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*Jews and the Law in England, 1275–90**

FROM the beginnings of Jewish settlement in England during the years after the Norman Conquest, the members of the Jewish community must have enjoyed a special, indeed literally a privileged, legal position. As a vulnerable religious minority, the community needed the king's special protection if it was to survive, let alone to flourish. Special provision had also to be made for any kind of legal proceedings which involved Jews, since the forms of proof routinely used in post-Conquest England generally involved the invocation of a specifically Christian deity. We might thus have expected some kind of charter providing the community with assurances of the king's protection and making provision for the procedures to be followed in legal proceedings which involved Jews. But if any of the Norman kings issued such a charter it is no longer extant.[1] The first king who is known to have issued a charter of this type is Henry II. In it he confirmed to the Jews both of England and of Normandy all the 'liberties and free customs' which they had enjoyed during the reign of his grandfather Henry I, but he did not claim to be confirming a charter issued by that king. The charter listed some, though not perhaps all, of those 'liberties and free customs'. Even this charter does not itself survive but its terms are known in detail from confirmations issued by his sons, Richard and John.[2] Historians of English medieval Jewry have paid rather less attention to a second charter issued by Henry II, this time solely in favour of the Jews of England. This too is known only from later confirmations issued by Richard and John.[3] This second charter did not purport to be confirming existing or older customs but it did grant the Jewish community in England jurisdictional autonomy in deciding all intra-communal disputes other than those relating to major crimes, and the types of offence which fell within this category are specifically listed in the charter. It also made certain provisions about the procedures to be followed in such cases when they involved only members of the Jewish community. Thus, from the reign of Henry II, there existed a specific written guarantee of the king's protection for members of the Jewish community and a written statement of certain of the jurisdictional and legal privileges and rules which applied to them; and, at the very time when Henry II's legal reforms were tending to emphasize the common subjection of all of his free (indeed, for certain purposes, all of his free and

*Earlier versions of this paper were given at a meeting of the Medieval Academy of America in Boston and to the Late Medieval History seminar of the Institute of Historical Research in London and I am grateful to those who attended these sessions and commented on the paper.

1. H. G. Richardson, *The English Jewry under Angevin Kings* (London, 1960), p. 110.

2. Ibid., pp. 109–11.

3. John's confirmation is printed in *Rotuli Chartarum in Turri Londinensi Asservati, 1199–1216*, ed. T. D. Hardy (London, 1837), p. 93b; Richard's appears to survive only in a mutilated form in an unprinted charter enrolled on a Cartae Antiquae Roll (P[ublic] R[ecord] O[ffice], C 52/21, m. 3).

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unfree) subjects to a uniform system of royal justice, these privileges preserved and even enhanced the separateness of the Jewish community within the wider society.

Certain other developments of the late twelfth century accentuated this and further promoted the separate and privileged legal position of the Jewish community. In 1194 Richard I's government established a special network of chirograph chests, initially in no more than six or seven main towns: administrative centres run by small groups of Christians and Jews which kept a record of all Jewish money-lending made on the security of debtors' lands and all repayments made on those debts.[1] Whatever the intention, one effect was to supply Jewish money-lenders (but only Jewish money-lenders) with a system of official registration of their debts; and either in 1194 or not long thereafter, the king's government also made available on a routine basis its executive assistance to such money-lenders in the collection of their debts without requiring them to bring prior legal proceedings to establish the debtor's liability to pay the debt. Jewish money-lenders were also privileged in one other significant respect. Their money-lending was at interest. By 1194 this had become a form of money-lending that seems to have been permissible (certainly in the eyes of the king's courts) only for members of the Jewish community.[2] One other development which apparently belongs to the very end of the twelfth century was the creation of a separate governmental institution, the Exchequer of the Jews, with a special continuing responsibility for oversight of the affairs of the Jewish community, and more particularly for the day to day conduct of relations between the Crown and that community, and with jurisdiction over all major litigation between Christians and Jews.[3]

The thirteenth century did not bring any significant inroads into the general principle of an acknowledged separate legal status for the Jewish community in England: indeed, the privileges that had been conferred and confirmed by the first of Henry II's charters were confirmed by Henry III to the Jewish community in England through inspeximuses issued in 1249 and again in 1271.[4] By then, however, Jewish separateness had come to be not so much a matter of privileges (for which the issuing or reissuing of a charter of liberties was indeed the appropriate documentary form) but more a matter of special restrictions and

1. The text is most readily available in *Select Charters and Other Illustrations of English Constitutional History*, ed. William Stubbs, revised by H. W. C. Davis (9th edition, Oxford, 1921), p. 256.

2. Although Mavis Mate has shown that Canterbury cathedral priory was paying Italian merchants interest on loans made by them during the first half of the thirteenth century, some, if not all, of these loans were contracted outside England and it seems likely that the Italian merchants relied on the church courts, rather than the king's courts, to enforce their repayment: Mavis Mate, 'The Indebtedness of Canterbury Cathedral Priory, 1215–95', *Economic History Review*, 2nd ser., xxvi (1973), 183–97.

3. Richardson, *English Jewry*, pp. 115–20.

4. *Calendar of Charter Rolls, 1226–1257*, p. 347; *Calendar of Charter Rolls, 1257–1300*, p. 164.

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regulations applicable only to members of the community, for which special legislation was the more appropriate vehicle. The earliest such legislation comes from 1218 with further legislation following in 1233.[1] There was Jewish legislation at least once or twice each decade thereafter, down to 1275: in 1234, 1235 and 1239,[2] 1242 and 1246,[3] 1253,[4] 1269,[5] 1271[6] and 1275.[7]

It was the statute of Jewry of 1275, the first Jewish legislation of the reign of Edward I, which constituted the most wide-ranging, the most detailed and the most radical of all the legislation of the thirteenth century concerned with the Jewish community.[8] The most important of its provisions made a significant reduction in the existing privileges of that community, for it prohibited all future Jewish loans, whether secured on land or on movables, on which usury was charged. This covered not just loans on which regular interest was payable (which had been the standard form of 'usurious' Jewish money-lending prior to 1275) but also any other loans which in the eyes of contemporary canon law counted as 'usurious', that is (in broad terms) where anything more than the sum loaned was to be repaid by the debtor. Not only would the King no longer give any assistance to individual Jewish creditors in recovering either the interest or the principal on such loans but such lenders were also in future to be punishable 'at the king's will' for making them (a splendidly unspecific phrase but one which was probably intended to authorize only fines and brief imprisonment, not capital or even corporal punishment).[9] The statute did not cancel existing loans but it did radically alter their terms. From 13 October 1275 no further interest was to accumulate on existing loans, though the interest accumulated up to that date was still to be repayable together with the principal. The statute also made important changes in the procedures

1. *Rotuli Litterarum Clausarum in Turri Londinensi Asservati*, ed. T. D. Hardy (2 vols., London, 1833–44), i. 378b; Richardson, *English Jewry*, pp. 293–4.

