncheden is found witnessing a number of Yorkshire deeds. On four occasions, 1337,²⁰⁹ 1347,²¹⁰ 1349,²¹¹ and 1354,²¹² the witnesses were William de Fyncheden, the elder, and William de Fyncheden, the younger.

In 1340 Sir John Darcy granted a rent of 10 s. from one of his properties to "William son of Henry de Fincheden."²¹³

In 1347 Fyncheden is again mentioned in connection with Calverley. Sir John de Calverley, lord of Calverley, gave bond for eight marks to William de Fyncheden, the younger, "to be paid at Finchden, co. York."²¹⁴

As far as the property holdings of the chief justice are concerned, although I was unable to locate his will, it would seem that most of his holdings were in Yorkshire. He held property or was connected with property in the following areas: the manor and lands of Gomersal in the parish of Birdsall;²¹⁵ the manor of Woodsome in the parish of Almondbury;²¹⁶ the manors of Great Houghton and Ardsley in the

parish of Darfield.²¹⁷ This last reference is dated 1346-7 and may thus refer to a William de Fyncheden other than the chief justice. He also held property in Doncastre, Bentelay, Bolton-on-Dyrne, and parts of the manor of Hikelton;²¹⁸ the manor of Barneby-on-Done, land in Wheatley in the parish of Doncaster;²¹⁹ land in Woolley and Notton in the parish of Royston;²²⁰ and was connected with the manor of Slaithwaite, parish of Huddersfield.²²¹

Since Fyncheden is such an uncommon name, it seems probable that those mentioned around Wakefield were all members of the same family. From the information cited above it is impossible to say anything definite about the family of the chief justice, although we can postulate that he was the son of William de Fyncheden who is referred to as the elder in a number of the entries. Or it is possible that his father was the Henry de Fyncheden mentioned on the preceding page. And, again, it is only surmise, but the chief justice may have been the father of, or otherwise related to, the William who was steward of Pontefract in 1392. Of one fact we can be certain: the chief justice's wife was named Alice.²²²

It seems obvious from some of the earlier entries from the documents that the Fyncheden family had some acquaintance with the Darcys. John Darcy, who was justiciary of Ireland, must have helped the Fynchedens professionally by employing one of the elder members of the family as his attorney. John Darcy, baron, was the younger son of Lord Darcy of Nocton, Lincolnshire.²²³ He was knight of the shire for Nottingham in

1320,²²⁴ was sheriff of the counties of Nottingham and Derby during the reign of Edward II, and of Yorkshire in 1327. Edward III appointed him lord justice of Ireland. He was steward of the king's household. He died on 30 May 1347.²²⁵

One final note about William de Fyncheden deserves mention. Robert Furley seems to think that Justice Fyncheden was from Tenterden in Kent.²²⁶ He bases his theory on the existence there of a property called Finchden. While it is certainly possible that there was a family in Kent by the name of Fyncheden, there is no evidence which connects the chief justice with that county.

Fyncheden was succeeded by Robert de Belknap who was appointed chief justice of the court of common pleas on 10 October 1374.²²⁷ The last chief justice of the common bench in the reign of Edward III, he was also one of the two who did not first serve as a judge on either of the two courts under consideration here.

Both the early professional and personal histories of this judge are elusive. The theory has been propounded more than once that Belknap was descended from the Belknap who was on the Battle Abbey list of the companions of William the Conqueror.²²⁸ Unfortunately, since all the sources which I examined made no mention of Belknaps between the time of the Battle Abbey list and the chief justice, the assumption of the connection seems unwarranted.

Some details of Belknap's early career are known. Foss dates his earliest professional appearance in the courts to

36 Edward III, and notes his service on a commission three years later.²²⁹ Belknap was, however, assigned to a commission de walliis et fossatis in 1357,²³⁰ and a royal letter dated 1361 orders Robert de Herle and Robert de Belknap to "stay . . . the execution of the king's commission to them."²³¹ He was assigned to a commission of oyer and terminer in 1361,²³² and took an inquisition in 1362.²³³ In the following year he was named as one of the arbiters for Sir Thomas and John Pecche.²³⁴ In 1371 he was referred to as steward of the king's lands in Kent.²³⁵

He held the position of chief justice from 1374 until 1388,²³⁶ when he was exiled to Ireland until 1397.²³⁷ He must have died a few years later, for a reference to him dated 24 November 1401 states that he died "19th January last."²³⁸ An early, but less precise statement describes him as "Robert Belknap, deceased" on 22 February 1401.²³⁹

Of Belknap's family connections I was able to discover only this: "I finde it a florishing family in the tyme of King Edward the third: for in the 43th yeere of the sayd kings raigne Sir Robert Belknap gave lands to the covent [sic] at Rochester, to pray for the soul of John Belknap his father."²⁴⁰ This statement supports Foss's contention that Belknap's parents were named John and Alice.²⁴¹

Foss finds conflicting evidence for the name of Belknap's wife. He mentions a reference to a Sybell and two for Juliana, one pre-dating and one post-dating the Sybell entry.²⁴² I found a reference dated 1365 to Robert de Belknap

and his wife Amy.²⁴³ There are two more dated 1366,²⁴⁴ one of which concerns their acquiring a manor from the abbot and convent of Battle. Amy is again referred to as the wife of Robert de Belknap in 1369.²⁴⁵ However, from January 1372 on, the references are to a Julian or Juliana Belknap.²⁴⁶

Juliana Belknap's family, too, remains a mystery, except for the single clue which is contained in an inquisition on the death of Isabel, wife of Thomas Phelipp of Baldok. The inquisition was held in Essex in 45 Edward III. Juliana Belknap is termed "kinswoman and next heir" of Thomas, being the daughter of his daughter, Elizabeth.²⁴⁷

Belknap seems to have been adept at acquiring property, all of which he forfeited, however, upon his banishment to Ireland in 1388.²⁴⁸ Before his banishment he held properties in Kent, Middlesex, Surrey, and Sussex;²⁴⁹ Essex and Hertford;²⁵⁰ Bedford;²⁵¹ Devon, Cornwall and Somerset;²⁵² Southampton;²⁵³ Cambridge;²⁵⁴ and Norfolk.²⁵⁵

Foss, among others, places the home of the Belknaps in Kent; however, references to them in the Kent county records are suspiciously scarce. Edward Turner describes the manor of Knelle in Sussex as "an ancient seat of the family of Bealknap; from whom it passed by the marriage of Alice, daughter and heiress of Hamon Bealknap."²⁵⁶ Hamon Belknap was the son of the chief justice.²⁵⁷

Chapter 4

The Chief Justices of the Court of King's Bench

Edward III's chief justices of the king's bench were Geoffrey le Scrope, Robert de Malberthorp, Henry le Scrope, Richard de Willoughby, Robert Parving, William Scot, William de Thorp, William Sharesnull, Henry Greene, John Knyvet, and John Cavendish. As I did with the justices of the common bench, I shall treat them in chronological order with two exceptions: the Scrope brothers, who will be discussed together, and William de Thorp, who has been covered in the previous chapter.

Geoffrey le Scrope, the younger of the two brothers, had served as chief justice of the court of king's bench under Edward II, and was reappointed by Edward III on 6 March 1327.¹ His term of service was interrupted on more than one occasion, for Geoffrey le Scrope was one of the busiest, and perhaps the most trusted by his king, of all the men under consideration here.

His term of service as chief justice of the king's bench under the new king lasted until 1338, but he was replaced by Malberthorp in May 1329, who was, in turn, replaced by Henry le Scrope on 28 October 1329. Geoffrey was reappointed on 19 December 1330.² He was again replaced, this time by Willoughby, in March 1332,³ was reappointed on 20 September 1332,⁴ was replaced again by Willoughby in September 1333.⁵ He resumed his position on 8 January 1334,⁶ although Sayles believes his presence in this term may have been nominal. Willoughby was again appointed deputy chief justice in March 1334,⁷ but Scrope seems to have been back on the job as of the Michaelmas term 1334 until some time in the latter half of 1338.⁸ On 16 July 1334 Geoffrey Scrope was appointed to the common bench as a justice in place of Stonor.⁹

Geoffrey Scrope's professional activities apparently began some ten to fifteen years later than his brother's. E.L.G. Stones's comments on the beginnings of Geoffrey Scrope's career are useful here. "The chronology of his early career is obscure, but he may conceivably have begun his legal studies when the court of common pleas, in which his brother Henry was then a pleader, made a convenient stay at York, only forty miles from his home in Wensleydale, from 1298 to 1304."¹⁰ Stones goes on to say that Geoffrey Scrope "is first clearly identifiable as a pleader in the Year Book of 1310 but he was certainly by that date a lawyer of considerable experience."¹¹ His assignments to commissions commenced around 1315-1320.¹² In 1317 he was summoned to a council at Nottingham and was also

being summoned to parliaments.¹³ On 27 September 1323 he was appointed a justice of the common bench.¹⁴

In addition to his court duties his professional activities were numerous; thus he provides an excellent example of a judge much involved in both administrative and political affairs. A few examples should suffice to demonstrate both the variety of Scrope's abilities and the probable extent of his power.

As early as 1320 he was sent with the archbishop of York, the bishop of Carlisle and an archdeacon of Richmond to negotiate for peace with Robert de Brus.¹⁵ When Malberthorp took over as chief justice of the king's bench in 1329, it was because Scrope was engaged elsewhere on business for the king.¹⁶ In 1331 Scrope was sent with William de Herle, the chancellor and the treasurer "to treat for a marriage between the count of Gerle and Eleanor, the king's sister."¹⁷ In 1333 Scrope, the bishop of Norwich and the canon of York were appointed to reform the state of Ponthieu.¹⁸

In 1334 he was appointed by the king with Edward de Bohun, William de Montacute, Henry de Percy, and Ralph de Neville, steward of the household, "to attend the parliament of the King of Scotland as his deputies, and to confirm the treaties with him."¹⁹ According to Nicholson, Scrope acted as spokesman of the delegation.²⁰

In 1337 Scrope, with Richard bishop of Durham, the treasurer, the earl of Warwick, Henry de Percy, and Richard de Neville, was sent to the parliament at York to inform the

parliament of the council's decision regarding the defense of England against the Scots.²¹

In 1339, and again in 1340, Geoffrey le Scrope, Maurice de Berkele and William de Montacute, earl of Salisbury and marshal of England, and the king's chamberlain were sent to treat for a marriage between the eldest son of the count of Flanders and Isabella, daughter of the king.²²

Edward III's council in parliament had Geoffrey le Scrope and William de Herle as two of its members. Morris feels that they were retained for their individual qualifications rather than because of their positions as chief justices.²³

Scrope seems to have performed another duty in the early years of the reign of Edward III, giving the opening speech in parliament stating the cause of summons. "It was Scrope, in fact, who seems to have made the really important speeches which placed details of policy before the parliament with definite proposals upon which debate was to follow."²⁴

Stones believes that Scrope was influential in the governments of Edward II and of Isabella and Mortimer, but that close association with Mortimer did not prevent him from retaining both his office and his influence at court after the fall of Mortimer in 1330; indeed, until his death in 1340, he would seem to have been one of the most trusted counsellors of Edward III, and it was in these years that he was most frequently employed as an envoy. Leaving the king's

bench to go overseas with Edward III in 1338, he spent most of the last two years of his life in the Low Countries, though he returned for a brief space in 1340, and took part in drafting the important legislation of that year.²⁵

Tout agrees that the king must have placed great trust in Scrope's diplomatic talents. He says that Scrope "acquired the absolute confidence of Edward III. as one of his chief diplomatic and military counsellors in the Netherlands."²⁶

Even Sayles, whose estimate of Scrope's personality is less than complimentary, acknowledges that he must have been a man of remarkable talents. In reference to Scrope's behavior in court, Sayles opines: "This medieval 'Vicar of Bray' was clearly unscrupulous: his tergiversations cannot be explained on any other ground, but he must have been of such forceful personality and ability that all were glad to have his support."²⁷

The history of the Scrope family, although possessing its own obscurities, is better known than those of most of the other chief justices of the fourteenth century. We are fortunate in having Nicolas's account of the controversy between Sir Richard Scrope and Sir Robert Grosvenor which took place in the court of chivalry from 1385-1390.²⁸ Much information can be gleaned from Nicolas's summary of the history of the Scrope family and his biographical material on the two chief justices, as well as from the statements of the deponents for the Scropes.

The Scrope family's early history is obscure.²⁹

According to Nicolas, the first person to possess this surname was one Richard Scrupe of Normandy, who held property in the counties of Worcester, Hertford and Shropshire in the time of Edward the Confessor.³⁰ Round, however, while admitting that the Yorkshire Scropes are a distinguished family, whose fame has been spread by the Scrope-Grosvenor controversy "and Shakespeare's pen," states that the history of the house dates no earlier than from the twelfth century.³¹

The father of the two chief justices was Sir William le Scrope who held properties principally in Yorkshire. He was "bailiff of Richmondshire in 1294, and was knighted at the battle of Falkirk."³² "According to tradition, he was a good esquire, and highly distinguished for his conduct in the field as well as in jousts and tournaments."³³ He married Constance, who was probably the daughter of Thomas, son of Giles de Newsom.³⁴ William and Constance had one daughter and three sons.

Geoffrey le Scrope married Ivetta, probably the daughter of William Ros of Ingmanthorp.³⁵ In an inquisition made in 15 Edward III concerning the manor of Suthmuskham and Carleton, Yorkshire, it is stated that William, son of William de Ros of Ingmanthorp, demised the manor for life to Geoffrey le Scrope.³⁶

William de Ros was apparently the son of William de Ros, baron of Helmsley, and Eustache, "daughter and heir of Ralph son of Hugh de Greasley, Notts., widow of sir Nicholas de

Cauntelo."³⁷ The Ros family was prominent in Yorkshire and "is presumed to be a branch of the great baronial line of Hamlake and Belvoir."³⁸ The younger William left two sons and, perhaps, five daughters, one of whom was Ivetta, wife of Geoffrey le Scrope.

