

## Theories of Kingship in the Song of Lewes

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*When the righteous are in authority, the people rejoice: but when the wicked  
beareth rule, the people mourn.*

Prov. 29:2, KJV

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In the U.S. House of Representatives, a portrait of Simon Montfort stands over the gallery doors. Next to reliefs of Thomas Jefferson, George Mason, and other famous lawgivers, it is perhaps easy to imagine Montfort as another revolutionary in the grand surge of political history, bringing his countrymen closer to the freedom that would finally be realized in American representative democracy. This picture of history provides a clean account of democracy's origins, but it, of course, fails to capture the whole story.

The Second Barons' War, led by Montfort, did certainly arise in part from a desire to protect parliament's influence on the realm. However, the motivations and justifications of reformers were steeped in their thirteenth-century political and religious context and reflected a deeply medieval way of thought. Nowhere is this more evident than in the 1264 Song of Lewes.

The Song of Lewes was composed by an unknown author, though perhaps a well-educated Franciscan friar, after the Battle of Lewes, where baronial forces roundly defeated Henry III.<sup>1</sup> The Song tells of the Lewes campaign with "special and firsthand information," suggesting that the friar was present at the battle.<sup>2</sup> The text is an obviously pro-baronial account of events, and its author is clearly familiar with the constitutional principles underlying the rebellion. That the Song offers grounds for a study of constitutionalist motives of well-educated baronial supporters has been acknowledged, and yet, it has been little studied among other well-documented political theory tracts of medieval England and Europe.<sup>3</sup> As this paper will argue, the Song, while responding to the specific events of mid thirteenth-century England,

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<sup>1</sup> Charles Kingsford, introduction to *The Song of Lewes*, trans. and ed. Charles Kingsford (Oxford: Clarendon Press, 1890), xviii. Kingsford makes this inference from the author's evident familiarity with the "principles and objects of the best section of the constitutional party;" he even suggests that the author was educated at Oxford and influenced by Adam Marsh and Robert Grosseteste. It is possible the author was attached to Montfort's household and perhaps accompanied Bishop Berkstead to Lewes for negotiations. However, no evidence directly confirms or denies this identity.

<sup>2</sup> Ibid xix.

<sup>3</sup> In fact, Kingsford's prevailing translation of the text, still cited in the most recent scholarship, was published in 1890.

draws heavily from its continental and English predecessors and engages with near-contemporary theological and political debates.

This paper offers a comparative study of the Song of Lewes with John of Salisbury's *Policraticus*, Henry of Bracton's *On the Laws and Customs of England*, the Magna Carta, the letters of Adam Marsh, and Thomas Aquinas's *On Kingship*. These texts offer a wide range of medieval perspectives on kingship, tyranny, and rebellion through which to read the Song of Lewes. Salisbury, Bracton, and Marsh all write prior to the Second Barons' War from an English perspective. *Policraticus* falls in the model of a classical political treatise aimed at kings and was composed in the twelfth century; Bracton's mid-thirteenth century legal commentary, on the other hand, offers insights into the making and interpretation of laws from a more practical perspective. The Magna Carta expresses legal principles aimed at restraining an English king only fifty years prior to the Second Barons' War. Marsh's letters, though written directly to Montfort in the 1250s, are perhaps indicative of contemporary university thinking. Aquinas composed *On Kingship* sometime between 1260 and 1265, contemporaneously with the Second Barons' War, after he had left Paris. This later date of composition allows the possibility of influence from political theories of English reformers on Aquinas to be raised.

### ***Historical Background***

While Henry's personal rule was moderately successful and largely stable, his handling of finances displeased his magnates.<sup>4</sup> Beginning with his expeditions to Breton, Poitou, Wales, and Scotland and his rebuilding of Westminster Abbey, and continuing in the 1250s with attempts to go on crusade and to install his younger son on the throne of Sicily, Henry reduced the already weak royal finances to crisis levels. Efforts to raise new money included heavy new exactions on

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<sup>4</sup> For background information, see David Carpenter, *Henry III: The Rise to Power and Personal Rule, 1207-1258* (New Haven: Yale University Press, 2020), 514-46, and Adrian Jobson, *The First English Revolution: Simon de Montfort, Henry III, and the Barons' War* (London: Bloomsbury, 2012), 2-119.

England's Jewish population, which destabilized the nation's debt market, and higher payments from county sheriffs and justices, resulting in much local extortion. Simultaneously, Henry began to welcome more foreigners into his court. In 1247 he invited his Lusignan half-siblings from Poitou and offered generous rewards to those who obliged, intensifying competition among his court for already-limited patronage. The influence these foreign lords enjoyed within the court led to resentment among native magnates, who feared the loss of their traditional role as counselors and advisors.

Tensions came to a head in April 1258, when disaffected magnates, led by Montfort, demanded reform, ultimately resulting in the Provisions of Oxford. With these proposals the magnates revived the position of chief justiciar, who was to travel from shire to shire to provide judicial redress to the people. A new, semi-permanent baronial council with the authority to govern the realm in the name of the king was formed. The provisions also introduced new rules to limit sheriff's abuses.

Henry swore to uphold the Provisions at first, but soon sought to restore his power. In the winter of 1259 he entered into peace negotiations with Louis IX and successfully forced his sister Eleanor, Montfort's wife, to renounce her claims to King John's former continental possessions, thus removing Montfort's most powerful tool in bargaining against Henry. In 1261, Henry secured three papal bulls absolving him from his oath to adhere to the Provisions.

Of course, the situation in England remained deeply unstable as many barons and smaller landholders remained dissatisfied with the failure of the reforms. In October 1262, Montfort arrived at the opening of Parliament with a new papal bull confirming the Provisions in their entirety and annulling the 1261 bulls. Henry's authority disintegrated amidst the resulting crisis, and Montfort took control of baronial forces as open rebellion began in April 1263.