2. *Close Rolls, 1231–34*, p. 592; *Close Rolls, 1234–37*, pp. 13–14, 214; *De Antiquis Legibus Liber: Cronica Maiorum et Vicecomitum Londoniarum*, ed. Thomas Stapleton (Camden Soc., original ser., xxxiv, 1846) [hereafter *Liber de Antiquis Legibus*], pp. 237–8.

3. *Close Rolls, 1237–42*, p. 464; *Close Rolls, 1242–47*, p. 476.

4. *Close Rolls, 1251–53*, pp. 312–13.

5. *C[alendar of] P[atent] R[olls], 1266–72*, p. 376 with a follow-up in 1270 (*Close Rolls, 1268–72*, p. 268).

6. *Liber de Antiquis Legibus*, pp. 235–6.

7. *Statutes of the Realm*, ed. A. Luders *et al.* (11 vols., London, 1810–28), i. 221–221a.

8. The most recent discussion of this statute is that in Robin R. Mundill, *England's Jewish Solution: Experiment and Expulsion, 1262–1290* (Cambridge, 1998), pp. 119–21. Mundill's suggestion that the statute enacted at the Michaelmas Parliament of 1275 was preceded by legislation in similar terms enacted at the April Parliament whose existence can be deduced from chronicle references is not supported by the evidence of the two chronicles he cites. One of these (John of Oxnead) seems to be referring to the legislation enacted at the Michaelmas Parliament; the other (the Rochester chronicle) does not ascribe the measures concerned to any particular Parliament.

9. Any Christian debtor would also be entitled to recover any 'gage' ('security', evidently here a reference to pawned chattels) if handed over in return for such a loan.

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available for enforcing the repayment of Jewish loans. Under existing procedures all the chattels of a debtor had been liable to seizure and sale for repayment of a debt and, if these did not suffice, the whole of the debtor's landed property except for his house had been handed over to the creditor to hold until the debt (plus interest) had been paid.[1] The statute allowed the debtor in future to keep half his chattels and also half his lands: thus the creditor would have in effect to wait twice as long to recover his debt in full. The statute also required that before any lands were handed over to the creditor these should be valued, so that it could be known in advance when the debt would be paid off.[2] Changes were also made in the procedures applicable where the original debtor was no longer in possession of the lands he had held when he had contracted the debt, either because he had died or because he had given or sold all of his lands to third parties.[3] Hitherto it had been possible for the creditor simply to obtain an executive order addressed to the local sheriff to be put in possession of the lands of the debtor's heir or the grantees of the debtor's lands provided he had the chirograph proving the debt.[4] He would now have to prove the debt in court before he could take such measures.

1. The form of the Exchequer of the Jews writ which acted as the warrant for the local sheriff to put the Jew in possession of the debtor's chattels and (only if these did not suffice) in possession of his lands can be deduced from *Calendar of Plea Rolls of the Exchequer of the Jews preserved in the Public Record Office*, ed. J. M. Rigg *et al.* (4 vols., London: Jewish Historical Soc. of England, 1905–72) [hereafter *EJ*], ii. 255–6. An actual writ of this kind (albeit against the tenant of the lands of a debtor rather than the debtor himself) is partially transcribed in an enrolment of an assize of novel disseisin heard in the 1268 Wiltshire eyre (PRO, JUST 1/998A, m. 2): 'Henricus dei gracia etc. vicecomiti Wylt' salutem. Precipe Roberto de Waude tenenti terras que fuerunt Willelmi de Rokeseye in Edemeston' quod sine dilacione reddat Deulecres' de Wylton' judeo vel ejus nuncio decem libras quas ei debet occasione predictarum terrarum quas tenet et que sunt vadium suum pro predicto debito secundum convencionem factam inter predictum Willelmum et ipsum Deulecres' per cyrographum decem librarum unde altera pars est in arca cyrographariorum Wylton' etc. Et nisi fecerit et dictus judeus ostenderit tibi cyrographum quod inde habet tunc sine dilacione seisias dictum judeum vel ejus nuncium de vadio in dicto cyrographo nominato de quo idem Robertus nunc habet seisinam ad valenciam dicti debiti decem librarum et ipsum judeum vel ejus nuncium in seisina illa custodias et manuteneas . . .'. But note that in another almost contemporary assize of novel disseisin in the 1271 Kent eyre a debtor claimed that it was contrary to the *lex judeismi* not just for a creditor (here the Christian assign of a Jew) to put him out of his house but also for him to cultivate or work the land concerned. His right was merely to receive the chattels found there (presumably including the crop): 'cum non liceat alicui judeo occasione pignoris aliquem dehospitare vel terram quam habeant nomine pignoris excolere vel manuoperari immo tantummodo catalla in eisdem tenementis inventa percipere. . .': PRO, JUST 1/365, m. 17d.

2. The creditor's writ for putting him in possession of these chattels and lands was now made returnable into the Exchequer of the Jews, where the extent of the debtor's chattels and lands was filed with the writs returned into the court. These were not, however, enrolled on the court's plea rolls: *EJ*, iii. 308–9.

3. In general third parties seem to have become liable for the creditor's debts during his lifetime only if he was wholly insolvent: see *EJ*, i. 73; *EJ*, iii. 159–60. But the king could, it seems, as a matter of grace allow creditors to levy their debts from third parties as well as the original debtor even when this was not the case: see *CPR, 1258–66*, pp. 521, 547, 581, 585, 617, 646; *Close Rolls 1264–68*, p. 166; *CPR, 1266–72*, pp. 13, 21, 24, 51, 95.

4. For the form of the writ see *supra*, n. 1. But for evidence suggesting that even prior to 1275 a judgment may have been required before a debt could be levied against heirs and the tenants of lands (though this requirement might be waived as of grace by the Crown), see *EJ*, i. 97.