Foss postulates a second marriage for this Scrope to "Lora, daughter and co-heiress of Sir Gerard de Furnival, and widow of Sir John Uflete."³⁹ Nicolas also suggests the probability of this marriage.⁴⁰ An entry dated 17 October 1331 supports this conclusion. It is a release to Scrope of a number of lands and rents from Gerard de Usflet, knight. There are further releases to "Geoffrey and to the lady Laura, the releasor's mother."⁴¹

Geoffrey le Scrope probably died on 2 December 1340.⁴² An entry dated 11 December 1340 orders "the escheator in the counties of York etc. to take into the King's hand the lands late of Geoffrey le Scrop, deceased."⁴³ At the time of his death he held properties, rents and interests in the counties of Lincoln, Essex, Hertford, Northumberland, Nottingham, Stafford, and had fairly extensive holdings in his home county of York.⁴⁴

The earliest mention I can find of Geoffrey le Scrope's elder brother Henry in a professional capacity is in the Year Book for the twenty-second and twenty-third years of the reign of Edward I,⁴⁵ although there is a Scrope pleading before the common bench in 1292.⁴⁶ He was frequently assigned to commissions during the first two decades of the fourteenth century,⁴⁷

and was appointed a justice of the common bench on 27 November 1308.⁴⁸ From 1309 on he was summoned to councils and parliaments.⁴⁹ In 1314 he was in Wales on the king's business.⁵⁰ On 15 June 1317 he was appointed chief justice of the king's bench.⁵¹

On 10 September 1323 he was appointed keeper of the forest on this side of Trent,⁵² and in the following year justice of the forest beyond Trent⁵³ and "chief keeper and surveyor of the king's parks and chaces beyond the Trent."⁵⁴

On 1 March 1327 there is a notice that Henry le Scrope no longer felt equal to performing his labors as chief justice of the king's bench. Therefore the king appointed him second justice of that court, and added that the lowering of rank was to spare Scrope and for no other reason.⁵⁵

In spite of this seemingly unambiguous statement that the duties as chief justice of the king's bench were too taxing for Scrope, he continued to go on commissions at least through 1330,⁵⁶ replaced his brother as chief justice of the king's bench from 28 October 1329 to 19 December 1330,⁵⁷ and was appointed chief baron of the exchequer on 19 December 1330.⁵⁸ Finally, on 18 November 1333, he was appointed chief justice of the common bench, replacing William Herle.⁵⁹ However, as noted earlier, Herle was reinstated the following day, and Henry le Scrope resumed his position as chief baron of the exchequer,⁶⁰ where he remained until his death on 7 September 1336.⁶¹

Henry le Scrope's busiest years were during the reign of Edward II,⁶² and he was probably well into later middle age

by the time Edward III came to the throne.⁶³ In spite of his attempt to retire, Scrope's subsequent continued activities suggest that Edward III did not feel he could entirely relinquish Scrope's services.

Henry le Scrope's wife's name was Margaret. Nicolas and Cokayne both suggest the possibility that she may have been the daughter of William de Ros of Hamlake,⁶⁴ but they also point out that from the inscriptions on the Scrope family effigies in Wensley church she would appear to be the daughter of Lord Fitzwalter.

Other monumental evidence suggests that she was indeed the daughter of William de Ros of Hamlake. In describing the lower row of shields on the gateway of Kirkham Abbey, Yorkshire, Lord Hawkesbury says:

. . . and the pair of shields on the left, or dexter side, are (No. 7) a bend (Scrope); and (No. 8) three water bougets (Ros), presumably representing a member of the house of Scrope who married a daughter of the Ros family. There were two such marriages at about this period, one being the marriage of Sir Henry le Scrope, Chief Justice of the King's Bench and Common Pleas, and Chief Baron of the Exchequer, to Margaret, the eldest daughter of the beforementioned William, second Lord Ros of Hamlake, and Maud de Vallibus his wife, whose second son, Sir Richard le Scrope, was first Lord Scrope of Bolton. The other Scrope-Ros marriage alluded to was that of Sir Geoffrey le

Scrope, Chief Justice of the King's Bench 1324-1338, younger brother of Sir Henry, to Ivetta, daughter of Sir William Ros of Ingmanthorpe, of a younger branch of the Ros family, and whose son, Sir Henry le Scrope, was first Lord Scrope of Masham.⁶⁵

There is the possibility of yet another Scrope-Ros marriage. Henry le Scrope's son William married a woman named Cecily, who may also have been a Ros.⁶⁶

At the time of his death Henry le Scrope held many properties. The great majority of these were in Yorkshire, but he also had holdings in the counties of Rutland, Hertford and Bedford.⁶⁷

Robert de Malberthorp succeeded Geoffrey le Scrope as chief justice of the king's bench during one of Scrope's absences from that position. Malberthorp was appointed chief justice on 1 May 1329 and served until October of the same year when he was succeeded by Henry le Scrope.⁶⁸ This six-month term represents his only service as chief justice, although he was a puisne justice for many years, serving in both the king's bench and common pleas.

Foss offers little information about this particular judge. In regard to his early career Foss states: "In the sixth and eighth years of the reign of Edward II., he is mentioned in connection with property" in Lincolnshire, "but we find nothing to show his proceedings as a lawyer, except his occasional employment in commissions there, from 10 Edward II. till he was raised to the bench."⁶⁹

While it is obvious from the documents that Malberthorp was one of the lesser known and seemingly less influential of the judges of Edward III's reign, we can add some facts to Foss's findings.

The first mention I find of Malberthorp in a professional capacity is in the Year Book for the thirtieth and thirty-first years of the reign of Edward I.⁷⁰ From 1307 on he figures therein as counsel.

In 1306 Malberthorp acted for "Isabel, kinswoman and co-heiress" of Robert de Tateshale, to secure her share of Robert's lands.⁷¹

In 1308 he was referred to as having custody of the gate of Baumburgh Castle.⁷² However, another entry states that a Roger de Malberthorp held the keeping of the gate of Baumburgh Castle "for life of the grant of Edward I."⁷³ It is possible, of course, that both entries are correct; however, it seems likely that the entry naming Robert as keeper is a mistake as Roger de Malberthorp is mentioned again in connection with Baumburgh Castle in 1318.⁷⁴

Malberthorp's first assignment to a commission was in 1307 on a commission de walliis et fossatis for co. Lincoln.⁷⁵

In 1310-1311 a Robert de Malmethorp (undoubtedly our man, as this seems to be a relatively common rendering of the name) and two others, all termed pleaders (narratores), "were admitted to serve the Mayor, aldermen and commonalty of the City in matters affecting the said Commonalty before the

justices of the lord the King."⁷⁶ For this they received payment of four marks per year.

In 1311 Robert de Malberthorp was sent on a commission of oyer and terminer.⁷⁷ It is from 1317 on, however, that he seems to have become exceedingly busy with commissions.⁷⁸

He became a justice on the king's bench in 1320⁷⁹ and served in this position until the end of Edward II's reign.⁸⁰ The next time he was appointed to this court was in 1329 when he replaced Scrope as chief justice.

Foss says that his reappointment as justice of the king's bench was delayed under Edward III because of "Queen Isabella's indignation against him, in consequence of his being concerned in the judgment pronounced, five years before, upon Thomas, Earl of Lancaster."⁸¹ He was eventually pardoned, however, and was "sitting in court" during the Hilary term of 2 Edward III.⁸² Sayles, however, with uncharacteristic disregard of the lack of documentary evidence, places Malberthorp as a justice of the king's bench from the beginning of the reign of Edward III, though he admits that "no formal appointment seems to be enrolled."⁸³

On 18 January 1331 Malberthorp was appointed a justice in the court of common pleas.⁸⁴ He appears to have served during the Easter, Trinity and Michaelmas terms of 1331,⁸⁵ but after that I find no mention of him anywhere, so, with Foss, I must assume that "his death occurred some time either at the end of that or the beginning of the following year."⁸⁶ Indeed, in 1332 there is an "Order to the escheator on this side of

Trent to take into the king's hand . . . lands late of Robert de Malberthorp."⁸⁷

Any attempt to supplement this record of Malberthorp's official activities with information about his background is hampered by the difficulty of distinguishing the members of his family from other unrelated persons, also designated "de Malberthorp," who hail from Malberthorp in Lincolnshire. However, Malberthorps do crop up in the Lincolnshire documents, and most of them seem to have been churchmen or churchwomen. Some might have been related to the chief justice.

In the Rotuli Hugonis de Welles we find a W. de Malberthorp, "Decano de Calswath."⁸⁸ The Rotuli Ricardi Gravesend lists a Richard son of Haco de Malberthorp as patron of St. Peter of Malberthorpe in 1272,⁸⁹ and of Malberthorp Rectory.⁹⁰ There is a reference to a William, son of Walter de Malberthorp, in relation to the advowson of the Rectory of St. Mary of Malbyrthorpe.⁹¹ In The Rolls and Register of Bishop Oliver Sutton there is a reference to a Lucy of Malberthorp, prioress of the convent of Nun Cotton;⁹² Roger of Malberthorp, chaplain of the vicarage of Aby in 1288;⁹³ Thomas of Malberthorp, subdeacon of Stickford in 1288.⁹⁴ Adam de Malberthorp's death had created a vacancy in the vicarage of Burgh on Bain in 1292;⁹⁵ and John of Malberthorp was presented as deacon at Haugh Vicarage and was installed 23 June 1295.⁹⁶ Finally, there is an early thirteenth-century reference to Gilbert of Malberthorp, canon of Lincoln.⁹⁷

During the period 1265-1276 Walter de Malberthorp and William son of Robert de Malberthorp were named as witnesses.⁹⁸ In 1298 Walter de Malberthorp was acting as a juror.⁹⁹ There is an entry dated 1296 in regard to Sir William de Malberthorp, knight and "his manor of Mablethorpe."¹⁰⁰

There is a reference to Roger de Malberthorp in 1317 who was one of the executors of the will of Robert de Wylughby.¹⁰¹ This may be the aforementioned Roger de Malberthorp who was keeper of Baumburgh Castle.

There are a number of entries for Robert de Malberthorp concerning property. In 1303 we find the following: "De Roberto de Malberthorp tenente xx^{am} partem j.f. in SAUSETHORP, quam Fulco de Orreby quondam tenuit."¹⁰² There is an entry for 1311 to the effect that Robert de Malberthorp holds a moiety of a knight's fee in Malteby, co. Lincoln, with a yearly value of ten £.¹⁰³ In 1318 Robert de Malberthorp acknowledges a debt of 200£. owed to William Inge; if he could not pay the debt, it would be levied against his lands and chattels in Lincolnshire. This was cancelled on payment.¹⁰⁴

Two interesting entries appear in 1312, the first of which is dated 20 August. It is a license for the alienation in mortmain of properties and rents in Malberthorpe by William son of Robert de Malberthorp to the "keeper of the altar of St. Laurence in the church of St. Mary, Malberthorpe," to celebrate divine service for the souls of the grantor, his ancestors and his descendants.¹⁰⁵

The second entry, dated 2 November, is similar except that it concerns Robert de Malberthorpe son and heir of William son of Robert de Malberthorpe "to give effect to a like licence granted to his father" and continues exactly as the earlier entry until it ends "to celebrate divine service daily for the soul of the grantor and the soul of his father and the souls . . .",¹⁰⁶

It would seem reasonable to surmise that the first-named Robert in the last entry is the man who became chief justice of the king's bench, and that he is the son of William and the grandson of Robert de Malberthorp. William, his father, may have been the knight who owned Mablethorpe Manor.

The third judge to serve as chief justice of the king's bench between the terms of Geoffrey le Scrope was Richard de Willoughby, who was first appointed a justice of the common bench on 6 March 1328.¹⁰⁷ He served four terms as chief justice of the king's bench, the first when he replaced Geoffrey le Scrope on 28 March 1332¹⁰⁸ and served until September of the same year.¹⁰⁹ He was again appointed chief justice to act for Scrope on 10 September 1333,¹¹⁰ and he probably acted into 1334.¹¹¹ He was appointed chief justice of the king's bench on 19 March 1334 to replace Scrope who was once again out of the country.¹¹² And finally, in 1338, he succeeded Scrope,¹¹³ and served until Parving's appointment on 24 July 1340.¹¹⁴

Willoughby later served as a justice on the court of common pleas, to which he was appointed on 20 November 1343.¹¹⁵ He remained there until 1357.¹¹⁶

The exact beginning of Richard de Willoughby's career is difficult to determine because his father, also Richard de Willoughby, served as a justice of oyer and terminer and gaol delivery,¹¹⁷ and was appointed chief justice of the Irish bench in 1323.¹¹⁸ Two entries for 1305 and 1306 may refer to either the father or the son. In these years Richard de Willoughby, son of Richard de Willoughby, was nominated as one of the attorneys for William, prior of Lenton.¹¹⁹

Richard de Willoughby, without further specification, figures as counsel throughout the Year Books of the first ten years of the reign of Edward II. He does not appear as counsel in the volume for late 1316 to 1317, but reappears the following year, 1317-1318, then disappears again in 1318. We can probably assume that this was the future chief justice as these would very likely be the years in which he would be a practising counsel. There is also a "Willeby" in the Year Books for 1294 and 1302, but these were probably Richard de Willoughby, father of the chief justice, or yet another Willoughby.

A Richard de Willoughby was appointed to numerous commissions during the period 1317-1320.¹²⁰ In 1324 Willoughby, the future chief justice, was returned as knight of the shire for Nottingham, replacing his father in that capacity.¹²¹ In that same year he is identifiable as being assigned to take inquisitions.¹²² By April 1325 Richard de Willoughby, father of the chief justice, had died and his son was busy on commissions.¹²³

In 1330 Willoughby was granted the keeping of the manor of Brademere "until the lawful age of the heir" of Nicholas de Stutevyll,¹²⁴ and in 1333 he was appointed keeper of the county of Lincoln.¹²⁵

He was removed from the king's bench in 1340 because he was accused of having "perverted the laws of England and sold them as though they were oxen or cows."¹²⁶ He was tried in the court of king's bench because of "the clamour of the people," according to Chief Justice Parving.¹²⁷ "That this was in response to popular demand is shown by the fact that after his trial by the King's Bench he was taken from county to county to answer charges in the various localities by the royal justices commissioned to inquire into abuses in local government. The sarcastic comments of his fellow judges, which are noticeable even among the legal repartee of the Year Books, suggest a striking lack of sympathy with a former colleague and the parading of Wyloughby from court to court suggests the public humiliation of an unpopular, and apparently guilty culprit."¹²⁸ Fryde points out that Willoughby's removal was not part of the "general overhaul" of 1340 referred to earlier, but preceded those events by two months.¹²⁹ This, too, would suggest that the charges against Willoughby were founded on fact, rather than on the whimsy of an enraged monarch.