Fighting ensued over the next two years. In May 1264, the two forces met at Lewes in Sussex, where Montfort defeated and took prisoner Henry, his son Edward, and his brother Richard of Cornwall. The Battle of Lewes made Montfort de facto ruler of England and reduced Henry to no more than a figurehead. The Song of Lewes tells of this victory. However, this success did not end fighting. Royalist forces ultimately killed Montfort and defeated the baronial opposition at the Battle of Evesham in August 1265. The Dictum of Kenilworth, issued in 1266, secured Henry's sole rule once more.

### **Part I: What makes a tyrant?**

#### ***Oaths***

The first complaint of the author of the Song of Lewes against Henry is Henry's violation of the Provisions of Oxford. The author particularly criticizes Henry's failure to keep his oath, taken in April of 1258, to accept the counsels of his baronage and the reforms proposed by his magnates.<sup>5</sup> He writes:

Hence can they, who readily swear and hesitate little to reject what they swear, who quickly withdraw though they swear what is lawful, and render not wholly their promises to God, estimate with how great care they ought to preserve their oath, when they see a man flee neither torment nor death, for the sake of his oath, which was offered not rashly, but for the reforming of the state of the English nation which had fallen, which the treachery of an envious foe had violated. Behold!<sup>6</sup>

The contrast here is between the party of the king and that of Simon. Where Simon and his men are marked for their particular "faith and fidelity," Henry and his "wretched perjurers" do not fear God and instead seek earthly reward (or the avoidance of a "light penalty"), at the cost of their oaths.<sup>7</sup> Later a similar critique is given of Edward:

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<sup>5</sup> Jobson, *The First English Revolution*, 20.

<sup>6</sup> *The Song of Lewes*, trans. and ed. Kingsford, 37.

<sup>7</sup> *Ibid* 38.

A lion by pride and fierceness, he is by inconstancy and changeableness a pard, changing his word and promise, cloaking himself by pleasant speech. When he is in a strait he promises whatever you wish, but as soon as he has escaped he renounces his promise.<sup>8</sup>

Clearly, fidelity was a major concern when judging a ruler's character.

The text of the Song suggests that the concern over a king's ability to keep his oaths derived from a concern for stability. Indeed, Simon's fidelity is specifically praised as it became "the security of the peace of all England," and ensured the continuance of the undivided realm. He preserved the "canonical constitutions" and "catholic ordinances" to which he had previously sworn in the Provisions of Oxford.<sup>9</sup> Of course, perjury, in the sense of lying in oaths or testimony, was also considered a sin by the Church at the time; the ninth of the Ten Commandments orders that "you shall not give false testimony against your neighbor."<sup>10</sup> To release oneself from an oath without the permission of the papacy was a grave sin.<sup>11</sup> A king who broke oaths was thus turning himself away from the path of salvation and could by no means help guide his people towards the Church and the Christian faith.<sup>12</sup>

Adam Marsh's letters to Montfort help to elucidate some ideas surrounding oath-keeping and obligation. In Letter 134, Marsh condemns Montfort for taking a parish priest from Odiham to serve as his household's personal vicar in Gascony. While he expresses concern for the souls under the priest's care left in Odiham, Marsh's concern lies mainly with the priest's own oath to "the immutable law of God."<sup>13</sup> For Marsh, it is these types of oaths, bonds, and pledges that drive

<sup>8</sup> Ibid 42.

<sup>9</sup> Ibid 38. Adherence to oaths also ensured the king's continued adherence to the laws, as every king is subject to those laws he makes. A king's subjection to his law is one particular type of obligation analogous to oaths and will be discussed in greater detail in a later section.

<sup>10</sup> Exod. 20:16, English Standard Version.

<sup>11</sup> *Song of Lewes*, trans. and ed. Kingsford, 38. Pope Alexander IV absolved Henry from his oath to uphold the Provisions in 1261, but his successor, Urban IV, reversed this decision in 1262. That change in papal attitude was attributed to Henry's supposed deception by his proctors the previous winter (see Jobson, *The First English Revolution*, 76-81).

<sup>12</sup> *Song of Lewes*, trans. and ed. Kingsford, 38.

<sup>13</sup> Adam Marsh, *Letters of Adam Marsh*, trans. and ed. C. Hugh Lawrence (Oxford: Oxford University Press, 2010), 328.

men's behavior, and they must be undertaken only with careful consideration and with firm commitment to their keeping.

Later, in Letter 137, he writes similarly as he urges Montfort to "keep lawful covenants with the sons of men" as well as to maintain faith in God.<sup>14</sup> Here, unlike in his earlier letter, the covenant in question is that between men, not between men and God. It points towards a high value placed on the truth of one's written word, the binding force of political arrangements, the restraint of political actors imposed by peaceful arrangement, and patterns of governance based on mutual trust. Covenants and agreements offer a stable and just means by which to approach obstacles and challenges, and a fulfillment of these obligations ultimately lead to "far more desirable things" and the rewards of the faith.<sup>15</sup> This counsel seems especially relevant to a king's good ruling of a kingdom.

### *Lack of counsel*

The author of the Song of Lewes also takes issue with Henry's failure to seek counsel from the lords of England. Rather, he has relied on "counselors who flatter the king, who by deceitful words mislead the prince, and with double tongues lead him into error."<sup>16</sup> The issue of counsel is closely related to the issue of foreign lords in the English court, which I will discuss in the following section.