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Lending money at interest had been a major, and probably the major, source of income for members of the Jewish community prior to 1275. This was recognized in other clauses of the statute which envisaged a different economic role for them in future, one which would have made Jews much less distinct from members of the surrounding community. It visualized (and apparently wished to encourage) Jews with capital turning to trade and specifically authorized the contacts with Christians that Jews would need for buying and selling.[1] It also envisaged that Jews who were without the capital needed for trade would take up physical labour. For those without much capital and unable to live from their labour specific authorization was given to lease land for periods of no longer than ten years.[2] But despite these provisions there was no real breakthrough, no significant change in the direction of royal policy. Other provisions of the same statute helped to confirm and even extend the 'separateness' of the Jewish community. The statute specifically granted (or regranted) the King's 'protection' and 'peace' to members of the Jewish community in England. The clear implication was that this was a matter of royal grace and favour, not something to which they were entitled as of right as the King's subjects. Even more ominously, the statute stated that the King was doing this not because it was his own wish but because 'Holy Church wishes and suffers that they live and be looked after'. There is perhaps an implication here that at some future time the King may cease to be persuaded by the Church's wishes. The statute also confirmed the existing privilege (and restriction) on members of the Jewish community: that they should plead and be impleaded only in the King's courts. But this too was given a new twist by the implicit justification offered for the privilege, that this was because Jews were the King's 'serfs', apparently a new idea in English royal legislation[3] though already well known in both France and Germany, and one which emphasized the relative absence of 'entitlement' to rights on the part of Jews, their dependence on the good will of their 'lord', the King. The separateness of the community and its direct dependence on the King was likewise emphasized by the requirement

1. Full integration into the Christian mercantile community was, however, impeded not just by the reiteration (in slightly wider terms) of an earlier prohibition of 1253 against allowing Christians to live in the houses of Jews but perhaps more significantly by prohibiting the future Jewish 'merchants' from paying scot and lot or tallages with the inhabitants of the towns where they resided (and thus being treated as full members of the mercantile communities concerned) on the grounds they were the King's 'serfs' and owed tallage only directly to him.

2. This last possibility was, however, explicitly only to last for an initial (and evidently experimental) fifteen year period.

3. Previous legislation had come nearest to this in the law of 1253 which had said that no Jew was to live in England unless he performed the King's service (*nisi servicium regis faciat*) and that as soon as any Jew was born, and whether they were male or female, they were to serve the King in some way (*serviat nobis in aliquo*): *Close Rolls, 1251–53*, p. 312. Still earlier legislation (of 1233) had established that no Jew was to remain in England unless he was such 'quod regi possit servire' and Jews 'qui nichil habeant unde regi serviant' were to leave the kingdom by Michaelmas: Richardson, *English Jewry*, p. 294.

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that each member of the Jewish community once they had reached the age of twelve should pay three pence a year to the King as chevage or tallage. Chevage and tallage were regular payments to lords characteristic of the unfree and the legislation makes the connection.

The legislation also confirmed and extended a series of other controls which were specific to members of the Jewish community. All Jews were required to live only in those of the King's cities and boroughs where the chirograph chests had been customarily located in the past. This seems to have been little more than a restatement (albeit in rather different language) of one of the provisions of the 1253 statute which stated that 'no Jew be received in any town (*villa*) without the King's special permission except in those towns in which Jews have customarily lived'[1] – itself probably merely a confirmation of an existing customary rule.[2] The statute also required the King's special permission before any Jew could make a permanent grant of any house, rent or tenement which he owned. This was new as a legal requirement,[3] though it could be seen perhaps as no more than a logical deduction from the 'servile' status now assigned to members of the Jewish community.[4] Another wholly new power given to the King was that of licensing all acquittances of debts made by Jews to Christians. This was in addition to the power the King already possessed under legislation of 1269 to license all sales of debts by Jews to Christians.[5] Again, this may be a logical deduction from the 'servile' status now ascribed to the Jews, though the legislation does not say this. It seems rather more likely that the clause was motivated by the wish to monitor and even control a type of transaction which had a direct effect on the potential value to the Crown of the Jewish creditor in question, both for the purpose of assessing his liability for tallage and in the amount of 'relief' payable on his death by his heirs. In the longer run it also had the advantage of helping to eliminate a not infrequent source of friction and dispute between individual debtors and the Crown when Jewish debts came (as they not infrequently did) into the King's hands as to whether particular debts had or had not been paid by the debtors or been pardoned by the creditors concerned.

The physical distinctness of members of the community was also emphasized by the renewed requirement that each Jew, once he or she had reached the age of seven, should wear a badge of specified form (two tablets joined) on his outer garment. This stipulation had first been

1. *Close Rolls, 1251–53*, p. 313.

2. Richardson, *English Jewry*, pp. 20–2. But see now Mundill, *England's Jewish Solution*, pp. 22–5, for evidence of Jews living outside *archa* towns both before and after 1275.

3. Though it had been not uncommon even prior to 1275 for Jewish vendors and purchasers to obtain royal confirmation or ratification of their property transactions: for examples see *CPR, 1258–66*, pp. 544, 585; *CPR, 1266–72*, pp. 82, 255, 572, 608, 621, 664–5; *EJ*, ii. 173, 191.

4. It is also in keeping with that view that another clause gave a blanket authorization for Jews to acquire houses in the towns where they lived.

5. *CPR, 1266–72*, p. 376. This clause was not, however, included when much of the 1269 legislation was re-enacted in 1270.

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imposed in 1218 in fulfilment of one of the decrees of the Lateran Council of 1215 requiring Jews and Moslems living in Christian lands to wear distinctive dress, but dispensations from the 1218 regulation soon became widely available and it was probably only after its re-enactment in 1253 (if then) that it came to be at all widely observed.[1]

A set of fifteen 'articles of the Jewry' survives in at least five late thirteenth-century manuscripts.[2] One of the two French sets, that found on fo. 120^{r} of British Library, Add. MS 32085, was printed by J. M. Rigg in 1902.[3] Its heading is 'Chapters touching the Jewry' (*Chapitles tuchaunz la Gyuerie*) and it is immediately followed in this manuscript by a text of undated draft Jewish legislation of *c.* 1284–6.[4] A second French set, apparently unknown to Rigg, is on fos. 82^{r-v} of BL, Add. MS 38821. This text of the set is headed 'Here begin the articles touching the Jewry for enquiry' (*E ci comencent les articles que touchent la Jurie a enquire*) and it is associated in this manuscript not with the draft statute of Jewry but with the 1275 statute which precedes it in the manuscript. It is also closely associated with the 1275 statute in a third Latin text, likewise unknown to Rigg, on fo. 49^{r} of Lincoln's Inn MS Hale 140, where it is captioned 'Articles of the same statute' (*Articuli eorundem*); and it immediately follows the 1275 statute in a fourth, uncaptioned text, also in Latin, on fos. 12^{v}-13^{r} of BL, MS Harley 79. The fifth text is one found in Cambridge University Library, MS. Mm.1.27 at fos. 104^{r-v} whose incipit describes it as the 'Chapters touching the Jewry' (*Capitula Judaismum tangencia*) and whose *explicit* calls it the 'Chapters of Jewry' (*Capitula Judaismi*). In this manuscript the chapters follow a text of the 1275 statute, but there is a text of the 1275 *Districciones Scaccarii* between them.[5]