One interesting incident in the professional life of this judge is that in 1332 he received a grant "for his losses sustained by the taking of his body and his heavy ransom."¹³⁰ This refers to his kidnapping while on a commission in

Nottingham, Derby, Warwick, and Leicester.¹³¹ He was held for a ransom of 1300 marks.¹³²

During his last years he was still an active lawyer. In 1355 he is referred to as one of the council of the Black Prince.¹³³ From 1353-1360 he was justice in eyre of the prince's forests in Cheshire.¹³⁴ In 1360 he was justice in eyre of the forest of La Mare,¹³⁵ and in 1361 for the forest of Wirhalle.¹³⁶

Willoughby was from a Nottinghamshire family founded by one Ralph Bugge.¹³⁷ Bugge, according to Fellows, was "a wealthy merchant of the staple,"¹³⁸ and was the great-grandfather of the chief justice.¹³⁹ The chief justice's grandfather seems to have called himself Richard Bugge of Willoughby, and his son, father of the chief justice, became Richard de Willoughby.¹⁴⁰

Harry Gill reports that Willoughby, father of the chief justice, bought a portion of the Wollaton estate from Roger de Morteyn in 11 Edward II.¹⁴¹ I was unable to locate the reference to which Gill refers, but rather found one dated 8 October 1319 which gave license "for William de Morteyn to enfeoff Richard de Wylughby of his manor of Wollaton, held in chief as the honor of Peverel," with the exception of some land and the advowson of the church.¹⁴²

The connection between the Willoughbys and Wollaton was to last for centuries; Wollaton was still occupied by the family at least as recently as the end of the nineteenth century.¹⁴³

The chief justice was married three times. Foss says that his first wife was Isabel, daughter of Roger Morteyn, his second was Joanna and his third, Isabella.¹⁴⁴

The Morteyns were a prosperous county family. In 1284 Roger de Morteyn (he may have been Isabel's father or grandfather) held lands in the counties of Lincoln, Leicester, Nottingham, Derby, and Stafford.¹⁴⁵

While a marriage to Isabel not only cemented Willoughby's connection with Wollaton,¹⁴⁶ but also brought him additional properties, he must have been at least moderately well-fixed himself. When Richard de Willoughby, sr. died he held lands in the counties of Warwick, Leicester, Nottingham, Derby, and Lancaster.¹⁴⁷ By the time the former chief justice died in 1362 he held properties in Nottingham, Derby, Lincoln, Rutland, Northampton, Norfolk, Cornwall, Devon, and in London.¹⁴⁸ He is buried in the church at Willoughby-on-the-Wolds.¹⁴⁹

The record of a loan to Edward III offers additional evidence of Willoughby's affluence. The king borrowed one hundred marks from Roger Hillary, one hundred pounds each from William de Sharesull and John de Stonor, and four thousand marks from Richard de Willoughby.¹⁵⁰

The chief justice's second wife was named Joan.¹⁵¹ She was his wife in 1339 although when they married or what happened to Isabel Willoughby I have been unable to discover. Joan was the widow of Bertram de Monboucher,¹⁵² the inquisition on whom is dated 6 Edward III. She must have married Willoughby fairly shortly after the death of Monboucher as we find an entry

dated 21 February 1334 dealing with the barony of Hastynges, co. Sussex, held of the earl of Richmond by Bertram and Joan, wherein she is referred to as the wife of Richard de Willoughby.¹⁵³ She was still his wife in 1342.¹⁵⁴

Willoughby's third marriage was to a woman named Elizabeth. (I have been unable to find any evidence of a third wife of the name of Isabella, as Foss contends.) Elizabeth is first mentioned on 19 October 1344,¹⁵⁵ and there is a further reference to her dated 20 January 1345.¹⁵⁶ She remained Willoughby's wife until his death in 1362.¹⁵⁷ One possible clue to her identity is contained in an entry for 1362 relating to the holdings of Richard de Willoughby, already deceased: ". . . but held the said third part in dower of Elizabeth of the heritage of Thomas Chaumbernoun."¹⁵⁸ This would suggest that she was the daughter of Chaumbernoun.

Robert Parving succeeded Richard de Willoughby on 24 July 1340;¹⁵⁹ he, in turn, was succeeded by Scot on 8 January 1341.¹⁶⁰ Prior to his appointment to the position of chief justice, Parving had served as a justice of the common pleas for one term in 1340.¹⁶¹ Parving's career differs from those of the other chief justices in both the speed and manner of his rise to prominence.

The earliest mentions of Parving which J. R. Magrath¹⁶² was able to locate are dated 1315 and 1318 in both of which Walter de Kirkbride "puts in his place" Robert Parving.¹⁶³

In 1322 Parving was one of the manucaptors for Walter de Kirkbride "on his discharge from imprisonment as an adherent

of the Earl of Lancaster."¹⁶⁴ Magrath points out that this is the same Walter de Kirkbride for whom Parving served as attorney in 1315 and 1318, and he continues: "Parving was in good company in coming to his assistance. All the rest of those who stood bail with him were members of knightly families."¹⁶⁵

In 1325 "Parnynk" was a knight of the shire returned for Cumberland.¹⁶⁶ In 1327 he was paid for attending the treaty at Lincoln.¹⁶⁷ In 1331 he was nominated as one of the attorneys in England for Anthony de Lucy.¹⁶⁸ In 1332 he served on a commission of oyer and terminer,¹⁶⁹ and in 1333 he is referred to as "king's serjeant."¹⁷⁰ In 1340 he was nominated as one of the attorneys in England for John Giffard,¹⁷¹ and in the following year as one of the attorneys for Mary de Sancto Paulo, countess of Pembroke.¹⁷² He was again nominated as attorney for John Giffard, "master of the hospital of St. Leonard, York," in 1341.¹⁷³

Parving was considerably less active in commissions than most of the lawyers under consideration here. He is mentioned in only a few during the period of the early 1330s, when we can assume he would have been active if he were pursuing the normal course of a legal career.¹⁷⁴

On 15 December 1340 he was appointed treasurer,¹⁷⁵ and on 28 October 1341 he became chancellor.¹⁷⁶ He died on 26 August 1343.¹⁷⁷ At the time of his death he held properties in Westmorland, Northumberland and Cumberland.¹⁷⁸

He was married to Isabel,¹⁷⁹ on whom an inquisition was held in 36 Edward III.¹⁸⁰ They had no children.¹⁸¹ Their heir

was Adam Pacok, son of Robert's sister Joan and her husband John Pacok, and Adam seems to have taken the name Parving.¹⁸² Parving also had another sister, Emma,¹⁸³ and may have had two brothers, John and Thomas,¹⁸⁴ although Magrath surmises that John Parving was the son of Joan Pacok.¹⁸⁵ This would mean that he, like Adam, took the name of Parving. Adam Parving (Pacok) may have done so because he was Robert and Isabel Parving's heir, but there is no reason to suppose that John Parving did likewise. This might be the John Parving who was rector of Skelton in 1357.¹⁸⁶

Robert Parving, chief justice, was possibly the son of another Robert Parving who was parson of the church of Hoton.¹⁸⁷ Magrath opines, however, that the elder Robert Parving might have been the uncle of the younger.¹⁸⁸

It is probable that Parving's success is attributable to his connections with the families of Kirkbride and de Wigton. "Robert Parving, the most eminent lawyer of his day, emerges suddenly, like a comet, from obscurity, and, after a short blaze of splendour, vanishes as suddenly from view."¹⁸⁹ While there is no evidence to support the contention that Parving was "the most eminent lawyer of his day," there is a great deal of truth in Graham's emphasis on the 'flash-in-the-pan' quality of his career. Since Parving's remarkably rapid rise from obscurity to multiple successes is not typical of the other judges under consideration here, we must surmise that something or someone accounted for his singularity.

It is quite possible that Robert Parving forged a career on the basis of a single case: that of the inheritance of Margaret de Wigton. As Magrath, with his characteristic caution, puts it: "An important law suit in which Parvyng was professionally engaged, pretty early in his legal career, affected beneficially his subsequent life and his property."¹⁹⁰

Magrath devotes a number of pages to the setting out of the de Wigton case and its background.¹⁹¹ What is pertinent here is that the case centered around the identity of the heir of John de Wigton. Margaret de Wigton claimed to be the heir, but was challenged by two sisters, a nephew and a niece of John. Parving represented the nephew, Walter de Kirkbride.¹⁹² The case was not settled until 1322, by which time it had been transferred to the diocese of London, where it was decided by Henry le Scrope, chief justice, that "Margaret should have seisin of her father's lands."¹⁹³

Magrath feels that at some point Parving must have intervened on behalf of Margaret de Wigton.¹⁹⁴ "It is possible that his acquaintance with the nature of the suit, gained while acting on Kirkbride's behalf, may have persuaded him of the weakness of the case against her, and enabled him to mediate between the contending parties."¹⁹⁵ Magrath points out that "Parvyng's action does not seem to have estranged the Kirkbride family,"¹⁹⁶ and indeed the evidence certainly supports his contention. Whatever the circumstances of the resolution of the case, Margaret de Wigton was obviously grateful to Parving for something, as she awarded him a number of properties.¹⁹⁷

In May 1380, Magrath points out, Richard de Kirkbride (grandson of the aforementioned Walter) is referred to as kinsman and heir of Robert Parving,¹⁹⁸ and Magrath suggests that we might well understand more about Parving's career if the relationship were known; ". . . such a relationship would explain how Robert, otherwise an unknown and undistinguished commoner, got the chances which led on to his distinguished career."¹⁹⁹

Denton, who seems to have been a Cumberland authority, believes that Parving married Katherine, the sister of Richard de Kirkbride.²⁰⁰ Magrath assumes that Denton misread the name in the documents, as he says that Isabel is the only wife we ever encounter. Magrath adds that if Isabel were Parving's second wife, then "Dame Katherine must have died soon after her marriage and without children."²⁰¹ This argument is considerably weakened by the fact that, as far as we know, Robert Parving and Isabel never had any children either. What does seem possible is that Isabel was the Kirkbride and that Denton, or the documents, made a mistake in her first name.

The possibility that Isabel was a Kirkbride finds support in two entries concerning properties in Braithwait. They are from inquisitions dated 23 Edward III and 36 Edward III. The first is in relation to two parts of the lawn in Braithwait in Inglewood forest "which Isabel late the wife of Robert Parving holds in dower of the inheritance of the said Richard Kirkbride."²⁰² The second is from an inquisition after Isabel's death, and concerns part of the close in Inglewood

forest "held in dower of the inheritance of the heir of Richard de Kirkebride, a minor in the king's wardship."²⁰³ Whether or not Isabel was a Kirkbride, and it would appear that she was, what is of importance is that there was obviously a relationship of long standing between the Kirkbride family and Robert Parving.

While his connections with the Kirkbrides and de Wigtons may well have aided in Parving's rapid rise in his profession, we must not overlook the possibility that he may have come to the attention of Chief Justice Scrope, who was officiating in the de Wigton case in London.

William Scot succeeded Robert Parving on 8 January 1341.²⁰⁴ While I shall be able to give some particulars about Scot's career, his origins and personal details about his life remain, for the most part, a mystery. The name William Scot has all the appearances of being the John Smith of the fourteenth century, and so little is known of this justice that unless he is identified as a lawyer, judge or chief justice, it is simply impossible to sort him out from the rest of the William Scots peopling the medieval records.

He was appointed a justice of the common bench on 18 March 1337,²⁰⁵ and a justice of the king's bench on 2 May 1339.²⁰⁶

In 1321 a William Scot was nominated as one of the attorneys in England for Master John Baret who was going overseas to study.²⁰⁷ In 1324 William Scot was nominated as one of the attorneys in England for John de Nevill who was going on

business for the king with Edmund earl of Kent.²⁰⁸ During the years 1331-1334 he served on commissions of oyer and terminer.²⁰⁹ In 1340 he was a justice itinerant at the Tower of London with Robert Parving and others.²¹⁰ In 1344 a William Scot was summoned to parliament.²¹¹ William Scot acted as one of the attorneys for William de Bohun, earl of Northampton, in 1347.²¹²

There is an entry for 24 March 1336 which is one of the few references to Scot which gives information of a non-professional kind. It is a grant of free warren "to the king's serjeant, William Scot, and Alice his wife" in their demesne lands of "Great Halughton, Erdesleye, Birthwayt and Westhaghe."²¹³

It is important to point out that the William Scot of this entry is clearly identifiable as the man who served as chief justice of the court of king's bench. In the above entry Scot is referred to as king's serjeant and, according to Sayles, William Scot, chief justice, was a king's serjeant from Easter 1334 to Michaelmas 1336.²¹⁴

Not only do we learn Scot's wife's name from the entry, but we also discover where he held property. The fact that his wife's name was Alice is not, perhaps, of great import by itself, but it is a further point by which we might identify the William Scot who was the chief justice. Of greater significance is the fact that he held property in Yorkshire. The possibility that William Scot may have been from that county is, as far as I have been able to determine, one which has never been considered.

Before exploring further this Yorkshire possibility, I shall give the views of Foss and others on Scot's provenance.

The name of Scott was so common even at this early period, that it is difficult to speak with certainty of the family of this William Scott. If H. Phillips, in his *Grandeur of the Law*, 1684, is right in saying that Sir Thomas Scott, then of Scott's Hall, in Kent, was descended from him, it would seem that the original name of the family was Baliol, and that William, the brother of John Baliol, King of Scotland, who frequently wrote his name as William de Baliol le Scot, after the contest for the crown in the reign of Edward I. had terminated in his brother's overthrow, politically dropped his patronymic, and retained only the national addition he had assumed. In the reign of Edward III. this family was seated in the parish of Brabourne, in Kent; and it was not till Henry VI.'s time that they removed to Scott's Hall.²¹⁵

The view of James R. Scott is similar to that of Foss. Scott traces the line descended from David le Scot, king of Scotland. He says that a lass by the name of Devorgilda was the granddaughter of David, grandson of King David.²¹⁶ She had six sons, of whom the sixth was William Baliol le Scot, "ancestor of the Scotts of Brabourne and Scot's Hall."²¹⁷ This William died around 1313 and had a son, John Scot, who was the father of "Sir William Scot of Brabourne, Lord Chief Justice of the King's Bench, and Knight Marshal of England. Weever says

(p. 269 of his "Funeral Monuments") that he saw a fragment of the inscription upon this Chief Justice's tomb, in Brabourne Church--'Hic . . . Wilhelmus Scot myles ob: 1350.' He is the first of the family to have been interred at Brabourne, where subsequently were laid the bodies of about seventeen generations of Scots during the following five centuries."²¹⁸

Two questions arise in regard to Scott's article. First, there is no explanation of how Weever determined that the tomb of which he is reporting the inscription was that of Scot, the chief justice. Second, Foss says that Scot died in 20 Edward III, so there is a discrepancy between the date of death which Foss cites and that on the tomb.