The author provides much justification for the role of counselors. He argues that magnates have a duty "to see what things are convenient for the governance of the kingdom, and expedient for the preservation of peace."<sup>17</sup> Conversely, kings need "assistance that supports them . . . and counsel that keeps them right."<sup>18</sup> The author acknowledges the royal case that the king

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<sup>14</sup> Ibid 333.

<sup>15</sup> Ibid.

<sup>16</sup> *Song of Lewes*, trans. and ed. Kingsford, 45.

<sup>17</sup> Ibid 54.

<sup>18</sup> Ibid 47.

ought not to be made a servant, that all free men are masters of themselves, and that thus the king is free to choose whom he will to advise him.<sup>19</sup> In response, the author argues that should any harm come to the “commonalty of the people” as a result of any unwise counselors, the magnates of the kingdom would have the obligation to “purge” the land of all errors.<sup>20</sup> Because it is more expedient to prevent such harm before it happens, the magnates are obligated to support the king in “the interest of the many.”<sup>21</sup> This counsel is in fact “the enlarging of kingly virtue,” for the restraints placed on him act to the king’s own benefit.<sup>22</sup> Like even the angel spirits are constrained, the king should be constrained as well, because “he who is able to fall, if he be guarded that he fall not, is aided by such guardianship to live freely.”<sup>23</sup>

The Song of Lewes acknowledges the responsibility of a kingdom’s magnates to guide the king towards good governance. John of Salisbury, writing a century earlier, expresses a similar view of the necessity of sound counsel. He envisions the relationship between the king and his counselors as that of the body, drawing on common imagery for the body of the Church. Men in any office of the government comprise the members of the princes’ body, and so must maintain integrity and virtue so as not to compromise the royal head.<sup>24</sup> Salisbury calls on the example of Rehoboam as an example of a ruler who relied on poor counsel: Rehoboam, the son of Solomon, listened to young rather than old men, disregarded prudence, and sought to “impose an insupportable burden upon the shoulders of the children of Israel.”<sup>25</sup> Ultimately this poor leadership led to the division of the unified kingdom of Israel into the two kingdoms of Israel and Judah.

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<sup>19</sup> Ibid 44.

<sup>20</sup> Ibid 45-6.

<sup>21</sup> Ibid 46.

<sup>22</sup> Ibid 48.

<sup>23</sup> Ibid.

<sup>24</sup> John of Salisbury, *Policraticus: on the frivolities of courtiers and the footprints of philosophers*, trans. and ed. Cary J. Nederman (Cambridge: Cambridge University Press, 1990), 63.

<sup>25</sup> Ibid 70.

Aquinas too expresses the need for a king to take counsel. Unlike Salisbury, Aquinas focuses on the need for advisors so that a king might better seek “the good of the multitude subject to him.”<sup>26</sup> Here, the benefits of good counsel are mostly the common people. While John of Salisbury does not deny the benefit to the commonality that arises from good governance, he focuses more on the status of the king rather than of his people. The Song of Lewes addresses both perspectives: a king who rules with good counselors benefits himself through his restraint, and he also prevents harm from coming to his people. Indeed, a rulership that does not seek the “common good of the multitude” but rather the “private good of the ruler” can only be “unjust and perverted.”<sup>27</sup> Interestingly, Aquinas emphasizes the king’s need to restrain his subject members just as they restrain him. According to Aquinas, a king “must take care of the appointment of men” and then “restrain” them “from wickedness and induce them to virtuous deeds.”<sup>28</sup> The relationship between king and counsel here is more mutually beneficial than it appears to be in the Song – not surprisingly, perhaps, given to what end the Song was written.

Throughout this conversation remains the question of what exactly the king and magnates were aiming to defend when invoking the “multitude” or the “commonalty of the people.” Some scholars have proposed that thirteenth- and fourteenth-century English kings willingly viewed the crown rights as the “proper concern of the *communitas regni*.”<sup>29</sup> The *communitas regni* here refers to the king and his prelates and magnates. The powers of the crown belonged equally to the king, as head of the body, and to the peers, as members of that body. In 1308, baronial opposition to Gaveston, Earl of Cornwall, made the claim that vassals were in fact bound to defend the crown, not the king, and so may be obliged to constrain the king, a justification for

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<sup>26</sup> Thomas Aquinas, *On Kingship*, trans. and ed. Gerald Phelan (Toronto: Pontifical Institute of Mediaeval Studies, 1949), 8.

<sup>27</sup> *Ibid* 7.

<sup>28</sup> *Ibid* 66-7.

<sup>29</sup> *Cambridge History of Medieval Political Thought c.350-c.1450*, ed. J.H. Burns (Cambridge: Cambridge University Press, 1988), 500.

opposition that seems more extreme and yet is a logical offspring of the ideas expressed in the Song of Lewes.<sup>30</sup> Of course, the justification for the magnates' constraint of the king in the Song focuses far more on the benefits to the king rather than to the crown rights. Important to note, too, is that the defense of baronial rights to counsel in the Song does not frame these as natural rights but rather as rights deriving from their benefit to the king and realm.

### *Foreign counsel*

One of the more striking elements of the Song of Lewes is the strong opposition to a foreign presence in court. Henry's Lusignan half-brothers were a target of much criticism from the baronial reformers. These men, so they claim, "brought nothing," were of "no account," and were then "endowed with [Henry's] goods" and "made great . . . until they [supplanted] the natural subjects."<sup>31</sup> Having thus climbed, foreigners then "are eager to turn away the heart of the prince from his own people, so that they may strip of glory those whom they wish to fall," leaving the English to be "exiled by strangers."<sup>32</sup> These men "flatter" and "mislead" the king until they eventually "crush and impoverish the commonalty of the people."<sup>33</sup> According to the Song, the only possible motivation for this could be self-advancement. The author draws a sharp counterexample in the person of Simon Montfort, who, if seeking only his own advantage, would simply have advanced his own friends and sons rather than seeking out "the reformation of the realm" and the "safety of the community."<sup>34</sup> Henry, then, must have abandoned his duties as king for the purpose of elevating his French brothers.