None of these texts ascribes a date to these articles but the articles themselves provide plenty of internal evidence for this purpose. One article asks for information about 'Jews who have lent usuriously since the enactment of the statute'.[6] This can only be a reference to the 1275 statute. The following article takes up another clause of the same statute

1. Richardson, *English Jewry*, pp. 178–80, 191–2.

2. Four of these five versions are also discussed by Don Skemer in 'King Edward I's Articles of Inquest on the Jews and Coin-Clipping, 1279', *Historical Research*, lxxii (1999), 1–26, at 15–16.

3. *Select Pleas, Starrs and Other Records from the Rolls of the Exchequer of the Jews, A.D. 1220–1284*, ed. J. M. Rigg (Selden Soc., xv, 1902) [hereafter *Select Pleas*], p. lv

4. This legislation is sometimes itself misleadingly referred to by scholars as 'Chapitles tuchaunz la Gyuerie' (most recently by Robin Mundill in *England's Jewish Solution*, at pp. 122–4, but contrast p. 294), although they are in fact two quite separate items and the heading clearly refers only to this item.

5. Skemer prints a Latin text based on the Harleian and CUL texts in 'Edward I's Articles of Inquest, 1279': at 16 in note 61.

6. 'De Gyus usures apres le Statutz purveus etc.' (*Select Pleas*, p. lv); 'De Jeus usurers puis les estatuz de la Jeurie purveuz' (BL, Add. MS 38821, fo. 82^{v}); 'De Judeis usurantibus post statutum provisum etc.' (LI, MS Hale 140, fo. 49^{r}); 'De Judeis usurariis post statuta provisa' (BL, MS Harley 79, fo. 12^{v}); 'De Judeis usurariis post statuta' (CUL, MS Mm.1.27, fo. 104^{v}).

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by asking for information about Jewish houses and rents sold without the King's permission.[1] A *terminus ante quem* for the articles is provided by a third article, asking for information about Jews who have Christian servants living with them. This practice was originally prohibited by legislation of 1253, and the 1275 legislation merely reiterated the prohibition.[2] However, further legislation issued in 1279 prohibited Jews from having Christian servants generally, whether or not they lived in the houses of their Jewish masters,[3] and articles drafted after that date could be expected to ask generally about Jews with Christian servants. Thus the articles must belong to the period between 1275 and 1279.[4]

There is nothing in these articles to show who was meant to use them or in what context. Nor does any set of returns or enrolments survive from any session where these articles were used. But fortunately some traces of the sessions where they were used do survive on the Plea Rolls of the Exchequer of the Jews which record the ordinary term-time business of the court at Westminster (or Shrewsbury when the court moved there with the other normally Westminster-based institutions). These suggest that the articles were intended for use and were in fact used at sessions held by the Justices of the Jews away from Westminster or Shrewsbury and out of term. The most direct of these references comes from Easter term 1278. It records the amercement for non-attendance before the justices of a Christian juror in London who had been summoned 'to certify the Justices [of the Jews] on certain articles touching the Jewry and to hear and perform the king's order' (*ad certificandum justiciarios etc. de quibusdam articulis judaismum tangentibus et ad audiendum et faciendum preceptum regis*).[5] This is not the amercement of a juror

1. 'De mesons de Gyus e rentes venduz saunz conge nostre seignur le Rey etc.' (*Select Pleas*, p. liv); 'De mesons e de rentes de Jeus venduz sanz conge le Rey' (BL, Add. MS 38821, fo. 82^{v}); 'De domibus et redditibus Judeorum venditis sine licencia domini regis' (LI, MS Hale 140. fo. 49^{r}; BL, MS Harley 79, fo. 12^{v}). This clause is omitted from the text in CUL, MS. Mm.1.27.

2. 'De Gyus eiauntz Crestiens eus deservaunz, cuchaunz e levaunz od Gyus' (*Select Pleas*, p. liv); 'De Jeus qe unt Crestiens qe lor servent e norices cochanz e levanz ove les Jeus' (BL, Add. MS 38821, fo. 82^{v}); 'De Judeis habentibus cum eis servientes et nutrices cubantes et levantes cum Judeis' (LI, MS Hale 140, fo. 49^{r}); 'De Judeis habentibus Christianos eis servientes et nutrices cubantes et levantes cum Judeis' (BL, MS Harley 79, fo. 13^{r}); 'De Judeis habentibus Christianos eis deservientes et nutrices cubantes et levantes cum Judeis' (CUL, MS Mm.1.27, fo. 104^{v}). Nurses ('norices' or 'nutrices') are not mentioned in 1275 but they are mentioned in earlier legislation of 1234, 1253 and 1271.

3. *C[alendar of] C[lose] R[olls], 1272–79*, pp. 565–6.

4. Skemer follows Mundill in dating these articles to around 1283 by reference to the draft statute with which the articles appear to be combined in just one of the five MSS in which they are found: 'Edward I's articles of inquest, 1279', 15–16. The context in which they are found in the other MSS tends, however, to confirm the earlier dating suggested by the internal evidence and the external evidence for the enforcement of these articles.

5. *Plea Rolls of the Exchequer of the Jews preserved in the Public Record Office, 1277–1279*, ed. S. Cohen and revised by P. Brand (Jewish Historical Soc., London, 1992) [hereafter *Plea Rolls*], no. 398. This was probably the same session as that which produced the inquisition dated 4 May 1278 on the goods and chattels of a recently deceased Jew (*Plea Rolls*, no. 298). 4 May is shortly after the beginning of Easter term but the inquest was enrolled with business of Hilary term. The same session probably produced the second undated London inquisition of a similar kind enrolled at *Plea Rolls*, no. 292.