To return to my theory that Judge Scot may have been from Yorkshire, there are three more bits of evidence which may lend credence to it. First, there is notice of a grant in 1346 to "Sir William Scot, knight, and Alice his wife, of the advowson of Baddesworth Church." The grant is from Robert de Nevill of Horneby.²¹⁹ Second, there is a similar grant for the same year involving the same people of the advowsons of the churches of Peniston and Heton.²²⁰ Third, Scot most often seems to have gone on commission in the county of York.²²¹

While I am cognizant of the fact that the evidence for placing Scot in Yorkshire is inconclusive, it is significant that, in spite of the assertions of Foss and Scott, I have found no documentary evidence which locates him in Kent. It is possible, of course, that Justice Scot lived in Kent and held properties and the advowsons of churches in Yorkshire.

The fact remains, however, that in the fourteenth century, it would be extremely unusual for any but the most wealthy and powerful to possess properties in counties as far removed from each other as Kent and York.

Further, the locations to which a lawyer was sent on commission were not always in his home county. It must be pointed out, though, that the commissions to which they were assigned were most often to geographical areas close to their homes. While someone from Nottingham might well be sent to Leicestershire and Derby, it seems less likely that someone from Kent would be sent to Yorkshire.

I am unable to determine whether Foss, Scott, and Weever have mistakenly assumed that Chief Justice Scot was a member of the Kent family, or whether he was indeed a member of that family, but that they had not yet migrated to Kent. Whatever might be the case, the evidence seems to indicate that Justice Scot came from Yorkshire.

Scot was succeeded by William de Thorp who has been discussed in the preceding chapter with Robert de Thorp.

William de Thorp was succeeded by William Shareshull who was appointed chief justice on 26 October 1350.²²² For the history of the life and career of William Shareshull, I am dependent upon Bertha Putnam's The Place in Legal History of Sir William Shareshull. It is, as far as I have been able to ascertain, the only book on an English judge who served before the fifteenth century. Putnam places Shareshull's date of birth around 1289-1290,²²³ so she sees him in London beginning

his law studies around 1305.²²⁴ He was probably an apprentice for some unknown length of time between 1311 and 1320. He first acted as an attorney in 1316, and as a pleader in 1324.²²⁵ Putnam supposes his promotion to the rank of serjeant to have been around 1320-1321.²²⁶ She suggests that Shareshull may have been instructed by Herle and Stonor, and thinks that it is possible that his promotion to serjeant may have been on their recommendation to the then chief justice, Bereford.²²⁷

Shareshull was appointed a justice of the common bench on 30 May 1333,²²⁸ and was appointed a justice of the king's bench on 20 March 1334;²²⁹ however, he was reappointed to a justiceship on the common bench on 14 May 1334.²³⁰

In 1340 he was one of the judges who was ousted when Edward returned from Flanders. According to Putnam, he was kept in "at least semi-captivity or exile" in Wales for more than a year,²³¹ but was back on commission by 1342,²³² and was reappointed justice of the common pleas on 9 May 1342.²³³

On 2 July 1344 he was appointed chief baron of the exchequer;²³⁴ in October 1344 he was back on the king's bench as a judge;²³⁵ he was reappointed chief baron of the exchequer on 10 January 1345;²³⁶ and on 10 November 1345 he was appointed second justice of the common pleas.²³⁷ Putnam feels that "there is some evidence to show that he did not act under this appointment, and that throughout 1345 he had remained on king's bench and at the same time had continued as chief baron."²³⁸ Shareshull was reappointed a justice of the common bench on 15 January 1346.²³⁹

On 2 June 1346 "John, archbishop of Canterbury, William, bishop of Winchester, and Thomas de Berkeley, William de Shareshull and Robert de Sadyngton, knights, and Peter de Gildesburgh, clerk, or any three of them, the archbishop or bishop to be one," were given custody "of all the lands and lordships" of Edward, prince of Wales, who was going beyond the seas with his father.²⁴⁰

On 7 August of the same year, Shareshull was summoned with Peter Gildesburgh to the prince's council and "from there to the parts of Cheshire and North Wales to do the prince's business there."²⁴¹ He is referred to as one of the prince's council in a notice dated 28 October 1346.²⁴² In 1347 he appears as the prince's bachelor²⁴³ and as justice of the king and the prince. In this last entry the prince owes William Shareshull forty pounds sterling "for his fee for last year, and having regard to the great place which the said William has held and holds in the transaction of his business, not only in Wales and the county of Cestre, but in Cornewaille and elsewhere in England."²⁴⁴

On 20 October 1350 Shareshull was appointed chief justice of the king's bench, according to Putnam,²⁴⁵ although Sayles puts the date at 26 October 1350.²⁴⁶ He served in this position until replaced by Henry Greene, who was appointed in April 1361.²⁴⁷

Shareshull died probably in 1370,²⁴⁸ and at that time held properties in Staffordshire, Shropshire and Oxfordshire.²⁴⁹

Putnam says that "the family name undoubtedly came from the Staffordshire village in Cuttlestone hundred, just north of Wolverhampton, now known as Shareshill."²⁵⁰

She suggests that Shareshull's father may have been named Adam and that his mother, Katherine, was "possibly a kinswoman of William second baron Montacute, father of the earl of Salisbury."²⁵¹ There were four sons and one daughter of the marriage: Adam, William, Robert, John, and Joan.²⁵²

Judge Shareshull married twice, both times to a woman named Dionisia, "a coincidence that has caused utter confusion in the old pedigrees."²⁵³ The first Dionisia may have been the daughter of Otwell and Beatrix Purcell. The Purcells seem to have been a fairly prominent landed family in Staffordshire and neighbors of the Shareshulls, although wealthier.²⁵⁴ Otwell Purcell was lord of Shareshill in Staffordshire, and in Oxfordshire of Newton Purcell "and adjoining vills."²⁵⁵ He was appointed sheriff of Oxfordshire and Berkshire on 8 October 1317.²⁵⁶

Shareshull's second wife, whom he married in 1357,²⁵⁷ was the widow of Sir Hugh de Cokesey²⁵⁸ since 1356,²⁵⁹ and the "daughter and heiress of William le Botiller of Wemme, Shropshire, inheritor of vast estates, many of them in Worcestershire."²⁶⁰ Putnam continues: "That a 'self-made' man at the height of his career seemed an eligible husband for the lady Dionisia is a fact of considerable importance in social history."²⁶¹

Hugh de Cokesey himself acted on numerous commissions and inquisitions during the first half of the fourteenth century.²⁶² Interestingly enough, Cokesey and Shareshull occasionally served on commissions together.²⁶³

As pointed out earlier in the discussion of Justice Hillary, Ralph earl of Stafford was probably the most important man in Staffordshire, and he probably aided in the furthering of Shareshull's career. The following entries prove, at the very least, that he knew Shareshull. The first is a license for Ralph de Stafford to enfeof William and Dionisia Shareshull of property in Shareshull and Coven in Staffordshire.²⁶⁴ This entry is dated 1334. In 1361 Shareshull was appointed as one of the attorneys for Ralph earl of Stafford.²⁶⁵

Shareshull was succeeded by Henry Greene who was chief justice by 21 April 1361, according to Sayles.²⁶⁶ Foss puts the date at 24 May of the same year.²⁶⁷ The imprecision of the date is due to the fact that the appointment is not enrolled on the close rolls.

The only early fourteenth-century mention of a Henry Greene is in 1304, when he was nominated as one of the attorneys for John, prior of Lanthony,²⁶⁸ but this is probably not the future chief justice. Judge Greene did not die until 1369,²⁶⁹ and a legal career spanning sixty-five years seems improbable.

Greene's activities on commissions seem to begin in the 1340s,²⁷⁰ and in 1346 he is referred to as king's serjeant.²⁷¹

On 6 February 1354 he was appointed a justice of the common bench,²⁷² and two weeks later, on 20 February 1354, he

was appointed chief justice of that court.²⁷³ He seems to have served in this capacity for only one term, as Roger Hillary was paid as chief justice in Easter 1354.²⁷⁴ Greene continued to serve as a puisne justice until he moved to the king's bench as its head.

Henry Greene was active on behalf of the Black Prince. In 1347 Greene is referred to as the prince's serjeant and a gift is ordered of two oaks from the manor of Little Weldon for him.²⁷⁵ Also in 1347 Henry Greene was serving as one of the prince's serjeant tellers, for which he received fifty shillings yearly.²⁷⁶ He is referred to as one of the prince's council in 1352,²⁷⁷ 1353,²⁷⁸ 1355,²⁷⁹ and 1360.²⁸⁰ By 1355 he was receiving twenty marks per year as one of the council.²⁸¹ In 1358 he was given a gift of twelve oaks from the manor of Little Weldon,²⁸² and seems to have become a valued advisor of the Black Prince.

Greene died in 1369 and left properties in Leicester-shire, Yorkshire, Hertfordshire, Bedfordshire, Buckinghamshire, London, and Nottinghamshire, but his principal holdings were in Northamptonshire.²⁸³

In contrast to many of the others under consideration here, Greene is not regarded as the founder of his family; it was already firmly established by the time he came on the scene, although he added wealth, in the form of property, to its holdings.²⁸⁴

There seems to be some confusion about the Greene family history; however, I shall summarize some of the theories below.