Why were these foreign lords so hated by the baronial opposition? Surely some opposition was self-motivated: every gift to a French relative was less for a native vassal.<sup>35</sup> But,

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<sup>30</sup> Ibid 501.

<sup>31</sup> *Song of Lewes*, trans. and ed. Kingsford, 39

<sup>32</sup> Ibid.

<sup>33</sup> Ibid 45.

<sup>34</sup> Ibid 40.

<sup>35</sup> Jobson, *The First English Revolution*, 9.

as seen in the Song, the superiority of domestic counsel could be justified by more publicly-interested means. Native-born lords, unlike their foreign counterparts, know the laws and customs of their lands. In order to determine the most appropriate course of action, then, a king must take counsel from “the community of the realm,” who are able to decree “the opinion of the commonalty” and “to whom their own laws are most known.”<sup>36</sup> The value placed on this approach implies a strong interest in maintaining the stability of the laws of the nation.

John of Salisbury also attributes less importance to foreigners than to native peers, although his opposition is less pronounced, perhaps reflecting the more intensely opposed positions of foreign and native lords in the years of the 1250s and 60s. He places foreigners below God, country, parents, and relatives, in the order to which the king holds obligation for his office.<sup>37</sup> And though he does not attribute the quality specifically to foreigners, Salisbury does bemoan the “plague of flatterers” surrounding the king, not unlike the author of the Song.<sup>38</sup> Counselors who are close to the king simply for personal benefit are dangerous to the good of the realm, he argues; the author of the Song attributes this trait to those foreigners whose position in England is wholly dependent on the king’s continued good will.

The question nonetheless remains of why Henry would seek to introduce these unpopular French lords to court. Most historians have agreed that a personal fondness for his half-brothers was partly responsible, and while possible, this answer certainly reduces Henry to a rather simple political actor.<sup>39</sup> An alternative explanation lies perhaps in the Lusignan’s opposition, as Poitevins, to the Savoyard relatives of Eleanor, whose influence at court had been felt since Edward’s youth.<sup>40</sup> Some historians have also proposed that Henry’s patronage of the Poitevins

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<sup>36</sup> Ibid 49-50.

<sup>37</sup> Salisbury, *Policraticus*, 33.

<sup>38</sup> Ibid 19.

<sup>39</sup> See, for example, Jobson, *The First English Revolution*, 9-10, and Carpenter, *Henry III*, 707.

<sup>40</sup> Jobson, *The First English Revolution*, 9, 18-19.

was an attempt to strengthen Gascony's frontier against a rumored French invasion and balance expanding French influence over Poitou.<sup>41</sup> In any case, the preferential treatment shown to French lords in the years preceding the Second Barons' War obviously made Henry deeply vulnerable to opposition from his native magnates.

The vitriol against foreigners also may seem somewhat hypocritical to the modern reader: Simon Montfort, after all, hailed from France, and only arrived in England as an adult in 1229. Why was he not included in the hatred against foreigners? The answer perhaps aids in explaining just why barons opposed the Lusignans. Montfort's mother was a claimant to the earldom of Leicester, and when Montfort arrived in England, he did so bearing this familial claim. Henry III had shown him special favor, particularly when he allowed Montfort to marry his sister, but by the time of the Second Barons' War, Montfort had been in England for the better part of three decades and had not failed to clash with Henry during that time. The Lusignan half-brothers, on the other hand, were only in England by the special favor of the king, with no claims of their own, and with no inclination to oppose the king. Where Montfort was familiar with English customs by this point, the half-brothers could not be. Perhaps, then, the true threat of foreigners is that their loyalty lies wholly with the person of the king, and not with the community of the realm.

### *Misadministration of justice*

In addition to the problem of foreign counsel, the author of the Song of Lewes is also concerned with Henry's administration of justice, both in general and particular terms. It is the duty of a king to decide all matters justly, to show justice to his people, and to protect his people from undue burdens.<sup>42</sup> Here, "justice" seems to imply a concern for fairness or for equitable

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<sup>41</sup> Jobson, *The First English Revolution*, 9, and Carpenter, 469.

<sup>42</sup> *Song of Lewes*, trans. and ed. Kingsford, 43, 44, 49.

distribution of gain and punishment. A ruler's commitment to justice is also the determinant of his realm's success:

If the just at times seems to be conquered by the impious, let him on the contrary be deemed the conqueror; for neither shall the just have been able to be conquered, nor the unjust to conquer so long as he shall be the enemy of justice.<sup>43</sup>

Clearly, a king's commitment to justice protects him and his kingdom from harm. In those terms, then, an "enemy of justice" leaves himself open to conquest by those who pursue justice.

The application of justice may still be vague, but several particular situations described by the author of the Song of Lewes better illuminate how a king might act justly or unjustly. Juxtaposing Montfort and Henry, the author writes, "Simon obedient scorns the loss of property, subjecting himself to penalties, that he may not let go the truth," placing an importance on landed rights and claims.<sup>44</sup> Later, too, describing some of the potential dangers of foreign counselors, the author suggests that they may "gradually confound the community" so that "no one might be able to obtain justice unless he were willing to foster the pride of such men by means of money amply bestowed."<sup>45</sup> Offering bribes for writs, in the view of the author, obviously "perverts order" and "alters the realm."<sup>46</sup> It is perhaps interesting to note that the author of the Song, while clearly strongly critical of Henry, only obliquely implies that Henry himself may be responsible for these unjust practices, perhaps seeking to moderate his claims and preserve the kingly dignity to a degree.