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simply failing to appear for ordinary litigation in the Exchequer of the Jews. The juror is evidently being amerced for failing to appear before the justices at a special session in London in order to give (with others) a verdict on 'articles touching the Jewry', which would be a good description of this set of articles. When Joce Bundy of Oxford was tried in the Exchequer of the Jews in Trinity term 1277 one of the charges which he faced referred to the fact that it 'had been presented before the justices [of the Jews] at Oxford by the mayor and bailiffs at Oxford that Joce was a notorious receiver of stolen goods and a clipper of our Lord the King's coin and that he is outlawed in various counties of England for the tallage assessed against him in Cambridgeshire under the name of Joce son of Benedict' (. . . *et de hoc quod coram justiciariis etc. apud Oxoniam presentatum fuit per majorem et ballivos Oxon' quod idem Josceus fuit publicus receptator latrociniorum et retonsor monete domini regis et de hoc quod est utlagatus in diversis comitatibus Anglie pro tallagio super ipsum assesso in comitatu Cantebrigie sub nomine Joscei filii Benedicti* . . .).[1] The articles do indeed specifically ask for information on each of these subjects ('Concerning Jews receiving stolen goods . . .'; 'Concerning Jews who are forgers and clippers of money . . .'; 'Concerning Jews who have been outlawed and received in the Jewry . . ..'). Joce was probably tried in the Exchequer of the Jews during term only because he had not actually been available for trial during the justices' visit to Oxford when it took place late in 1276 or early in 1277.[2] It was presumably also as a result of a similar session at Norwich not long before Easter term 1277 that Hake de la Selerye, his brother Molle and Hake le Blo, three Jews of Norwich, were accused of coin-clipping by certain Christians of Norwich and fined twenty shillings not to be tried on that charge.[3] The rolls provide evidence of probable sessions at which enquiries of this sort were conducted during the course of 1277 in at least seven towns (Northampton,[4] Canterbury,[5]

1. *Select Pleas*, p. 95.

2. For evidence that orders had been given for his arrest and imprisonment and production in court to answer king *de retonsura monete et de aliis transgressionibus* (evidently the same charges) in Hilary term 1277, see *EJ*, iv, no. 453. The sheriff had returned that he was not to be found, but it was attested he was living in Oxford. For evidence of other business probably from the same session, see *EJ*, iv, nos. 431, 432 and 433. Business arising from this visit was perhaps being heard as late as Michaelmas term 1277. In that term Bonamy of Calne, who had been *rettatus* of *retonsura monete* because the bailiffs of Oxford had proffered before the justices *moneta retonsa* which was said to have been found on him when he lived at Oxford, was admitted to make a fine in return for the dropping of the charges: *Plea Rolls*, no. 155.

3. *EJ*, iii. 264.

4. *EJ*, iv, no. 329: three named Jews *rettati* of coin-clipping put themselves on a jury which appeared this term.

5. *EJ*, iv, no. 353 and 435: two Christians who are said to have been indicted for coin-clipping and money-changing with the Jews of Canterbury came to the Exchequer of the Jews and asked for jury trial there. The articles specifically asked about Christians as well as Jews who changed good money for clipped money.

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Huntingdon,[1] Oxford,[2] Norwich,[3] Bristol[4] and Winchester[5]) and they suggest that during 1278 there were further such sessions in another six towns (York,[6] London,[7] Bedford,[8] Winchester (again),[9] Lincoln[10] and perhaps Norwich again[11]). This suggests that the articles were probably drawn up in 1276.

Historians have long known about the activities of the Exchequer of the Jews as an administrative and judicial institution with jurisdiction over members of the Jewish community and over transactions between members of that community and Christians. The institution they have described was one of the central royal courts: one whose justices (the Justices of the Jews) held regular termly sessions at Westminster, close to the main Exchequer and to the Common Bench. But these articles indicate that during the later 1270s the Justices of the Jews also exercised a jurisdiction outside term time and outside Westminster. This took them to the various major towns which possessed Jewish communities, where they conducted enquiries under a set of 'articles of the Jewry', a set of articles which bore a distant generic resemblance to the articles of the eyre used by the justices of the general eyre but which specifically enquired about the activities of local Jewish communities. It does not seem at all improbable that they have also been doing something similar prior to this date, though using an earlier version of these articles. Their existence and their use is a further demonstration of just how very separate the Jewish community in England was and how very separate its oversight by the king's government remained.

These 'articles of the Jewry' of *c.* 1276 included an article asking about Jews who had forged or clipped money and about those who had assisted them by purchasing silver plates made from clippings and a second article asking about Christians as well as Jews who had exchanged good money for clipped money. They are only two articles out of fifteen, but

1. *EJ*, iv, no. 423: a Christian who had been indicted (*indictatus*) for receiving four pounds for the *redempcio* of a robbery at Huntingdon from the Jews of the said town appeared at the Exchequer of the Jews and made fine with the King. One of the articles asked 'concerning the release of Jews taken by sheriffs for wrongdoing against the peace or coin-clipping without the king's order . . .'

2. *Supra*, p. 1146, n. 1.

3. *Supra*, p. 1146, n. 3.

4. *Plea Rolls*, no. 156: Mendaunt of Calne made fine in four shillings on suspicion of having received a stolen chalice. The articles of enquiry in specifying particular objects which might have been 'received' by Jews included 'ornaments of Holy Church'. For other entries which probably arose out of the same session see *Plea Rolls*, nos. 155, 157.

5. *Plea Rolls*, no. 158: two Christians and one Jew were said to have been *indictati* for possession of the chattels of a deceased Jew and had appeared before the justices at Winchester and denied the charge but trial been respited. One of the articles specifically asked about 'the chattels of dead Jews concealed, of which the king had not had his third share . . .'. For other business arising from the same session see *Plea Rolls*, no. 160.

6. *Plea Rolls*, nos. 219, 293, 294, 295 and 296.

7. *Supra*, p. 1145, n. 5.

8. *Plea Rolls*, nos. 459 and 460.

9. *Plea Rolls*, nos. 543, 572 (and 886), 581 (and 889), 659 (and 681), 808 (and 956).

10. *Plea Rolls*, nos. 575, 577 (and 888), 857.

11. *Plea Rolls*, nos. 576 (and 887), 858.

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their position as the first two in the set gives them a certain prominence. Presentments were certainly made and offenders punished for these offences during 1277 and 1278. It was, however, only in 1279 that separately commissioned justices were appointed specifically to investigate and punish these two offences alone. The outcome of the trials they conducted also demonstrates, in a particularly vivid way, as will be seen, how the special legal position of members of the Jewish community had turned by the last quarter of the thirteenth century into a positive disadvantage for its members.