Two of those who have devoted attention to this Greene family are Baker, in his history of Northamptonshire, and Halstead, in his Genealogies.²⁸⁵ Baker uses some of Halstead's information to construct a pedigree of which the relevant elements are the following:

```

Alexander de Boketon (John)
      |
Walter Boketon (Henry III and Edward I)
      |
John Boketon (Edward II)
      |
Thomas Boketon=Alice, dau. and coh. Sir Thos. (Edward II)
                  Boltesham, of Braunston
      |
Thomas de Boketon=Lucy, dau. of Ivo or Eudo Zouch
      |
Sir Henry Greene=Catherine, dau. of Sir John de Drayton286

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Halstead has this to say of the family: "Of the Original of the House of Greene we have no certain information, but it is apparent they assumed their Name and Arms from an allusion to their principal and beloved Lordship, which was Buckton or the Town of Bucks in the County of Northampton, being in the Hundred of Spellho a place memorable for the excellency of its soil and situation, as a spacious and delightful Green, upon which at the desire of the Lords was yearly held and exercised a Fair, with particular and extraordinary privileges. Hence they were called Greene, or of the Green."²⁸⁷

Halstead, Baker and Lipscomb²⁸⁸ agree that Henry Greene married Catherine of Drayton, daughter of John de Drayton and sister of Simon. According to Halstead, the Draytons were descended from Robert de Vere, brother of Aubrey de Vere, great Chamberlain to Henry I and chief justice of England.²⁸⁹ Robert

de Vere's grandson Walter took the name of Drayton, and Walter's great-grandson, John de Drayton, was the father of Simon and Catherine.²⁹⁰ John de Drayton was married to Philippa, daughter of Sir Ralph de Arderne.²⁹¹

The Greene pedigree cited above is brought into question by one W. S. Ellis.²⁹² The fact at which Ellis balks is the explanation Halstead gives, and Baker accepts, for the change of name from Boketon to Greene.

But this at first sight seems to be one of numerous cases where a family changed its name, but not its arms, on acquiring property with a [sic] heiress in marriage. And if it could be ascertained that there was a contemporary family of Greene of rank and considerable possessions, the difficulty would be easily got over. But no family of Greene answering this description previously existed in Northamptonshire; and the property owned by Sir Henry Greene, the alleged son of De Boketon, can be shown to have formerly belonged to De Boketon or to have been acquired by him in his life-time, he having been a successful lawyer and made money by his profession.²⁹³

Ellis finds that there was a family of Greene at Isham which is contemporary with Sir Thomas de Boketon. He says that Justice Greene "probably married the sister of de Boketon, and thus on the presumed want of offspring of the latter his nephew Sir Henry Greene became his heir."²⁹⁴ Ellis postulates that Catherine Drayton was Greene's second wife, and that his first

wife was Amabilia, daughter of Thomas de Boketon.²⁹⁵ The son of the first marriage was Sir Thomas Greene, Henry's heir; the son of the second marriage was Sir Henry Greene of Drayton.²⁹⁶

It would seem that there is a flaw in Ellis's reasoning. If, as he says, Judge Greene married Amabilia, the sister of Thomas de Boketon, and "on the presumed want of offspring of the latter his nephew Sir Henry Greene became his heir," why would his heir be the son of Judge Greene and Catherine de Drayton? Would not it be more likely that Thomas de Boketon's heir would be the son of his sister, the son of the first marriage, Sir Thomas Greene?

Further, there are two references, dated 1347 and 1348, to Henry Greene, the younger, and his wife Amabilia.²⁹⁷ These suggest the possibility that Amabilia may have been the wife of the son of the chief justice. Even if we assume that Justice Greene died at an only moderately advanced age in 1369, he would still have been old enough in 1347 to have a married son.

A bit of support for Ellis's contention that Thomas Greene was the son of a first marriage of Henry Greene, and that Henry, jr., was the son of Greene's second marriage to Catherine Drayton might be found in an entry for 1365. John de Drayton had enfeoffed Henry Grene and others of the manor of Drayton in Northamptonshire. This entry grants license for the other feoffees to grant the manor to Henry Grene and his son, Henry, and to the heirs of the younger Henry, "with remainders to Thomas, brother of Henry the son."²⁹⁸ It may be of significance that the younger son, Henry, according to Ellis the Drayton

grandson, is the eventual heir here, rather than Thomas, who is usually the chief justice's heir. It does not seem sufficient, however, in view of the other problems with Ellis's thesis, to induce us to reject the pedigrees of Halstead and Baker and come down on the side of Ellis.

Greene was succeeded by John Knyvet who was appointed chief justice of the king's bench on 29 October 1365.²⁹⁹ This was his first service on the king's bench, although he had served as a judge of the common pleas from mid-1361 until his removal to the king's bench.³⁰⁰

He was appointed chancellor on 5 July 1372.³⁰¹ Knyvet succeeded Robert de Thorp, both of whom were part of the king's venture into lay chancellors. He served in this position until 11 January 1377,³⁰² when he was replaced by an ecclesiastical chancellor. In the same year he was one of the executors of the estate of Edward III.³⁰³

After he was discharged as chancellor, and after the death of Edward III, he was appointed a king's councillor in July 1377,³⁰⁴ and acted as advisor to the new king for which he was paid two hundred marks per year.³⁰⁵ In 1380 were summoned "the king's justices and serjeants and especially Sir John Knyvet."³⁰⁶

Between the accession and coronation of Richard II, the magnates chose a council of twelve. "It was in fact, and almost in name, a council of regency."³⁰⁷ It was made up of two bishops, two earls, two barons, two bannerets, and four knights bachelors.³⁰⁸ "Of the four knights, Knyvet, the former chief

justice and chancellor, stood on a higher plane than the rest, though he was more an official than a magnate."³⁰⁹

As far as the earlier years of his career are concerned, Wilkinson says that Knyvet was "practicing in the law courts in 1347."³¹⁰ Foss dates his appearance one or two years later.³¹¹ He was a justice of oyer and terminer in 1349,³¹² and in 1351 he was a justice for Northampton.³¹³ In 1354 he is referred to as one of the stewards of the lands of Queen Philippa.³¹⁴ In the following year he was acting as attorney for William de Bohun, earl of Northampton, who was overseas on the king's service.³¹⁵

In 1358 he was retained by the Black Prince and paid fifty shillings per year "to be his counsel and to plead in all places where the prince shall need them."³¹⁶ During that year and the following three, he was appointed to numerous commissions.³¹⁷

In 1362 Knyvet, with Richard, earl of Arundel, Robert de Thorp, Thomas de Shardelowe, and John de Cavendish, was appointed guardian and attorney of Humphrey de Bohun, "son and heir of William de Bohun, earl of Northampton, and kinsman and heir of Humphrey de Bohun, earl of Hereford, the king's ward," who was going on a pilgrimage.³¹⁸ In the same year Knyvet acted as one of the attorneys in England for Thomas de Dengayne³¹⁹ and William la Zouche of Harryngworth.³²⁰

In 1365 he is listed with "Simon bishop of Ely the chancellor, John bishop of Bath and Wells the treasurer, William bishop of Winchester, Simon bishop of London, John duke of Lancastre, Richard earl of Arundell, Robert earl of Suffolk,

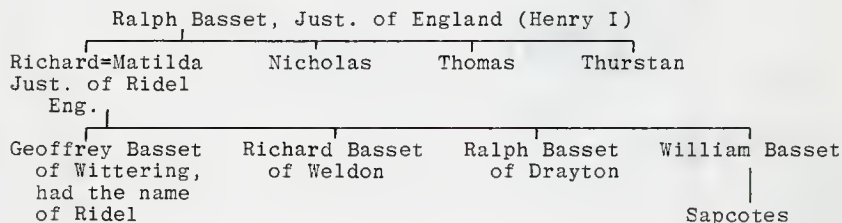
Humphrey de Bohun earl of Hereford, William de Monte Acuto earl of Salisbury, William de Wykeham, Guy Bryan, John atte Lee, William de Shipwyth, Henry de Grene, Robert de Thorpe,"³²¹ as a member of the council.

In 1367 he was nominated as one of the attorneys in England for Humphrey de Bohun, earl of Hereford.³²²

Knyvet died in 5 Richard II, leaving extensive properties in Rutland, Northampton, Lincoln, Cambridge, and Huntingdon.³²³ He was survived by his wife, Eleanor,³²⁴ the daughter of Ralph Basset of Weldon.³²⁵ Ralph Basset of Weldon was the son of the Richard Basset of Weldon in the pedigree below and his wife Joan de la Pole.³²⁶

The Bassets were an ancient family, according to Hoskins.³²⁷ He says that the records show the Bassets to have been established at Sapcote in the early thirteenth century, but that the Anglo-Saxon Chronicle "shows them established there, in all probability, within sixty years of the Conquest."³²⁸

Some clarification of the relationship between the Bassets of Drayton, Weldon and Sapcote can be gained from the following pedigree.³²⁹



Hill says that the Bassets "derived their descent from one Thurstane who held five hides of land in Drayton at the time of the Conqueror's Survey. . . . He was the father of Ralph Basset, who was raised from a humble position by Henry I" to be justice of England.³³⁰ Their descent from Thurstan is also suggested by Burke.³³¹

The Ralph Basset of Weldon who was probably John Knyvet's father-in-law was married to Eleanor, sister of John de la Wade.³³² This Ralph Basset died in 1341,³³³ and the Basset family of Weldon died out at the end of the fourteenth century.³³⁴

The Knyvets were also an old and prosperous family. The parents of Justice Knyvet were Richard Knyvet and his wife Joanna. She was the daughter of a Robert de Worth,³³⁵ John Wurth,³³⁶ John de Wurth,³³⁷ or John de Worth.³³⁸ Foss says that this man was a Lincolnshire knight.³³⁹

Richard Knyvet of Suthwyk, father of the chief justice, is frequently mentioned in fourteenth-century documents. He was custodian of the forest of Clyve for life.³⁴⁰ He was assigned to numerous commissions.³⁴¹ In 1337 he was nominated as one of the attorneys in England for John de Verdon, knight, who was going overseas with William de Bohun, earl of Northampton.³⁴² In 1338 he was sent to survey the forest of Rokyngham,³⁴³ and in 1341 was appointed to a commission of oyer and terminer.³⁴⁴ In 1343 he was one of a number appointed for Northampton to arrest religious offenders.³⁴⁵ In 1347 he is

listed as one of the attorneys for William de Bohun, earl of Northampton.³⁴⁶

It seems likely that John Knyvet counted the Bohun family among his friends. G. A. Holmes refers to Knyvet as one of the "friends and retainers" of Humphrey de Bohun, earl of Hereford,³⁴⁷ and as a "close associate" of William de Bohun, earl of Northampton.³⁴⁸

Knyvet was succeeded by John de Cavendish who was appointed chief justice of the king's bench on 15 July 1372,³⁴⁹ and served in that position until 1381 when he was beheaded on 14 June by a rebel in the Wat Tyler uprisings.³⁵⁰ He had been appointed a justice of the common pleas on 27 November 1371.³⁵¹

Foss says that Cavendish first appears in the Year Books in 21 Edward III, and was "a justice of labourer's wages for Suffolk and Essex in the twenty-sixth year."³⁵²

In 1351 he was a justice for Suffolk³⁵³ and a commissioner of the peace for co. Essex.³⁵⁴ In 1352 he was a collector of the tenth and fifteenth in Suffolk.³⁵⁵ He was assigned to commissions in 1359 and 1360.³⁵⁶

Foss says that Cavendish acted as a judge of assize from 40 Edward III;³⁵⁷ however, I had difficulty finding entries for this judge during the 1360s. His activities seem to resume in the next decade when we find him a justice of assize in the years 1370-1372,³⁵⁸ a commissioner of the peace in 1375,³⁵⁹ and serving on other commissions in 1375 and 1376.³⁶⁰ He also served on a commission of the peace in 1380

wherein he is referred to as "John de Cavendissh, chancellor of the University" of Cambridge.³⁶¹

During the 1360s he seems to have been involved in the affairs of the Black Prince. In 1362 he is referred to as "the prince's yeoman, John de Cavendissh, whom the prince has retained in his service for certain affairs of his, a yearly fee of 100 s. from Michaelmas last until now, and henceforth for as long as he shall stay with the prince."³⁶²

In 1363 this salary was reduced to fifty shillings per year because Cavendish was by this time a serjeant, whereas in the preceding year he had been an apprentice, and "cannot attend the prince's business as continually as he used to."³⁶³ Foss says that "his name is included in the list of serjeants at the end of 40 Edward III,"³⁶⁴ but his promotion was obviously earlier. Sayles, in his list of king's serjeants, does not name Cavendish at all.³⁶⁵

There has been a good deal of confusion about the history of the Cavendish family. According to old genealogies, they are supposedly descended from the Gernons. Foss agrees with these, saying that Justice Cavendish "was the son of Roger de Gernum, the grandson of Ralph de Gernum" and that there is some doubt about just when the name Cavendish was assumed.³⁶⁶

In the old pedigrees one Roger de Gernon marries a Cavendish heiress, thus bringing the Cavendish name and manor into the family. In the eighteenth century, however, Thomas Ruggles wrote an important article which neatly disposes of this myth. Ruggles proves that the manor of Cavendish Overhall

passed into the Cavendish family in 1359 from one John de Odyngseles.³⁶⁷ The wife of John de Cavendish, Alice,³⁶⁸ was presumably the daughter of John de Odyngseles. If, indeed, Alice Cavendish was the daughter of John de Odyngseles, her mother's name was Amice³⁶⁹ and she was the daughter of one Roger Corbet.³⁷⁰

Once the Gernons have been rejected as the ancestors of Judge Cavendish, we are left with only guesses about his background. Round points out that it is not even a certainty that Justice Cavendish was the founder of the family which later became the Dukes of Devonshire,³⁷¹ a claim which remains ever-popular. Round suggests that the chief justice may have been related to the Cavendish family of drapers in London: ". . . the pedigree of the ducal house is not proved, at present, further back than William Cavendish of London, mercer, who d. 1433. But it is very possible if not actually probable that this William was of the same family as Sir John Cavendish, the Chief Justice, and as those Cavendishes, mercers and drapers in the fourteenth century, one of whom Stephen Cavendish was Mayor of London in 1362."³⁷²

Chapter 5

Conclusion

In this chapter I shall examine both the professional and personal information about Edward III's chief justices for possible patterns which will, of course, tell us something in themselves, but which should also enable us to evaluate the more general concerns of this study. First, I shall point out differences in the judges' careers: differences in the courses of their early careers as well as in the high positions they attained in addition to the chief justiceships. I shall suggest possible reasons for these differences as well as for the fact that some of the chief justices seem to have been considerably more influential than others. The subject of their professional development will include a discussion of the increasing influence of the serjeants.

The second area of consideration revolves around personal details about the justices. In reviewing their geographical origins, we shall ascertain whether or not there was any one area which gave the two central courts at Westminster more of their personnel than another. Their families and the families

of their wives will also receive attention. We can weigh the possibility that the lawyers all came from similar social and economic backgrounds, and try to determine what membership in the legal profession did for their personal fortunes. Finally, I shall point out those associates and relatives who may have aided the justices in the furthering of their careers. In trying to evaluate the role played by influence, I shall, of course, return to Beech's statement regarding the crucial role played by family ties.