Some of these specific offenses can be traced to the Magna Carta. Regarding loss of property, for example, clause 9 of the Magna Carta specifically states that no land may be seized

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<sup>43</sup> Ibid 37.

<sup>44</sup> Ibid 37.

<sup>45</sup> Ibid 45.

<sup>46</sup> Ibid.

for debt payment when a debtor has moveable property that may be used instead.<sup>47</sup> Clause 39 further establishes the principle of due process regarding a man's land rights.

No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.<sup>48</sup>

A man's land or rights to land may not be deprived unless through lawful judgement or the law itself. Landed property is clearly valued more highly than other forms of moveable property.

Montfort's "scorn," then, for the loss of land appears to be an application of Magna Carta principles to the traits of a just lord. The Magna Carta also clearly states that justice may not be bought or sold. Clause 36 reads,

In future nothing shall be paid or accepted for the issue of a writ of inquisition of life or limbs. It shall be given gratis, and not refused.<sup>49</sup>

This directive is followed by clause 40, which clearly states, "To no one will we sell, to no one deny or delay right or justice."<sup>50</sup> These very explicit clauses can be traced then into the Song of Lewes, where payment for justice is scorned as a perversion of the laws of England.

Legal commentators preceding the Second Barons' War affirm the king's duty to preserve justice. Glanvill, writing in the late twelfth century, states that the king must always "perform his office" of "tempering justice for the humble and meek with the rod of equity" and should "show himself continually impartial in dealing with his subjects."<sup>51</sup> In this treatise, Glanvill envisions the king as the center from which all justice flows. It is the obligation of the king to guide his subjects towards fairness just as much as it is his duty to protect them against rebels and foreign nations.

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<sup>47</sup> Magna Carta, trans. G.R.C. Davis (London: British Museum, 1963).

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> Ranulf de Glanvill, *Treatise on the Laws and Customs of the Kingdom of England*, trans. and ed. G.D.G. Hall (London: Neslon, 1965), 1, cited in *Cambridge History*, 486.

Bracton, writing after Glanvill and the Magna Carta, further affirms the king's commitment to justice. Indeed, for Bracton, it is for this very purpose that a king is "made and chosen."<sup>52</sup> As the vicar of God on earth, the king uniquely can distinguish "jus from injuria, equity from inequity."<sup>53</sup> Furthermore, the king can only do *jus*, not *injuria*, as *jus* is the work of God, and *injuria* the work of the devil: to do injustice makes him no longer the "vicar of the Eternal King but the devil's minister." A king must be merciful and must not allow "corruption" to "descend to the members" of his realm.<sup>54</sup> The practice of justice is, for Bracton, what defines a king. If not just, a king cannot truly be a king: he must be acting on some authority other than God. Aquinas, writing later, similarly expresses that "to govern is to lead the thing governed in a suitable way towards its proper end."<sup>55</sup> For him, too, the whole purpose of the king is to minister justice. This notion gives force to the presentation of injustice presented in the Song of Lewes. While Henry's ministers bring injustice to the people of England, it is Henry's duty, as king, to protect justice: a failure to do so requires other lords to intervene.

### ***Constraint to law***

The final trait of a good king found in the Song of Lewes is a king's constraint to law. The author criticizes Edward's disdain for the law by stating that Edward, as though he were greater than the king, "thinks that he is released from law . . . for every king is ruled by the laws which he makes."<sup>56</sup> A king without law would be "verily . . . wretched."<sup>57</sup> The law shines like a lamp, makes roads straight, and brings a kingdom toward justice. Furthermore, rather than limiting a king, the constraints of law actually make him more free. Similarly to how counselors might, by circumscribing the king, guard him from disaster and thus bring him into more

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<sup>52</sup> Henry Bracton, *On the Laws and Customs of England*, ed. Ames Foundation, Harvard Law School, 2019, 305.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

<sup>55</sup> Aquinas, *On Kingship*, 58.

<sup>56</sup> *Song of Lewes*, trans. and ed. Kingsford, 42

<sup>57</sup> *Ibid.* 43.

freedom, so too a king who binds himself by the law finds himself enlarged in “kingly virtue.”<sup>58</sup>

To further reinforce this idea, the author later writes that “law rules the dignity of the king” and again describes it as a “light, without which we infer that the guide goes astray.”<sup>59</sup> Light takes on an almost spiritual quality in this description:

Law, whereby is ruled the world and the kingdoms of the world, is described as fiery, because it contains a mystery of deep meaning; it shines, burns, glows; fire by shining prevents wandering, it avails against cold, purifies, and reduces to ashes, some hard things it softens, and cooks what was raw, takes away numbness, and does many other good things. Sacred law supplies like gifts to the king. This wisdom Solomon asked for; its friendship he sought for with all his might. If the king be without this law, he will go astray; if he hold it not, he will err shamefully. Its presence gives right reigning, and its absence the disturbance of the realm. That law speaks thus: 'By me kings reign, by me is justice shewn to those who make laws.'<sup>60</sup>

The Song of Lewes acknowledges that the law is made by the king, with the counsel of his lords. However, though it is made by the king, it cannot be undone by him. The very value of the law comes from its stability: if the king were to “alter” it, it would lose this quality. Instead, the law “strengthens [the king’s] changing self.”<sup>61</sup> This subjection to a stable law allowing for stability of the king as man also allows for the stability of the realm. As discussed earlier with respect to oaths, adherence to all sorts of obligations, including to the laws of the realm, gave a kingdom its stability and better prepared its people for the salvation of the church.