Early in January 1279 three separate groups of justices were commissioned to enquire as to those (both Jewish and Christian) who had been active as clippers of the coinage and those who had acted as their accomplices by exchanging good money for larger quantities of clipped money or by purchasing silver made of coin-clippings, and to punish those found guilty of these offences.[1] No record of their proceedings survives, but Zefirah Rokeah has shown that contemporary chroniclers were hardly exaggerating when they put the numbers of Jews hanged as a result at not much under 300:[2] the sheriffs of London and Middlesex received an allowance in the financial year 1278–9 for 'doing justice on' (the polite euphemism of the records for 'hanging') no less than 269 Jews.[3] Christians evidently escaped much more lightly. The chroniclers state that a few Christians were also hanged and the allowance of the sheriffs of London and Middlesex also covers the hanging of some 29 Christians. Other Jewish offenders escaped with their lives but forfeited all their property and had fines paid for their release from prison.[4] Rokeah has identified at least 148 Jews who were punished in this way.[5]

The loss of the records of these justices means that any attempt to discover just why and how so many Jews were convicted and hanged or forfeited all their property can only be conjectural. But there are a

1. *Calendar of Patent Rolls, 1272–1281*, p. 338. They were also to enquire as to those who had entered the houses and dwellings of those previously detained for these offences after they had been detained and carried off their treasure and goods and into unspecified 'other offences against the provision of the council at Windsor'. For the articles of enquiry used by these justices and a discussion of their work see Skemer, 'Edward I's Articles of Inquest, 1279'.

2. Zefira Rokeah, 'Money and the Hangman in Late-13th-Century England', *Jewish Historical Studies*, xxxi (1988–90), 83–109, at n. 71. But note that where precise figures are given they seem to refer to executions at London alone. Thus the Dunstable annalist talks of 280 Jews being executed in London and the Bury chronicler talks of 267 Jews being executed in London. The London chronicler's figure of 293 Jews executed may also (in view of the London connections of the source) be a figure for London alone. The Dunstable annalist specifically mentions a further *maxima multitudo* of Jews being hanged in other cities.

3. Rokeah, 'Money and the Hangman', 98.

4. The existence of this second group of offenders is revealed in the King's order to the coinage justices of May 1279 which allowed them to accept fines for their release (*CCR, 1272–79*, pp. 529–30). They are also mentioned in the Bury St Edmunds chronicle: *Chronicle of Bury St Edmunds, 1212–1301*, ed. Antonia Gransden (London, 1964), p. 67.

5. Zefirah Rokeah, 'Money and the Hangman in Late-13th-Century England: Jews, Christians and coinage offences alleged and real (Part II)', *Jewish Historical Studies*, xxxii (1990–2), 159–218, at 161.

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number of clues as to what happened which yield at least a plausible explanation for this. The main evidence comes from an account for moneys received and expended between 26 February 1278 and 19 February 1279 rendered some years later by the wardrobe clerk, master William of Perton, to which Rokeah has already drawn attention; and certain additional details come also from a book of wardrobe expenditure for 1277-8.[1] These show that one Henry of Winchester and an associate, Matthew Cheker 'clerk', had been financed (primarily by the King's wardrobe) to go round the country buying silver to a total weight of 3080 lbs. They had established intermediate centres at Malmesbury and Leicester, where money for purchasing silver was brought under armed guard by Perton in April and May 1278 and to which the silver was transferred before it was brought to Westminster.[2] Henry and Matthew both received fairly generous allowances for their expenses in riding around the country making the purchases.[3] Once the silver had been brought to Westminster and delivered to master William it was handed over to Philip of Willoughby and Orlandino de Podio for use at the London mint. At first sight this looks like no more than a slightly curious and relatively expensive way of buying up silver for melting down and using in the recoinage then under way. But there was evidently more to it than that. The silver they had been buying is specifically described in the account as plate made of 'melted silver' (*argentum fusum*). This seems to mean silver made from melted-down material (and presumptively made from coin-clippings) and suggests that what they may really have been doing is acquiring evidence of the capital offence of coin-clipping on the part of those from whom they bought the plate; but evidence which could, rather neatly, subsequently be turned back into coin at no expense to the government.

That this was indeed their purpose is also suggested by evidence relating to the arrest of Henry of Winchester at Bristol. Late in 1278 the constable of Bristol was ordered to send to London for delivery to Philip of Willoughby 'all the silver plates lately found in the possession of Henry of Winchester knight and sealed with his seal' now in the constable's keeping. At the same time, in a separate mandate, he was instructed to send to London all the plates made from clippings, the forceps (used in coin-clipping) and other things relating to the

1. PRO, E 352/77, m. 21d: the existence of this account is noted by Rokeah in 'Money and the Hangman, part I', at 87–8. The book of wardrobe expenditure for 1277–8 is PRO, C 47/4/1.

2. The book of wardrobe expenditure for 1278 (C 47/4/1) shows that William of Perton travelled in March 1278 with two cross-bowmen (*balistarii*) to Leicester (fo. 12^{v}) and that he returned to Leicester on unspecified royal business in early April with two royal esquires (*scutiferi*) and there paid out £1119 'by the order of the Treasurer' (*per preceptum Thesaurarii*). This was probably the money then used by Henry of Winchester and Matthew Cheker for their purchases. In May William travelled to London on the King's business and then went again with two cross-bowmen (*balistarii*) to Malmesbury (fo. 18^{r}). I have not found the entry showing him transferring cash to this southern collection point.

3. Henry got £8 for this; Matthew 10 marks.

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attachment of Jews lately arrested at Bristol in his custody to be delivered to the justices commissioned for the coin-clipping enquiry.[1] It looks as though the constable of Bristol, acting on his own initiative, had (accidentally) arrested Henry of Winchester with some of his suspect plate and that measures were then taken to ensure that his plate (still sealed with his seal) reached Philip of Willoughby, the clerk appointed to act with the justices of the coinage enquiry.[2] That Henry had indeed been arrested with suspect silver plate but that his possession of it had some kind of governmental authorization or indemnity is also suggested by a payment to Henry of Winchester recorded on Perton's account as specially authorized by the king 'for the expenses he had in Bristol castle while in prison' (*pro expensis quas fecit in castro Bristoll' dummodo retentus fuit ibidem in prisona*).

No separate sum is recorded for these expenses because they are joined in the account with a second, but quite separate, payment 'for gifts and bribes given both to Christians and to Jews to convict them of exchanging' (*et pro donis et curialitatibus datis quam Christianis quam Judeis ad eos convincendos in cambio*). The total sum paid for both sets of expenses is the large one of £26 15s. 6d. This seems to show that at the same time as Henry of Winchester was collecting evidence of the capital offence of coin-clipping he was also collecting evidence that would convict other offenders (or victims) of the lesser, but connected, offence of 'exchanging' coin, or perhaps more explicitly of exchanging good coin for bad. It was on their conviction for this lesser offence that offenders were punished by the lesser punishment of forfeiture of chattels and ransom (fine) rather than capital punishment. The chronicle of Bury St Edmunds specifically distinguishes between those convicted of clipping and forgery of money, offences for which all the Jewish offenders and some of their Christian counterparts were sentenced to death, and the 'exchangers' (*escambiatores*) who were mainprised or released into safe custody and allowed to go free once they had ransomed themselves.[3]

1. *CCR, 1272–79*, p. 517.