The early careers of these chief justices follow, to a large extent, similar courses. The only one of the seventeen whose early career seems at least somewhat atypical is Robert Parving. He rose into great prominence relatively rapidly, and, even in the later years of his career, spent remarkably short periods of time in a variety of high offices. This may be explicable by the fact that he seemed to be on the spot, so to speak, at the propitious times. Willoughby was removed for misdeeds in the office of chief justice of the king's bench and Parving replaced him; a few months later the king removed the treasurer and instated Parving in that office; less than one year later Parving became chancellor when the king was forced, by public opinion, to oust Bourchier.¹ It must be remembered that these changes were taking place in the years 1340-1341, during that period when Edward III was shuffling officials about with startling rapidity. Yet, it must also be noted that, political and administrative circumstances aside, it was Parving in whom the king seems to have placed sufficient trust

to appoint him, on numerous occasions, as a replacement for less satisfactory occupants of these positions.

It would seem that, as a general rule, a man who was appointed to a chief justiceship of either the court of common pleas or the king's bench had already served on one or both benches as a puisne justice. Of the seventeen chief justices in the reign of Edward III, only Robert Belknap and Robert de Thorp did not see service as judges on either bench. There is no immediately discernible reason for the two exceptions. Eight of the remaining fifteen served on both courts. Greene and Henry le Scrope each served as a justice on the common bench and as chief justice of both benches. Knyvet, Parving and Geoffrey le Scrope each served as a justice on the common bench and as chief justice of the king's bench. Scot, Sharesnull and Willoughby were justices on both benches before being appointed chief justice of the king's bench. What is notable here is that all of those who served on both benches became chief justices of the king's bench rather than the common bench.² The exception is Henry le Scrope, who was chief justice of the court of common pleas for one day, as well as seeing extensive service as chief justice of the king's bench. Furthermore, Belknap and Robert de Thorp, the two who did not serve as judges on either bench, were both appointed to the chief justiceship of the common pleas. Thus, while those who served in the highest position on the court of king's bench had prior experience in one or both courts, those who served as chief justice of the court of common pleas had either seen previous service on

that court only or had not served as judges at all. It would seem, then, that while a man could move from being a serjeant to the chief justiceship of the common bench, or from a judgeship on the common bench to the chief justiceship of either bench, or could be promoted within the king's bench, a move from a position as a judge on the king's bench to the chief justice's position on the common bench was unknown, at least in this reign.

The court of common pleas has often been referred to as inferior to the king's bench. The king's bench, after all, dealt with the most important legal business in the land, that concerning the king, and it had superior jurisdiction over the common pleas. In light of the preceding observations, then, it seems possible that service on the king's bench was regarded as more prestigious than service on the court of common pleas. It must also be remembered that Willoughby, after being removed for misconduct from the chief justiceship of the king's bench, subsequently served only on the common bench.

It seems reasonable to assume that during the reign of Edward III being a serjeant was prerequisite to being appointed a judge. According to Sayles, twelve of the seventeen were appointed king's serjeants.³ Those who are not listed by Sayles are Henry le Scrope, Malberthorp, Hillary, Willoughby, and Cavendish. There is some confusion and overlapping in the terms "serjeant," "king's serjeant" and "serjeant-at-law" during the fourteenth century. Putnam points out that no writs for creating serjeants-at-law have been found for the fourteenth

century "unless they were to be king's serjeants," and that the finer distinctions were still in the process of being formulated.⁴ If these terms were often used interchangeably, then Cavendish should be added to Sayles's list. Roger Hillary, too, should be appended, as he is referred to as "the king's serjeant" in 1327.⁵

The remaining three may also have served as serjeants or king's serjeants, as it seems to have been a natural step from that position to a seat on the bench. It is possible that references to Henry le Scrope, Malberthorp and Willoughby are either not recorded in extant documents, or have been overlooked, and in the case of Henry le Scrope there always exists the possibility that references to him have been confused with those to his brother.

Both Henry le Scrope and Willoughby were founders of legal inns. Scrope founded Scrope's Inn in 1308, which later was known as Serjeant's Inn.⁶ Willoughby's Inn "is interesting as supplying an illustration of a legal centre where apprentices of the Bench were assembled together for legal training as early as the year 1337, nearly 100 years earlier than the period when the lesser Inns of that kind were beginning to be known as Inns of Chancery."⁷ Certainly men who were founding legal inns were leaders in their profession and were undoubtedly serjeants.

Furthermore, as Bolland points out: "If in the Year Books we find this man or that pleading in the Court of Common Pleas I believe that we are entitled to say with complete

confidence that he was a Serjeant."⁸ He adds that long before 1471 the only way to a position on the benches at Westminster was "from student to apprentice, from apprentice to Serjeant, from Serjeant to Justice."⁹

If we assume that each of these chief justices was a serjeant before reaching the bench, then the policy of drawing the judges only from the ranks of the serjeants, which was definitely established by the fifteenth century, may have been in effect considerably earlier. It was not, perhaps, universal among fourteenth-century judges that they had first been appointed serjeants, but, on the basis of this sample of seventeen, it would certainly seem that the serjeants were well on the way to becoming dominant in the legal profession, and were solidifying their position during the fourteenth century.

There seems to be no uniformity in length of service among the chief justices. Their tenures in office vary from only a few months, as in the cases of Parving and Malberthorp, to almost fifteen years for Robert de Thorp, and a total of approximately eighteen and one-half years for the three terms of John de Stonor. There are, of course, explanations for the exceptionally short terms: Malberthorp was only acting chief justice in the absence of Geoffrey le Scrope; Parving was only on the bench for a short time before being appointed treasurer. The remaining thirteen chief justices served for total periods varying from two years to approximately thirteen years. Four of them were appointed chief justices by two kings. The Scrope brothers served both Edward II and Edward III as chief justices.

Belknap and Cavendish acted for Richard II as well as for Edward III. Ten of them either resigned or were removed from office, three because of misconduct, not including the removals of 1340, which were eventually rescinded. Robert de Thorp, Parving and Knyvet were appointed to other offices; Scot, Hillary, and probably Fyncheden died in office; Cavendish was murdered while still chief justice. In the reasons for termination of service, as in length of tenure, there seems to be no pattern, except that it is obvious that the chief justices served, or did not serve, at the pleasure of the king.

That area in which there seems to be the greatest variation among the justices is in their probable influence or power. Malberthorp, at one end of the spectrum, acted as chief justice for a few months in place of Geoffrey le Scrope, and as a judge for many years, but his duties seem to have been confined to the strictly judicial, and we know very little about the particulars of his career and of his life. At the other end of the spectrum stands Geoffrey le Scrope, who must have been a man of remarkable gifts. His career is singular not only in its variety, but also in its involvement with the important business of two kings. He was, from all accounts, an extremely clever lawyer and judge, a talented diplomat, spokesman for his king, and, parenthetically, a respected knight and soldier.

Most of the lawyers fall somewhere between Malberthorp and Geoffrey le Scrope in their achievements and probable influence. Knyvet, Robert de Thorp and Parving all served as

chancellor, Parving served as treasurer, and Shareshull, Henry le Scrope and Stonor were all chief barons of the exchequer. Stonor and Herle, as well as both Scropes, were involved in diplomatic affairs. Hillary, Shareshull, Willoughby, both Thorps, Fyncheden, Greene, Knyvet, and Cavendish all served the Black Prince, either as attorneys or as members of his council or both. Fyncheden also has the singular distinction of having been one of the intimates of John of Gaunt, serving on his council and acting as his steward.

With the exception of the later judges' service to the Black Prince, much of which was of a legal nature, those who were chief justices in the earlier part of the reign seem, on the whole, to have been more involved in a variety of duties than those who acted as chief justices in the latter half of the reign. It is, of course, possible that the earlier chief justices were simply more talented than the later; however, that seems improbable. It seems more likely that, as the law became more specialized, lawyers' duties, and their spheres of influence, became more circumscribed. As has been noted, their role in parliamentary business was considerably reduced in the last two decades of the reign. It is, of course, also possible that the causes in which Edward III employed his lawyers changed; for instance, perhaps the need for talented diplomats was less in the later years than in the days of Geoffrey le Scrope. Or it might be that Edward III never placed the same trust in the later judges that he did in the earlier ones--those who served his father and who may have been his advisors

when he first became king. Whatever may be the explanation, it is obvious that some of the lawyers were placed in positions of greater trust and responsibility than others, and undoubtedly were more influential in administrative affairs.

In conjunction with these variations in responsibility and influence is the fact that, in many cases, we have more information about the professional activities and even about the personal histories of the earlier justices than we have on the later ones. Although one would expect that, as a general rule, there would exist more information regarding the activities of the later chief justices than the earlier, the opposite is true at least sufficiently frequently to be noteworthy. This anomaly would lend support to the contention that the earlier justices were more prominent in non-judicial activities than the later.

These chief justices all appear to have come from rural areas. Even in the cases of those whose geographical origins are unknown or matter for controversy (Scot, Belknap), there is no suggestion that they were from London or any other urban area. The possible exception is Cavendish, if indeed he was a member of the London merchant family, but this theory still ranks as speculation.

There is more variation in the geographical distribution of the home counties of these men. Belknap may have been from Kent, Cavendish was from Suffolk, Stonor was from Oxfordshire, Knyvet and Greene were from Northamptonshire, Sharesnull and Hillary were from Staffordshire, the Thorps (if we can assume

that they were both from the same place) were from Norfolk, Herle was from Leicestershire, Malberthorp was from Lincolnshire, Willoughby was from Nottinghamshire, Parving was from Cumberland, Fyncheden, the Scropes and probably Scot were from Yorkshire. Thus, we find that nearly one-third of Edward III's chief justices were from northern England. The only other seemingly peculiar feature here is that so few were from areas which are in close proximity to London. It would seem reasonable to expect that those places closer to the center of power would be those from which the king would draw his officials.

There is some variation in the social and economic backgrounds of the chief justices, although, as far as I can determine, none was from a noble family nor was any from extremely humble origins. There are those about whom we know little, but that in itself would argue against their being from noble or very prominent families. Even the upper ranks of the gentry probably have no representatives, with the possible exception of the Scropes. The problem is that so many of these men are considered to be the founders of families which later became upper-class gentry or even lesser nobility. "The Scropes of Masham, with Geoffrey's son within the peerage, and the Scropes of Bolton, with Henry's son as the first baron, are among the most prominent members of that noblesse de robe which rooted itself in fourteenth-century England."¹⁰

Denholm-Young points out that the "early fourteenth century was a period when county families were being founded by professional lawyers."¹¹ The families of the justices "helped

to swell the ranks of the country gentry. They had to make their way through considerable opposition, because a number of them were self-made men."¹²

Shareshull, Parving and possibly Stonor were from humble origins. Parving obviously married a woman whose family was more prominent than his own, if indeed his wife was a Kirkbride. Shareshull, too, if the surmises about his first wife being the daughter of Otwell Purcell are correct, married women superior in rank to himself. By the time of his second marriage, however, he was undoubtedly a successful lawyer, so he was not an unknown quantity to his prospective wife or her family.

About Cavendish, Fyncheden, Belknap, and Scot we have insufficient information to make an evaluation either of the status of their families or of the families of their wives. If Fyncheden's father was an attorney, the family was at least of middling prosperity and social standing. Belknap, if he was a member of the Battle Abbey Belknaps, was probably of gentry status, and the possibility exists that William Scot was from a prominent family.

It is almost certain that Willoughby, Knyvet and Hillary came from gentry families, and possibly the same can be said for Herle, Greene, Malberthorp, and one or both Thorps. Willoughby's marriage to a daughter of the Morteysns would certainly suggest that he was of sufficiently high rank to marry a woman whose family was of gentry status, and he certainly seems to have been one of the wealthier of these chief justices.

Knyvet's marriage to a daughter of the Bassets united two ancient and wealthy families. Hillary, too, was from a prosperous Staffordshire family, although his wife, Katherine, is an unknown quantity.

Greene's status is less certain. He may have been a member of the de Boketon family or he may have married a de Boketon heiress. However, his marriage to Catherine de Drayton would suggest that he, too, may have been a member of the gentry. Catherine was the daughter of Sir John de Drayton and their ancestor, Aubrey de Vere, was great chamberlain to Henry I and chief justice of England.¹³