Adherence to the law is absolutely essential to Salisbury’s definition of a king. As he writes, the central difference between a tyrant and king is that “the latter is obedient to law, and rules his people by a will that places itself at their services, and administers rewards and burdens . . . under the guidance of law.”<sup>62</sup> A ruler who does not abide by the law is no king, but rather, a

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<sup>58</sup> Ibid 48. The purpose of counselors is deeply intertwined with this notion of the law’s importance; counselors work alongside the law to restrain and support a king.

<sup>59</sup> Ibid 51.

<sup>60</sup> Ibid 51-2.

<sup>61</sup> Ibid 52.

<sup>62</sup> Salisbury, *Policraticus*, 28.

tyrant, and thus deserving of the punishments for tyrants (on which Salisbury feels strongly, as we will discuss later). Salisbury goes on to define the law as the “interpreter” that “makes known the will of equity and justice.” Because it protects equity, it is appropriate for all men, including the king, to live by this law. Law draws its force from its ethical power.

For a king to rule by will alone would be to remove him from the bounds of divine law, making him an outlaw and subjecting him to “grave judgement,” yet he is still “said to be an absolutely binding law unto himself” and may interpret the law where it is flexible.<sup>63</sup> Salisbury reconciles these views by distinguishing between the private and public will of the king.

Whatever the king may wish, he may only be permitted his own will in public affairs so far as it arises from law, equity, or the common utility.<sup>64</sup> From thence one may state that the king’s will has the force of law as his will is always consistent with the “design of equity.”<sup>65</sup> Furthermore, similar actions undertaken with different aims may be lawful or unlawful, so far as they adhere to this vision of fair punishment and reward. David, for example, is a “man of blood” not because of his wars but because of his unjustified murder of Uriah.<sup>66</sup> Clearly, then, it is possible even for a king to act by the law at some points and at other points to stray from it and act unrighteously. The difference lies in the morality of the king’s motivation for a particular action.

Bracton, writing later, further defines the king’s relationship to the law. He writes that the king is only “under God and under the law,” and goes so far as to state that “law makes the king.”<sup>67</sup> A king who rules only by will is no king at all. That being said, the king does have the authority to modify the law in particular ways. While he may not nullify the law without the common consent of the magnates, he may change laws “for the better,” as this betterment is not

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<sup>63</sup> Ibid 30, 48.

<sup>64</sup> Ibid 30.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid 31; see 2 Sam. 11-12 for the story of David, Bathsheba, and Uriah.

<sup>67</sup> Bracton, *On the Laws and Customs*, 33

nullification.<sup>68</sup> How Bracton suggests this betterment be defined is unclear, but the principle remains. The notion of what is lawful or not originates with the people, not with the king. Indeed, he goes so far as to include “the general agreement of the *res publica*” along with the “consent of the magnates” and the “authority of the king or prince” in his definition of what makes a law.<sup>69</sup> Notably, this law does not have to be written; English customs, though unwritten, carry the force of law through this agreement.

Aquinas, writing later, seems to largely agree with Bracton on this front. He suggests that the role of the king is to look to the “conservation” of “virtuous living,” carrying an ethical weight to the preservation of the law not unlike that seen in Salisbury.<sup>70</sup> Aquinas, though, not writing for a uniquely English audience, does not dwell on the particular nature of law in England, where a body of common law built through the agreement of magnates and kings had long existed. Adam Marsh’s writings also touch on the nature of the law as he ties the king’s respect for law to the model of the ancient Israelites. As they adhered to the laws of God, a contemporary king should also keep the “precepts for how we live” so that God will “keep his covenant” and bless the king greatly.<sup>71</sup> The key difference here is that for Marsh, the law derives from God, and is then put into effect by the king, who rules with the understanding from the people that he is ruling according to God’s will for justice. That direction of law-making de-emphasizes the English customs illuminated by Bracton. Still, Bracton, like Aquinas and Marsh, came close to a similar view: the king was under law in its force as the “judgement of God” and protector of equity, but he could change or dispense from it to the benefit of the people.<sup>72</sup>

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<sup>68</sup> Ibid 21.

<sup>69</sup> Ibid 19.

<sup>70</sup> Aquinas, *On Kingship*, 66.

<sup>71</sup> Marsh, *Letters*, 343.

<sup>72</sup> *Cambridge History*, 487.

### *Kings and tyrants*

Before moving to a discussion of how the Song of Lewes views action against tyrants, it is helpful to consider how the Song and various theorists generally define a king. For most, the king's mission is to guide his people towards salvation. Ultimately that salvation only comes through God and the Church, but the king nevertheless can bring about justice so as to create a conducive path to salvation. The author of the Song of Lewes writes,

He who wishes to live for himself ought not to be in command, but to dwell apart and be as one alone. It is the glory of a prince to save very many . . . If he shall have saved the kingdom, he has done what is the duty of a king; whatever he shall have done otherwise, in that he has failed.<sup>73</sup>

Clearly, saving the kingdom is the most critical duty of a king. The author goes even further applying this principle to Simon Montfort, “who, like unto Christ, gives himself to death for the many,” making him the ultimate Christian king.<sup>74</sup> It is reminiscent of Adam Marsh, who suggests that losing one's life for the realm is part of a king's duty. Writing to Montfort, he asks, “But if the great-hearted captain should happen to lose his life to save his men, what will ever be judged more glorious or more seemly or salvific than to end one's life for the sake of the living?”<sup>75</sup> The ultimate subjection of the ruler's life for the well-being of his people defines a king's abilities as a leader.

This notion that the king acts to save his kingdom derives partly from the two swords theory common in late antique and medieval political thought. In Chapter 22 of Luke's Gospel, after hearing of Jesus' upcoming arrest, the apostles show two swords to Jesus with thoughts of physical resistance; he responds simply, “It is enough.”<sup>76</sup> Where modern commentators tend to read this statement as an “abrupt dismissal” of his apostles' plans to resist, medieval scholars

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<sup>73</sup> *Song of Lewes*, trans. and ed. Kingsford, 53.