2. The fortunate survival in Ancient Petitions of a petition from a Jew identified only as Isaac in prison at Bristol reveals that he had been instrumental in securing Henry of Winchester's arrest by the constable in the supposed interests of the King and that at the time of his arrest Henry had possessed goods to the value of 300 marks and 'plates' to the value of 200 marks: PRO, SC 8/218, no. 10892. The Jew's release had apparently been previously ordered, but this petition simply and laconically notes that he is to 'wait in prison'. Earlier the same year (on 3 March 1278) Henry of Winchester had also been arrested in the abbot's hall at Bury St Edmunds by the abbey's steward (William Muschet) and briefly imprisoned there after presentments had allegedly been made against him of being a clipper and forger of the coinage and receiver of thieves and malefactors. In subsequent litigation sued in the name of the King by William de Bereford in the Common Bench in Hilary term 1279 it emerged that Henry had been arrested despite being under the King's 'special' protection and despite (allegedly) having shown that protection to William Muschet. It was also asserted that Henry was already then on the king's 'special business' which, it was alleged, had been impeded by his arrest: PRO, CP 40/28, m. 30d.

3. *Chronicle of Bury St Edmunds*, p. 67.

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What this suggests, therefore, is that the Jewish offenders who were tried and convicted in 1279 may well have been the victims of a well-organized 'sting' operation. This must have received approval at the very highest levels of royal government, since it was paid for by the King's wardrobe and the expenses of Henry of Winchester and Matthew Cheker clerk were specifically approved by the King in person. Henry of Winchester's role as an *agent provocateur* for the government may also explain how he was able, but also why he thought it necessary, to secure a royal pardon on 5 January 1279 which released him from all 'suits, appeals, trespasses and excesses' with the unusual condition that if he was appealed by anyone the appeal was to be heard and determined before the King.[1] Henry of Winchester was certainly a good choice for the job. As a Christian convert from Judaism with a knowledge of Hebrew who had continued to have business dealings with unconverted fellow-Jews he was the ideal candidate to enter Jewish communities and collect evidence for the government. As a Christian he was also able to do the same thing in Christian communities.[2] It is less clear why 'Matthew Cheker clerk' was chosen since nothing is known about his previous career. He can, however, be identified with the Matthew of the Exchequer who is the probable author of the Edwardian legal treatise known as *Fleta*. His later career is not out of keeping with this early activity. In 1285-6 he was an esquire in the royal household and being used to trap thieves at Lambeth (apparently more undercover work); in 1286-7 he was associated with William of Gisleham in suing please for the King in the Suffolk and Hertfordshire eyres as king's serjeant; in 1289 he was in the King's service in Gascony; in 1290 he was sent to the Fleet for misconduct as a lawyer (where he remained for four years and probably wrote *Fleta*). That the authorities knew in advance who was to be tried and found guilty of coinage offences might also explain two other, at first sight puzzling, features of the events surrounding the coinage trials. The first is the fact that those trials were *preceded* (in November 1278) by the arrest of 600 of the Jews of England for money-offences and subsequently of all of the goldsmiths and keepers of dies and mints: as though there was already evidence against all of them which would justify such extensive arrests.[3] The second is the fact that in May 1279 the coin-clipping justices were told not to accept any new accusations after 1 May because the Jews 'charged, indicted and convicted of clipping the King's money' had been punished with death and certain of them had forfeited all their goods and chattels and been imprisoned during the King's pleasure. The certain Christians who were still endeavouring 'to accuse and indict certain Jews not hitherto charged

1. *CPR, 1272–81*, p. 297.
2. On Henry see R. C. Stacey, 'The Conversion of Jews to Christianity in Thirteenth-Century England', *Speculum*, lxvii (1992), 263–83 at 276–7.
3. Rokeah, 'Money and the Hangman, Part I', 87.

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or indicted of money offences by light and groundless accusations' were only doing this so that they might strike terror into Jews and extort money from them.[1] Historians have been puzzled by this apparent change in the government's attitude. But if the original trials were indeed conducted on the basis of information whose collection the government itself had sponsored they might indeed have had good reason to suppose that any further accusations now made were indeed groundless.

There may also be a good explanation for why so many Jews were convicted and hanged in 1279 and so few Christians. Robert Stacey has drawn attention to a story told by Chief Justice Hengham for the early fourteenth-century canonization dossier of Bishop Thomas Cantilupe of Hereford. In it Hengham recalled a proposal made by Edward I on the advice of certain members of his council to give 'a certain knight who was a Jew and called Henry of Winchester, a convert (*conversus*), power that he should have testimony or record (*testimonium sive recordum*), that is to say, that he should have authority and power such that by his word and testimony or record (*ad ejus dictum et testimonium sive recordum*) other men could lose life and limb, over Christians who had clipped or forged the King's money. Thomas, who was present at the council, had risen and said to the King that it was not proper that this convert and Jew should have such power over Christians. He had said that he would not advise this or consent to it and with tears had sought permission from the Lord King to leave the meeting'. Edward, moved by his argument and by his tears, had then withdrawn the proposal.[2] Stacey has interpreted this passage as suggesting that Edward had intended to appoint Henry of Winchester as one of the justices assigned to investigate and try the charges, and a power of 'bearing record' is indeed something commonly associated with royal justices. But if this is what the King was about it seems a curiously oblique way of putting it. The proposal should be taken much more literally. What Edward was probably proposing was to give such evidence (*testimonium*) as Henry of Winchester might give against coinage offenders the force of record (*recordum*). He was proposing to endow it with the same quality as the record of the King's courts itself possessed, that of established fact that could not be denied by those against whom it was given. Hengham's story does not even mention the Jewish offenders who were the main victims of the coinage trials and they had no Bishop Cantilupe to stand up for them. If Henry of Winchester was given precisely this power of *recordum* against Jewish offenders at the council meeting where Cantilupe stood up to register his protest, a council meeting held at Windsor in early January 1279, Jewish defendants were thereby in effect

1. *CCR, 1279–88*, pp. 529–30.