Herle, Malberthorp and the Thorps may have been from families of gentry status. Herle, certainly, if he was related to the Northumberland Herles, was from a landed family, and since he inherited considerable properties from his wife, it would appear that she might also have been from a family which ranked among the gentry. About Malberthorp and the Thorps we can only say that there are no indications that they were of humble origins.

It is impossible to say with certainty whether or not a single class dominated this group of chief justices since we are not cognizant of the social histories of all of them. It would seem, however, that it would be safe to postulate that at least half of them were from gentry families, and the Scropes may have been of higher rank than that. As we are only certain that two, Parving and Shareshull, were of humble origins, it seems that we can suggest that the majority of those who served

Edward III as chief justices of the courts of king's bench and common pleas were from families which counted themselves among the gentry.

Whatever the social status of the families of the chief justices, there is little doubt that being successful members of the legal profession was advantageous to these men both socially and economically. Although they obviously did not all profit equally from their labors, they did all profit, as far as I can determine. They not only earned salaries for their services; they also received gifts from the king in the form of money and grants of property, and probably received similar payments from clients. The way that some of them amassed property would indicate that they became very wealthy from their profession. In almost every case where evidence is available, the family holdings were increased by the chief justices.

In every case, the social status of the judges was improved since they were created knights. This was the rank of knighthood, bannerets and bachelors, which included judges and royal household officials.¹⁴ Furthermore, in a number of cases, the families eventually reached quite exalted ranks. It is possible that Cavendish was the ancestor of the Dukes of Devonshire, and the families which were descended from Chief Justice Willoughby and the Scropes were very prominent.

One matter remains to be considered and that is the role played by influential people in the early careers of these judges. Naturally, after they became judges, they had dealings

with the wealthy and powerful, but presumably, by that time, they were less dependent upon the good will of outsiders and more dependent on the respect and confidence of their fellow judges and the king.

It is not possible to determine who may have helped most of the young lawyers. We can, however, suggest possibilities in a few cases, and these few should serve to indicate the kind of help they may have received. Fyncheden, or one of his older relatives, may have been employed by John Darcy. Hillary and Sharesnull may have been aided by the earl of Stafford, Knyvet by the Bohuns. Promising young lawyers, then, might well have been employed, or assisted in some other way, by prominent or powerful men from their home areas.

Parving offers a possible example of the advantages to a young lawyer of playing a role in an important case involving influential people. Not only might this bring him to the attention of other socially prominent people, but also it might bring him to the notice of high-ranking legal colleagues, particularly Chief Justice Henry Scrope. Sharesnull, too, might have received assistance in his early career from a colleague, Roger Hillary.

While all of the justices probably benefited from some sort of family influence or connection, in a few cases we can be more specific about the type of help they probably received because they were members of those particular families. It is virtually certain that Henry le Scrope must have helped his younger brother, Geoffrey, in the beginning of his career.

Whether Henry aided him in his training, introduced him to successful lawyers and judges, or made it possible for Geoffrey to make his early appearances as a pleader, we cannot say, but that the support was there for Geoffrey, we cannot deny. In Willoughby's case, Knyvet's, and possibly Fyncheden's, the same kind of assistance was probably given them by their fathers.

It is probably safe to say that, in every case, the young lawyers were aided by superiors. Because of the nature of legal training--students being tutored by the lawyers and serjeants, apprentices sitting in court to listen to cases and to observe procedure--there must have been a great deal of contact between the aspiring lawyers and the older lawyers, serjeants and judges. A recommendation to a colleague or to the king by a judge could undoubtedly be the making of a young lawyer.

In addressing Beech's contention that "family ties usually counted for a great deal in personal advancement," I would suggest that, on the whole, the statement is indisputable. Certainly, as far as the subjects of this study are concerned, family ties were important initially in that one's family probably had to be of a certain status before the possibility of becoming a lawyer was even open to one. In addition, these men were probably often assisted by friends and acquaintances of their families. Of course, the advantages of having another lawyer in the family are obvious. It must be remembered, however, that the legal profession was becoming such a closed association and the serjeants were becoming so powerful with

their increasing control of judgeships, that advancement once a man entered legal training was probably dependent upon professional connections and influence as well as upon family ties.

A danger arises when we become involved in trying to sort out the kinds of influence which may have been operating on behalf of these men. The problem is that, in our preoccupation with all those people surrounding these justices, we might well make the mistake of underestimating the abilities of the justices themselves. Granted, this was an age when influence counted for much, but it was also one which produced men of great gifts. The talents of these men also played an important role in their successes. Perhaps this becomes most evident when we look, once again, at Geoffrey le Scrope and Robert Parving. Scrope had every advantage. He was from the wealthiest and most socially prominent family in this group. He was from Yorkshire, an administrative center, and frequently the royal headquarters. He had an elder brother who was a successful lawyer and judge. Even so, it is difficult to believe that his successes were not also the results of his talents.

Parving, it would appear, had few advantages. He was the son or nephew of a clergyman from Cumberland, an area which was hardly one of the fertile fields from which the king reaped a harvest of royal officials, and his achievements can certainly be weighed against those of the other chief justices and not be found wanting.

Sayles, when preparing to outline the careers of the justices of the king's bench, notes that he wishes "to show

whence they came and whither they went, to indicate their social status and the extent of their legal training, for in such details lies much of the history of mediaeval law."¹⁵ If there is truth in that statement, we must once again return to Foss, this time not to update or alter, but rather to express admiration for the awe-inspiring task he set himself. for the arduous research he pursued, and for the magnificent result which has served us well for so long. It is true that now, one hundred and thirty years after he began publication, much of his work needs to be revised. The real measure of his accomplishment and the tribute to his dedication is that no one has attempted to do so.

Notes to Chapter 1

¹Edward Foss, The Judges of England, 9 vols. (1848-1864; rpt. New York: AMS Press, 1966). For examples of exceptions see: C.A.F. Meekings, "Robert of Nottingham, Justice of the Bench, 1244-6," Bulletin of the Institute of Historical Research, 41 (1968), 132-138; Ralph V. Turner, "Simon of Pattishall, Pioneer Professional Judge," Albion, 9 (1977), 115-127; Ralph V. Turner, "The Judges of King John: Their Background and Training," Speculum, 51 (1976), 447-461.

²G. O. Sayles, ed., Select Cases in the Court of King's Bench under Edward I, I, Publications of the Selden Society, 55 (London: Bernard Quaritch, 1936), xlix. Sayles points out that the "lives of the judges as set forth in the pages of Foss clamour for re-editing and amplification," but acknowledges the formidability of the task. He then expresses his intention of outlining the careers of those who served as judges in the court of king's bench. It would seem that the formidability of the task only became evident to Sayles when he attempted to put his plan into action. He gave brief biographical sketches for those judges appearing in the first volume of Select Cases, but subsequent volumes in the series make no mention of the judges' personal histories.

³George Beech, "Prosopography," Medieval Studies: An Introduction, ed. James M. Powell (Syracuse, New York: Syracuse Univ. Press, 1976), pp. 151-152.

⁴W. S. Holdsworth, A History of English Law, 3rd ed.

(Boston: Little, Brown, and Co., 1922), I, 197.

⁵Holdsworth, A History, I, 197.

⁶Theodore F. T. Plucknett, "The Place of the Legal Profession in the History of English Law," Law Quarterly Review, 48 (1932), 332.

⁷Plucknett, "The Place," p. 333.

⁸Plucknett, "The Place," p. 334.

⁹Holdsworth, A History, I, 196; F. W. Maitland, The Constitutional History of England (1908; rpt. Cambridge: Univ. Press, 1931), p. 133.

¹⁰Holdsworth, A History, I, 196.

¹¹James F. Willard and William A. Morris, eds., The English Government at Work, 1327-1336 (Cambridge, Mass.: The Medieval Academy of America, 1940), I, v.

¹²My list of chief justices is compiled from Foss's The Judges of England and Sayles's Select Cases in the Court of King's Bench, IV and VI, and verified, wherever possible, by available documents. I shall treat them, for the most part, in chronological order. Needless to say, it will not always be feasible to adhere strictly to this plan as some of the justices served several terms which were not consecutive, one served as chief justice of both courts, and some must be treated in conjunction with others for the sake of clarity and of brevity.

Notes to Chapter 2

- ¹The various theories and their exponents are summarized by G. O. Sayles, ed., Select Cases, I, xii-xiii.
- ²Sayles, Select Cases, I, xiii.
- ³G. O. Sayles, "The Court of King's Bench in Law and History," Selden Society Lectures (London: Bernard Quaritch, 1959), p. 10.
- ⁴Maitland, Constitutional History, p. 135.
- ⁵Theodore F. T. Plucknett, A Concise History of the Common Law, 4th ed. (London: Butterworth and Co., 1948), p. 155.
- ⁶Margaret Hastings, The Court of Common Pleas in Fifteenth Century England (Ithaca, New York: Cornell Univ. Press, 1947), p. 16.
- ⁷G. O. Sayles, ed., Select Cases in the Court of King's Bench under Edward III, IV, Publications of the Selden Society, 74 (London: Bernard Quaritch, 1957), lxxxvii-xc; G. O. Sayles, ed., Select Cases in the Court of King's Bench under Edward III, VI, Publications of the Selden Society, 82 (London: Bernard Quaritch, 1965), li-lvii.
- ⁸Sayles, Select Cases, IV, xci-xcv; Sayles, Select Cases, VI, lxvi-lxxiii.
- ⁹S. E. Thorne, "The Early History of the Inns of Court with Special Reference to Gray's Inn," Graya, 50 (1959), 79-80.
- ¹⁰Bertie Wilkinson, Constitutional History of Medieval England 1216-1399 (London: Longmans, 1958), III, 25.

¹¹Willard and Morris, English Government, I, 40.

¹²Willard and Morris, English Government, I, 16, 31, 33, 39.

¹³Theodore F. T. Plucknett, "Parliament," Historical Studies of the English Parliament, eds. E. B. Fryde and Edward Miller (Cambridge: Univ. Press, 1970), I, 207-208.

¹⁴Plucknett, "Parliament," p. 209.

¹⁵Plucknett, "Parliament," p. 210.

¹⁶Plucknett, "Parliament," p. 210.

¹⁷M. V. Clarke, Medieval Representation and Consent (London, New York, Toronto: Longmans, Green and Co., 1936), p. 225.

¹⁸Clarke, Medieval Representation, p. 225.

¹⁹Clarke, Medieval Representation, p. 238.

²⁰Nicholas Orme, English Schools in the Middle Ages (London: Methuen and Co., Ltd., 1973), p. 71.

²¹The material in this paragraph is from Orme, English Schools.

²²For lists of schools and their locations see: Orme, English Schools, p. 171; H. Raven-Hart and Marjorie Johnston, "Bibliography of the Registers (Printed) of the Universities, Inns of Court, Colleges, and Schools of Great Britain and Ireland," Bulletin of the Institute of Historical Research, 9 (1931-1932), 19-30, 65-83, 154-170; H. Raven-Hart and Marjorie Johnston, "Addenda and Corrigenda," Bulletin of the Institute of Historical Research, 10 (1932-1933), 109-113; Phyllis M. Jacobs, "Registers of the Universities, Colleges and Schools

of Great Britain and Ireland," Bulletin of the Institute of Historical Research, 37 (1964), 185-232. This last does not contain foundation dates.

²³Only one of the justices under consideration here, William Shareshull, is known to have attended a university, Oxford. A. B. Emden, A Biographical Register of the University of Oxford to 1500 (Oxford: Clarendon Press, 1959), III, 1678.

²⁴Herman Cohen, A History of the English Bar and Attornatus (London: Sweet and Maxwell, Ltd., 1929), p. 93.

²⁵R. J. Schoeck, "Review of Roxburgh's The Origins of Lincoln's Inn," Speculum, 39 (1964), 748.

²⁶Sir Ronald Roxburgh, The Origins of Lincoln's Inn (Cambridge: Univ. Press, 1963), p. 28.

²⁷William Ralph Douthwaite, Gray's Inn--Its History and Associations (London: Reeves and Turner, 1886), p. 20.

²⁸E. Williams, Early Holborn and the Legal Quarter of London (London: Sweet and Maxwell, Ltd., 1927), I, 43.

²⁹Cohen, English Bar, p. 219.

³⁰W. C. Bolland, "The Training of a Mediaeval Justice," Cambridge Legal Essays, eds. Percy H. Winfield and Arnold D. McNair (Cambridge: W. Heffer and Sons, Ltd., 1926), pp. 62-63.

³¹Thorne, "Inns of Court," p. 80.

³²Williams, Early Holborn, I, 27.

³³Plucknett, Concise History, p. 217.

³⁴Plucknett, Concise History, p. 223.

³⁵Sayles, Select Cases, IV, xxv.

³⁶Holdsworth, A History, I, 253-254.

³⁷Hastings, Common Pleas, p. 83.

³⁸Sayles, Select Cases, I, lxxvi.

Notes to Chapter 3

¹C.P.R. 1317-1321, p. 503.

²C.P.R. 1327-1330, p. 2.

³C.P.R. 1327-1330, p. 439.

⁴C.P.R. 1330-1334, p. 78.

⁵C.P.R. 1330-1334, p. 477.

⁶C.P.R. 1330-1334, p. 482.

⁷C.P.R. 1334-1338, p. 151.

⁸Foss, Judges, III, 441.

⁹Foss, Judges, III, 441.

¹⁰Alfred J. Horwood, ed. and transl., Year Books of the Reign of King Edward the First (XXX-XXXI), Rerum Britannicarum Medii Aevi Scriptores, or Chronicles and Memorials of Great Britain and Ireland during the Middle Ages (London: Longman, Green, Longman, Roberts, and Green, 1863), pp. 68, 392.

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- ³⁵Foss, Judges, III, 498; Nicolas, Scrope-Grosvenor, II, 104; Cokayne, Complete Peerage, XI, 556, 560; C.P.R. 1327-1330, p. 411.
- ³⁶C.I.P.M., VIII, 235.

³⁷Hedley, Northumberland Families, I, 230.

³⁸Testamenta Eboracensia, p. 178.

³⁹Foss, Judges, III, 498.

⁴⁰Nicolas, Scrope-Grosvenor, II, 104.

⁴¹C.C.R. 1330-1333, p. 391.

⁴²Tout, Chapters, III, 99.

⁴³C.F.R. 1337-1347, p. 198.

⁴⁴C.I.P.M., VIII, 205-207, 276.

⁴⁵Alfred J. Horwood, ed. and transl., Year Books of the Reign of King Edward the First (XXII-XXIII), *Rerum Britannicarum Medii Aevi Scriptores*, or Chronicles and Memorials of Great Britain and Ireland during the Middle Ages (London: Longman, Green, Longman, Roberts, and Green, 1864), p. 58.