<sup>74</sup> *Ibid* 40.

<sup>75</sup> Marsh, *Letters*, 347.

<sup>76</sup> *Cambridge History*, 370.

drew allegorical meaning from the text. The two swords were the spiritual sword of the divine word and ecclesiastical jurisdiction, and the material sword of the civil authority and the king.<sup>77</sup> The spiritual and material sword cooperated towards God's will as both were wielded by God's ministers on earth.

For many medieval commentators, then, the purpose of a king was to bring his kingdom more in line with God's will. Common was the notion that a "sure end" existed: that ultimately, God held a vision for the world, and all things should move towards that proper state. Adam Marsh views this "sure end" as the result of just leadership.<sup>78</sup> Aquinas expands on this Aristotelian view as he writes that the purpose of government is to "lead the thing governed . . . towards its proper end."<sup>79</sup> The tyrannical leader, on the other hand, only leads his people to "confusion" and "destruction," as Salisbury writes.<sup>80</sup> Henceforth kings directed their realms much as God directed the universe, and in so doing rulership became an "ethical act."<sup>81</sup> With the king responsible for the manifestation of God's will on earth and the salvation of his people's soul, the problem of what to do when an unjust king held power became all the more critical.

## **Part II: Action against tyrants**

### ***God's hand in action***

The first option for magnates faced with a tyrant was to do nothing. This choice was actually quite consistent with the medieval worldview that all things eventually reached their proper end. As God willed, tyrants would eventually face punishment, whether in this life or the next. Adam Marsh expressed this view to Simon Montfort. As he writes, a "bestial insanity" has driven men mad as the world falls headlong into ruin, and the "fearful sentence of divine

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<sup>77</sup> Ibid 371.

<sup>78</sup> Marsh, *Letters*, 331.

<sup>79</sup> Aquinas, *On Kingship*, 58; *Cambridge History*, 483. For more on the Aristotelian roots of these ideas, see Chapter 16 of the *Cambridge History*.

<sup>80</sup> Salisbury, *Policraticus*, 222

<sup>81</sup> *Cambridge History*, 483.

judgement” only waits to be directed.<sup>82</sup> The solution Marsh proposes to Montfort amidst his troubles is simply to keep course and adhere to “the commands of their Savior.”<sup>83</sup> By so doing, Montfort could guarantee his own salvation while allowing, Marsh believes, punishment to come from God to those who deserve it.

Aquinas states more explicitly that mild tyrants should generally be tolerated, though he reaches this conclusion through different reasoning. He argues that action against the tyrant will either fail, making the tyrant more extreme than before, or that a new tyrant will seize power in the chaos and disorder of a new government.<sup>84</sup> Thus, the consequences of tolerating a mild tyrant are less severe than those of rejecting a mild tyrant. Aquinas goes on to cite 1 Peter: “Servants, be subject to your masters with all respect, not only to the good and gentle but also to the unjust. For this is a gracious thing, when, mindful of God, one endures sorrows while suffering unjustly.”<sup>85</sup> Enduring injustice thus becomes a spiritual practice and strengthening exercise.

Some elements of the Song of Lewes tend towards this view. In a loose echo of the beatitudes, the author expresses his belief that God will make low the mighty and make high the powerless, and that “Christ . . . commands, conquers, reigns, [and] delivers his own, to whom he has given faith.”<sup>86</sup> The Beatitudes particularly matter because they imply a reversal in position that happens only by God, and not by men, and that is only made truly manifest in eternal life. But the Song of Lewes, as it seeks to justify the Second Barons’ War, unsurprisingly moves away from this more passive stance, as we shall see.

### ***Restraint and removal***

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<sup>82</sup> Marsh, *Letters*, 333.

<sup>83</sup> *Ibid.*

<sup>84</sup> Aquinas, *On Kingship*, 66-7

<sup>85</sup> 1 Pet. 2:18-19, ESV.

<sup>86</sup> *Song of Lewes*, trans. and ed. Kingsford, 41

Throughout the Song of Lewes, Montfort and his forces act as the hand of God against Henry. Supposedly Montfort, with a small army of novice knights, defeated Henry's large band of experienced warriors thanks to God's intervention, raising the "few of the faithful" as he did in the battles of Gideon.<sup>87</sup> Not only was Henry's army stronger, but Montfort's choice to fight in open day on the field of Lewes also disproportionately advantaged the king.<sup>88</sup> The battle being so favorable to Henry, it must have been through God's favor that Montfort won. Again the author describes the grace by which Montfort succeeded: "Neither fraud nor falsehood moved the Earl, but the divine grace which knows whom it may help . . . God provided that he should not succumb . . . Hence it is clear to all that it is the gift of God."<sup>89</sup>

To some extent, this notion that Montfort's army acted by the grace of God may draw some from the two swords theory discussed previously. In that theory, the king acts as the material sword of God while the church wields the spiritual sword. When a king becomes a tyrant, however, he no longer is acting to achieve God's will for his earthly kingdom. The one who removes a tyrant, however, does bring about a more just government in line with the divine vision. Perhaps, then, those in rebellion against a tyrant are the true bearers of the material sword of Christ. The material sword, and thus the right to lead and to rule, falls on him who has earned God's grace rather than remaining with one established ruler.

The notion that God's grace rests on Montfort and his army is only one justification for their rebellion and for their success at Lewes. Interestingly, in the Song of Lewes, it is Montfort, not Henry, who is the defender of England. When comparing the weakness of Montfort's army to Henry's strength, the author writes, "Thus then are they inferior in knighthood who fight for

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<sup>87</sup> Ibid 35.

<sup>88</sup> Ibid 40.

<sup>89</sup> Ibid.

England.”<sup>90</sup> The notion that the king’s knights are fighting not for their country but for the king himself strengthens the critical idea that Montfort is not attacking the realm but attacking the person of the king. By making this distinction, it is possible to view battle with the king as a public duty and benefice, not a treasonous action. Montfort, in his “faith and fidelity,” becomes “the security and peace of all England.”<sup>91</sup> In contrast to Henry and his foreign ministers, Montfort and the reformers stand for the native realm.

Constantly the Song reiterates the right and duty of the magnates to restrain the king should he fail to protect the law or the community of the realm. Bracton’s *addicio de cartis* supports this idea: should the king fail to act under the law, the barons have a duty to restrain him, and should they fail to do so, they have broken the law as well.<sup>92</sup> Aquinas, though generally hesitant to suggest tyrants should be overthrown, did suggest that removal of a tyrant could be justified where the continuance of tyranny would be more harmful to a community than the potential consequences of that tyrant’s removal.<sup>93</sup> If a king has abused his power and broken his covenant with his people, he deserved to be deposed or have his power restricted.<sup>94</sup> In all the Song of Lewes’s descriptions of the various ways in which Henry did abuse his power and fail to act as a just king, the author seems to extensively justify the rebellion of the barons, by these theorists’ standards. And given that the barons have received God’s grace on their war efforts, so he seems to prove his conclusion.

### *Tyrannicide*

Salisbury goes farther than any of our other theorists in suggesting tyrannicide as an appropriate response to an unjust ruler. He calls this both “equitable and just,” for, he argues, “he

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<sup>90</sup> Ibid 35.

<sup>91</sup> Ibid 38.

<sup>92</sup> Charles Radding, “The Origins of Bracton’s *Addicio de Cartis*,” *Speculum* 44, no. 2 (1969): 242.

<sup>93</sup> *Cambridge History*, 494.

<sup>94</sup> Aquinas, *On Kingship*, 27.

who receives the sword deserves to perish by the sword.”<sup>95</sup> He goes on to explain that the tyrant, in usurping power from God, commits treason “against the body of justice itself” and is deserving of punishment as a public enemy. Salisbury goes so far as to make it a crime against the entire realm to not prosecute a public tyrant.

Still, even Salisbury qualifies this strong opinion. Private tyrants, unlike public tyrants, do not commit crimes against the whole body of the public, and so are not deserving of death.<sup>96</sup> Similarly, the “material sword” should not be exercised against tyrannical priests, out of reverence for the sacraments, unless that priest has already been defrocked and harmed the Church in some other way.<sup>97</sup> And most strikingly, even Salisbury acknowledges that the best way to rid oneself of a public tyrant is to “wait patiently to the end” until divine intervention provides that the tyrant either returns to justice or is otherwise “extinguished.”<sup>98</sup> While tyrannicide was theoretically compelling, its practical dangers and dangers to the soul of the killer made patience by far the safest option.

Tyrannicide is not presented as an option in the Song of Lewes, and it does not seem that Montfort and his forces considered it an option. Tyrannicide may have been simply too extreme a possibility, as Salisbury’s suggestion did lack precedent in recent history. After all, while King John was restrained by his magnates and compelled to sign the Magna Carta, he was never deposed or tried. Furthermore, baronial opposition to Henry III sought reform moreso than regime change; reformers did not deny the good of monarchy as a system of government nor did they deny that God had placed a king on his throne. The focus of the Song lies in defense of the

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<sup>95</sup> Salisbury, *Policraticus*, 25.

<sup>96</sup> Ibid 205.

<sup>97</sup> Ibid.

<sup>98</sup> Ibid 209.

crown rights, not on the person of the king, and so it follows that the Song advocated to bring the king back to the right course and not to replace the king altogether.

### **Conclusion**

The Song of Lewes, clearly, stands in conversation with other major political treatises of its time. While its author's identity and his education remain unknown, it seems reasonable to infer that he and other well-educated English elites during the Second Barons War were familiar with the major theological and political debates happening among academics and scholars in England and France. While the Song of Lewes cannot be traced solely to one thinker, it nevertheless draws heavily from established norms of kingship to defend baronial opposition to Henry III.

Furthermore, this study suggests that the Song of Lewes and the events of the Second Barons' War, broadly speaking, may have influenced political theorists both in and outside of England in the following decades. Aquinas's writings seem to align with the Song of Lewes on some fronts, particularly in Aquinas's emphasis on a king's need for counsel in order to achieve the good of the multitude. His somewhat weaker stance against tyrants may likewise have been a response to the turmoil of English politics in his time. While no evidence can confirm or deny this potential influence, it remains a tantalizing possibility.

Much work still remains to be done on this topic. A new critical edition and translation of the Song may make the text more accessible to scholars of various disciplines and illuminate new avenues for research. The question of the Song's authorship, too, remains unanswered. Additionally, comparison of the Song of Lewes to other texts of the Second Barons' War would allow for a richer understanding of the place of political theory both in the Song and among English contemporaries generally within this period..

This comparative focus is not to deny the Song of Lewes' status as a unique testament to English parliamentary development. However, the text's influences demonstrate that the Second Barons' War perhaps does not reflect a uniquely English commitment to just government, nor should it be studied independently of contemporary continental political history. The tendency by some English-speaking historians to frame the Second Barons' War as a revolution towards constitutional democracy obscures the fact that baronial supporters actually relied heavily on accepted models of kingship to explain their rejection of Henry. As historians, we must dismantle the modern notion that some form of democratic representation is necessary for a government to be just. Medieval kingship already strived towards justice, both in England and elsewhere, and medieval philosophers and political actors held their rulers to this standard.

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