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⁴⁷C.P.R. 1301-1307, pp. 474, 541, 545; C.P.R. 1307-1313, pp. 126, 131, 135, 166, 169, 170, 173, 242, 243, 252, 259, 260, etc.; C.P.R. 1313-1317, pp. 55, 59, 62, 66, 136, 137, 141, 142, 147, 153, 244, 249, 253, 312, 320, etc.; C.P.R. 1317-1321, p. 300.

⁴⁸C.P.R. 1307-1313, p. 147.

⁴⁹Palgrave, P.W., vol. II, div. III, 1410-1411.

⁵⁰C.C.R. 1313-1318, p. 35.

⁵¹C.C.R. 1313-1318, p. 415.

⁵²C.F.R. 1319-1327, p. 238.

⁵³C.P.R. 1324-1327, p. 46.

⁵⁴C.P.R. 1324-1327, p. 14.

⁵⁵C.P.R. 1327-1330, p. 25.

⁵⁶C.P.R. 1327-1330, *passim*.

⁵⁷Sayles, Select Cases, IV, lxxxviii.

⁵⁸C.P.R. 1330-1334, p. 29.

⁵⁹C.P.R. 1330-1334, p. 477.

⁶⁰C.P.R. 1330-1334, p. 482.

⁶¹C.I.P.M., VIII, 17.

⁶²See C.P.R. for the reign of Edward II; Palgrave, P.W., vol. II, div. II, 1410-1411.

⁶³Cokayne suggests that he was probably born before 1270. (XI, 535).

⁶⁴Cokayne, Complete Peerage, XI, 538; Nicolas, Scrope-Grosvenor, II, 15.

⁶⁵Lord Hawkesbury, "The Heraldry on the Gateway at Kirkham Abbey," Transactions of the East Riding Antiquarian Society, 8 (A. Brown and Sons, Ltd., The Saville Press, 1900), p. 4.

⁶⁶George F. Farnham and A. Hamilton Thompson, "The Manor and Advowson of Medbourne," Transactions of the Leicestershire Archaeological Society, 13 (Leicester: W. Thornley and Son, 1923-1924), p. 114.

⁶⁷C.I.P.M., VIII, 17-20.

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- 70 Horwood, Year Books of Edward I (XXX-XXXI), pp. 68, 395.
- 71 C.C.R. 1302-1307, p. 459.
- 72 C.C.R. 1307-1313, p. 31.
- 73 C.F.R. 1327-1337, p. 41.
- 74 C.C.R. 1313-1318, p. 532.
- 75 C.P.R. 1301-1307, p. 548.
- 76 Reginald R. Sharpe, Calendar of Letter Books, City of London, D (London, 1902), p. 251.
- 77 C.P.R. 1307-1313, p. 418.
- 78 C.P.R. 1317-1321, passim; C.P.R. 1321-1324, passim; C.P.R. 1324-1327, passim; C.P.R. 1327-1330, passim; C.F.R. 1319-1327, passim.
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- 80 Foss, Judges, III, 460.
- 81 Foss, Judges, III, 460.
- 82 Foss, Judges, III, 460.
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- 89 F. N. Davis, ed., Rotuli Ricardi Gravesend, Publications of the Lincoln Record Society, 20 (1925), p. 51.

⁹⁰Davis, Richard Gravesend, p. 59.

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⁹⁴Hill, Oliver Sutton, I, 111.

⁹⁵Hill, Oliver Sutton, I, 174.

⁹⁶Hill, Oliver Sutton, I, 200.

⁹⁷C. W. Foster, ed., The Registrum Antiquissimum of the Cathedral Church of Lincoln, III, Publications of the Lincoln Record Society, 29 (1935), p. 52.

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¹⁰¹C.C.R. 1313-1318, p. 474.

¹⁰²Feudal Aids, III (London, 1904), p. 164.

¹⁰³C.C.R. 1307-1313, p. 386.

¹⁰⁴C.C.R. 1313-1318, p. 610.

¹⁰⁵C.P.R. 1307-1313, p. 486.

¹⁰⁶C.P.R. 1307-1313, p. 507.

¹⁰⁷C.P.R. 1327-1330, p. 247.

¹⁰⁸C.C.R. 1330-1333, p. 448.

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- 110 C.C.R. 1333-1337, p. 77.
- 111 Sayles, Select Cases, IV, lxxxix.
- 112 C.C.R. 1333-1337, p. 205.
- 113 Sayles, Select Cases, IV, xc.
- 114 C.C.R. 1339-1341, p. 497.
- 115 C.P.R. 1343-1345, p. 151.
- 116 Sayles, Select Cases, VI, lxx.
- 117 See, for example, C.P.R. 1307-1313, p. 419.
- 118 Ball, Judges in Ireland, I, 39.
- 119 C.P.R. 1301-1307, pp. 332, 426.
- 120 C.P.R. 1317-1321, passim.
- 121 Palgrave, P.W., vol. II, div. III, 1616.
- 122 C.C.R. 1323-1327, pp. 249, 334.
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- 124 C.F.R. 1327-1337, pp. 162-163.
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- 127 Natalie M. Fryde, "Edward III's Removal of his Ministers and Judges, 1340-1," Bulletin of the Institute of Historical Research, 48 (1975), p. 157.
- 128 Fryde, "Removal of Ministers," p. 157.
- 129 Fryde, "Removal of Ministers," p. 157.
- 130 C.P.R. 1330-1334, p. 264.

¹³¹E. L. G. Stones, "The Folvilles of Ashby-Folville, Leicestershire, and their Associates in Crime, 1326-1347," Transactions of the Royal Historical Society, 5th series, 7 (1957), p. 122.

¹³²Stones, "The Folvilles," p. 122.

¹³³Black Prince, III, 218.

¹³⁴Black Prince, III, 133, 278, 280, 283, 285, 291, 294, 298, 312, 336, 368, 391.

¹³⁵Black Prince, III, 395.

¹³⁶Black Prince, III, 429.

¹³⁷Robert Thoroton, The Antiquities of Nottinghamshire (London, 1677), p. 221; George Fellows, "Wollaton Hall, Church, and the Family of Willoughby," Transactions of the Thoroton Society, 6, eds. John Standish and George Fellows (Nottingham, 1903), p. 43.

¹³⁸Fellows, "Wollaton Hall, Church," p. 43.

¹³⁹Fellows, "Wollaton Hall, Church," p. 44; Thoroton, Notts., p. 221.

¹⁴⁰Fellows, "Wollaton Hall, Church," pp. 43-44; Thoroton, Notts., p. 221; C.P.R. 1301-1307, p. 268. In H.M.C. Middleton there are extracts from Cassandra Willoughby's writings of 1702. She gives a history of the family, but the pedigree is inaccurate, as she confuses Richard de Willoughby, the chief justice, with his father, and names a William de Willoughby as father of the chief justice. A note explains that William de Willoughby was a member of another family, the Willoughbys d'Eresby. Historical Manuscripts Commission Report on the Manuscripts of Lord Middleton, London, 1911, p. 504.

¹⁴¹Harry Gill, "The Church at St. Leonard, Wollaton," Transactions of the Thoroton Society, 24, ed. Arthur Du Boulay Hill (Nottingham, 1921), p. 81.

¹⁴²C.P.R. 1317-1321, p. 393.

¹⁴³Fellows, "Wollaton Hall, Church," p. 29. Thomas Willoughby, son of Francis Willoughby and brother of Cassandra, was the first Lord Middleton. H.M.C. Middleton.

¹⁴⁴Foss, Judges, III, 539. There seems to be general agreement about Willoughby's first wife. See, for example: DNB, XXI, 512; Thoroton, Notts., pp. 221-222; Gill, "Church at St. Leonard," p. 81; J. Holland Walker, "Wollaton Hall," Transactions of the Thoroton Society, 47, eds. L. V. D. Owen and A. C. Wood (Nottingham, 1944), p. 1. Fellows calls Willoughby's first wife Elizabeth, but this is probably a mistake based on the name of the third wife. George Fellows, "Wollaton Portraits and Pictures," Transactions of the Thoroton Society, 16, ed. John Standish (Nottingham, 1913), p. 36.

¹⁴⁵C.Ch.R. 1257-1300, p. 272.

¹⁴⁶Feudal Aids, I (London, 1899), p. 257, III, 198, IV (London, 1906), p. 117.

¹⁴⁷C.F.R. 1319-1327, p. 341.

¹⁴⁸C.F.R. 1356-1368, p. 245.

¹⁴⁹S. H. Skellington, "Medieval Cossington," Transactions of the Leicestershire Archaeological Society, 18 (Leicester: W. Thornley and Son, 1934-1935), p. 230.

¹⁵⁰Rot. Parl., II, 453.

¹⁵¹C.P.R. 1338-1340, p. 212.

¹⁵²C.I.P.M., VII, 428.

¹⁵³C.C.R. 1333-1337, p. 201.

¹⁵⁴C.P.R. 1340-1343, p. 432.

¹⁵⁵C.C.R. 1343-1346, p. 477.

¹⁵⁶C.P.R. 1343-1345, p. 376.

¹⁵⁷C.C.R. 1360-1364, p. 330.

¹⁵⁸C.C.R. 1360-1364, p. 331.

¹⁵⁹C.C.R. 1339-1341, p. 497.

¹⁶⁰C.C.R. 1339-1341, p. 595.

¹⁶¹Sayles, Select Cases, IV, xcv.

¹⁶²J. R. Magrath, "Sir Robert Parvyng, Knight of the Shire for Cumberland and Chancellor of England," Transactions of the Cumberland and Westmorland Antiquarian and Archaeological Society, 19 (Kendal, 1919), pp. 30-91. For almost all the information on Parvyng I am indebted to Magrath.

¹⁶³C.C.R. 1313-1318, pp. 304, 614.

¹⁶⁴Palgrave, P.W., vol. II, div. III, 1260.

¹⁶⁵Magrath, "Parvyng," p. 37.

¹⁶⁶Palgrave, P.W., vol. II, div. III, 1260.

¹⁶⁷C.C.R. 1327-1330, p. 225.

¹⁶⁸C.P.R. 1330-1334, p. 104.

¹⁶⁹C.P.R. 1330-1334, p. 285.

¹⁷⁰C.P.R. 1330-1334, p. 454.

¹⁷¹C.P.R. 1340-1343, p. 3.

¹⁷²C.P.R. 1340-1343, p. 126.

¹⁷³C.P.R. 1340-1343, p. 127.

¹⁷⁴C.P.R. 1330-1334, passim.

- ¹⁷⁵C.P.R. 1340-1343, p. 75.
- ¹⁷⁶Tout, Chapters, III, 151; C.C.R. 1341-1343, p. 339.
- ¹⁷⁷Rymer, Foedera, vol. II, part II, 1231; C.I.P.M. VIII, 304.
- ¹⁷⁸C.I.P.M., VIII, 302-304.
- ¹⁷⁹C.F.R. 1347-1356, p. 185; C.F.R. 1356-1368, p. 248; C.I.P.M., VIII, 303-304; C.I.P.M., IX, 218, 228; C.P.R. 1343-1345, p. 561; C.P.R. 1350-1354, p. 105.
- ¹⁸⁰C.I.P.M. (London, 1935), XI, 321.
- ¹⁸¹C.I.P.M., XI, 332.
- ¹⁸²C.I.P.M., XI, 322; C.F.R. 1337-1347, p. 346. Foss says that Adam was the son of Robert and Isabel Parving.
- Judges, III, 477.
- ¹⁸³C.F.R. 1337-1347, p. 346.
- ¹⁸⁴F. H. M. Parker, "Inglewood Forest," Transactions of the Cumberland and Westmorland Antiquarian and Archaeological Society, 11, ed. W. G. Collingwood (Kendal, 1911), p. 10.
- ¹⁸⁵Magrath, "Parvyng," p. 88.
- ¹⁸⁶Frederick W. Ragg, "Mauld's Meaburn, the Alston Mines, and a branch of the Veteriponts," Transactions of the Cumberland and Westmorland Antiquarian and Archaeological Society, 11, ed. W. G. Collingwood (Kendal, 1911), p. 290.
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- ¹⁸⁸Magrath, "Parvyng," p. 33.

- 189 T.H.B. Graham, "The Manor of Melmerby," Transactions of the Cumberland and Westmorland Antiquarian and Archaeological Society, 17, ed. W. G. Collingwood (Kendal, 1917), p. 18.
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- 199 Magrath, "Parvyng," p. 52.
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- 203 C.I.P.M., XI, 322.
- 204 C.C.R. 1339-1341, p. 595.
- 205 C.P.R. 1334-1338, p. 397.
- 206 C.P.R. 1338-1340, p. 249.
- 207 C.P.R. 1321-1324, p. 26.
- 208 C.P.R. 1321-1324, p. 404.
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- 225 Putnam, Shareshull, p. 21.
- 226 Putnam, Shareshull, p. 19.
- 227 Putnam, Shareshull, p. 20.
- 228 C.P.R. 1330-1334, p. 436.
- 229 C.C.R. 1333-1337, p. 61.
- 230 C.P.R. 1330-1334, p. 559.
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- 241 Black Prince, I, 9.
- 242 Black Prince, I, 25, 29, 93, 154, 157.
- 243 Black Prince, I, 87, 116.
- 244 Black Prince, I, 135.
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- 246 Sayles, Select Cases, VI, liii.
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- 258 C.C.R. 1354-1360, p. 285.
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²⁶⁸C.P.R. 1301-1307, p. 205.

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²⁷²C.P.R. 1354-1358, p. 8.

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²⁷⁵Black Prince, I, 154.

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²⁷⁷Black Prince, II, 41.

²⁷⁸Black Prince, III, 94.

²⁷⁹Black Prince, III, 218, IV, 170, 175.

²⁸⁰Black Prince, IV, 344.

²⁸¹Black Prince, IV, 132.

²⁸²Black Prince, IV, 261.

²⁸³C.I.P.M., XII, 341-345.

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²⁸⁶Baker, Northampton, I, 32.

²⁸⁷Halstead, Genealogies, p. 151.

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³³⁷C.C.R. 1307-1313, p. 320.

³³⁸C.I.P.M., V, 135.

³³⁹Foss, Judges, III, 451.

³⁴⁰C.P.R. 1327-1330, p. 15.

³⁴¹See, for example: C.P.R. 1334-1338, *passim*.

³⁴²C.P.R. 1334-1338, p. 532.

³⁴³C.F.R. 1337-1347, p. 68.

³⁴⁴C.P.R. 1340-1343, p. 322.

³⁴⁵C.P.R. 1343-1345, p. 161.

³⁴⁶C.P.R. 1345-1348, p. 369.

³⁴⁷G. A. Holmes, The Estates of the Higher Nobility in Fourteenth-Century England (Cambridge: Univ. Press, 1957), p. 56.

³⁴⁸Holmes, Estates, p. 70.

³⁴⁹C.C.R. 1369-1374, p. 402.

³⁵⁰G. O. Sayles, ed., Select Cases in the Court of King's Bench under Richard II, Henry IV and Henry V, VII, Publications of the Selden Society, 88 (London: Bernard Quaritch, 1971), pp. ix-x.

³⁵¹C.P.R. 1370-1374, p. 159.

³⁵²Foss, Judges, IV, 43.

³⁵³C.C.R. 1349-1354, p. 316.

³⁵⁴C.P.R. 1350-1354, p. 86.

³⁵⁵C.C.R. 1349-1354, p. 437.

³⁵⁶C.I.Misc., III, 116, 287.

³⁵⁷Foss, Judges, IV, 44.

³⁵⁸DNB, III, 1262.

³⁵⁹C.P.R. 1374-1377, p. 55.

³⁶⁰C.P.R. 1374-1377, pp. 228, 229, 317, 332.

³⁶¹C.P.R. 1377-1381, p. 574.

³⁶²Black Prince, IV, 440.

³⁶³Black Prince, IV, 487.

³⁶⁴Foss, Judges, IV, 44.

³⁶⁵Sayles, Select Cases, VI, cvi.

³⁶⁶Foss, Judges, IV, 43. For more on the Cavendish-Gernon problem, see Francis Bickley, The Cavendish Family (Boston and New York: Houghton Mifflin Co., 1914).

³⁶⁷Thomas Ruggles, "Notices of the Manor of Cavendish, in Suffolk, and of the Cavendish Family while possessed of that Manor," Archaeologia, 11 (London: The Society of Antiquaries of London, 1794), pp. 50-62.

³⁶⁸Walter Rye, A Calendar of the Feet of Fines for Suffolk (The Suffolk Institute of Archaeology and Natural History, 1900), pp. 213, 218, 238, 244; C.P.R. 1358-1361, p. 136; C.P.R. 1367-1370, p. 248.

³⁶⁹C.C.R. 1349-1354, p. 539.

³⁷⁰C.I.P.M., X, 65; C.C.R. 1349-1354, p. 540.

³⁷¹J. H. Round, "The Origin of the Cavendishes," Family Origins, ed. William Page (London: Constable and Co., Ltd., 1930), p. 26.

³⁷²Round, "Cavendishes," p. 23.

Notes to Chapter 5

¹Foss, Judges, III, 477.

²I have found no evidence that Stonor saw service on the king's bench, as Sayles contends.

³Sayles, Select Cases, VI, cvi-cvii.

⁴Putnam, Shareshull, p. 19.

⁵C.P.R. 1327-1330, p. 197.

⁶Williams, Early Holborn, I, 32.

⁷Williams, Early Holborn, I, 139.

⁸Bolland, "Training," p. 67.

⁹Bolland, "Training," p. 69.

¹⁰Sayles, Select Cases, IV, xxv..

¹¹N. Denholm-Young, The Country Gentry in the Fourteenth Century (Oxford: Clarendon Press, 1969), p. 23.

¹²Denholm-Young, Country Gentry, p. 130.

¹³Halstead, Genealogies, p. 83.

¹⁴Denholm-Young, Country Gentry, p. 41.

¹⁵Sayles, Select Cases, I, xlix.

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THE CHIEF JUSTICES OF THE COURTS OF
COMMON PLEAS AND KING'S BENCH, 1327-1377

by

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During the reign of Edward III, 1327-1377, seventeen men served as chief justices of the common law courts of king's bench and common pleas. These men have received little scholarly attention since the middle of the nineteenth century with the publication of Edward Foss's The Judges of England. Modern scholars of medieval English legal history concur in the belief that Foss's work, while it has been of inestimable value, needs revision and updating. The present study is an attempt to do that for a small group of judges.

The emphasis of the study is upon the professional development of these men before they became chief justices, rather than upon their careers after they reached that post. It is also concerned with the personal histories of the judges: their social positions, their families, the families and social positions of their wives, their geographical provenance, their associates and possible mentors. This thesis, then, seeks to answer the questions of what class of men became chief justices and of how they reached their high offices.

The careers of the majority of these judges followed a common pattern. Only one seems to have made a sudden leap into prominence, and only two did not first see service as a justice on one or both benches before being appointed to a chief justiceship.

A number served in high positions other than strictly judicial ones. Three were appointed chancellor, one was appointed treasurer and three served as chief baron of the exchequer. In addition, several were involved in such

diplomatic affairs as conducting negotiations with the Scots and arranging royal marriages.

The biographical details for some of the chief justices are so difficult to trace that there is no certainty about their geographical or social origins. However, it would appear that three, and possibly four, were from Yorkshire, two each were from Staffordshire, Norfolk and Northamptonshire, and one each from Cumberland, Leicestershire or Northumberland, Nottinghamshire, Lincolnshire, Oxfordshire, Suffolk, and Kent or Sussex. All were from rural backgrounds with the possible exception of one who may have been from a London merchant family.

It would appear that at least five of them were from gentry families, and in the cases of ten of the remaining twelve, the possibility exists that they, too, were from that class. What is more certain, and of greater importance, is that, in almost every case, the social or economic position of the family was improved by the chief justice. Their marriages, too, reflect the upward social mobility of the chief justices. They seem to have married women whose families were as prominent as their own, and in some instances the wives were from wealthier and more influential families than those of their husbands.

Finally, it has been possible to ascertain, at least for a few of the judges, the names of prominent acquaintances who may have been influential in furthering their careers.