2. *Acta Sanctorum Octobris*, i (Paris/Rome, 1866): 547–8. My translation of this passage differs in some important particulars from that of Stacey ('Conversion of Jews', 277).

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deprived of any possibility of denying the charges made against them or of clearing themselves by a jury. It is thus hardly surprising that so many went to the gallows and others forfeited their possessions. It is probably significant that the commission to the justices of the coin-clipping enquiry authorized them to conduct their proceedings not only in accordance with the 'law and custom of our realm' (*secundum legem et consuetudinem regni nostri*) but also additionally and more specifically 'and as was provided and established by our council at Windsor' (*et prout de consilio nostro apud Wyndes' inde provisum fuit et statutum*).[1] The phrasing suggests that some change in the normal legal rules had been specifically approved by the council at Windsor. This might have been no more than the establishment of these special commissioners to try offenders, but it is perhaps more likely that it refers to this temporary change in the normal legal rules that gave Henry of Winchester his special power of 'record' during these trials. The relatively small number of Christian offenders who were hanged may well mean not that far fewer were involved in coin-clipping but simply that those who were involved were saved by Cantilupe's intervention and by the verdict of friendly juries.

The 1275 statute was an attempt at radical social engineering. It sought to turn Jewish owners of capital from money lenders into merchants not just by depriving them as money lenders of the royal assistance they had hitherto enjoyed in enforcing repayment of their loans but also by making the lending of money for profit itself illegal. Scholars have generally doubted whether this attempt was successful and have held that it was its very lack of success that explains (either in part or in whole) the Expulsion of 1290. Robin Mundill has, however, recently made a strong case for rejecting the existing scholarly consensus which held that the post-1275 contracts for the delivery of quantities of corn and wool to individual Jews were no more than a disguised form of money-lending and has provided good reasons for supposing that there was a real shift in the activities of at least some members of the community into providing advance credit to producers of wool and corn against the future delivery of quantities of those commodities.[2] It is not entirely clear, however, that he has proved his case in respect of all such contracts (particularly those with unrealistically fixed prices) and it seems doubtful whether even those contracts which really did genuinely envisage the future delivery of commodities would not also have been regarded as 'usurious' under contemporary canon law, since the form they took seems designed to ensure a profit for the Jew who was providing the producer with credit.

There is also evidence to suggest that there was a general perception by the mid-1280s (in government circles at least) that the statute had not been successful in stopping 'usurious' Jewish money-lending. This takes

1. PRO, C 66/98, m. 26d.
2. Mundill, *England's Jewish Solution*, pp. 124–45.

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the form of an unfinished draft of a statute which was copied, probably by mistake, around 1300 into a mainly legal manuscript now in the British Library, BL, Add. MS 32085 (at fos. 120^{r}-121^{r}).[1] Its text has been printed both by Gross and by Rigg.[2] Although this manuscript has always been in private hands, the draft reads like an official one, and there is other evidence of official drafts of legislation passing into wider circulation and being copied by the owners of private manuscripts.[3] The draft is not dated but there is one obvious clue as to its date in one of its clauses. This provides for the existing chirograph chests which had 'long' been closed and sealed by the King's command to be brought to London to be opened and scrutinized, so that those charters recording debts paid in full could be handed over to the debtors for destruction and the other charters placed elsewhere for safe custody. It seems unlikely that this refers to the period immediately after the enactment of the 1275 statute of Jewry and running from 24 November 1275 to 20 November 1277, during which the chests were closed.[4] It seems much more likely (as Roth suggested) that it belongs to a second such period between a second such closure of the chests on 28 January 1284 and the making of alternative arrangements for the scrutiny of the chests at London and Westminster on 28 February 1286.[5] Thus the draft probably belongs to the period 1284-86.

It is the preamble to this draft statute which provides the evidence of a perception at least on the part of the government, but also presumably more widely shared, that 'usury' by members of the Jewish community had continued despite the enactment of the 1275 statute. The preamble also indicates that this disguised 'usury' had indeed taken the form of what had appeared to be trading contracts ('under colour of trade and good contracts and agreements which they have recently made with Christians by bonds and various instruments . . .') under which the Christian debtor promised in effect to repay a sum which was double, triple or quadruple what he had received. The fascinating aspect of this draft, however, is that it indicates not only that it was perceived by the mid-1280s that the 1275 statute had failed in its main aim but also that serious consideration was then being given to authorizing the resumption of open Jewish money-lending at interest, though subject to various restrictions which had not applied to such money-lending prior to 1275. As was also the case prior to 1275 there was to be a fixed annual rate of

1. Its contents are discussed by Dorothea Oschinsky in *Walter of Henley and Other Treatises on Estate Management and Accounting* (Oxford, 1971), at pp. 16–17.

2. It was first printed by Charles Gross in *Papers Read at the Anglo-Jewish Historical Exhibition* (London, 1887) at pp. 219–24. It was printed again by Rigg in *Select Pleas*, pp. liv–lx. Rigg also provides a translation which is reprinted by Mundill in *England's Jewish Solution* at pp. 295–8.

3. Paul Brand, *The Making of the Common Law* (London, 1992), pp. 325–67.

4. *CPR, 1272–81*, pp. 126–7; *CCR, 1272–79*, p. 432.

5. *CCR, 1279–88*, p. 256 (but possibly of 22 January as is suggested by PRO, C 255/18, no. 6A); *Calender of Patent Rolls, 1281–92* (London, 1893), p. 227 and PRO, E 159/59, m. 23d; C. Roth, *History of the Jews in England* (3rd edn., Oxford, 1978), p. 275, note (d).

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interest. This was to be either eight shillings and eight pence in the pound each year (the same as the pre-1275 maximum) or at the lower rate of six shillings and eight pence a year.[1] Interest was, however, no longer to be allowed to run indefinitely. It was now to accumulate only during the first three or four years after the making of the loan.[2] All such loans secured on land were (as had also been the case prior to 1275) to be recorded in a tripartite chirograph and the sealed part placed in one of chirograph chests; but there was also now for the first time to be a single uniform formula used in documents recording such loans. New safeguards were also to be provided of a kind not encountered prior to 1275 to ensure that Jewish lenders did not act as 'frontmen' for others or assign their debts to other Jewish creditors. Again the legislation includes what seems to be two alternative proposals to deal with this. One banned all such assignments or sales totally; the other simply required royal permission for any assignment. Harsh punishment was to await any Jewish lender who broke the rules: forfeiture of all his goods and chattels and the placing of his life and members at the King's will.

The draft legislation also contained provisions on the lending of money on the security of pawned movables. All such loans for sums of twenty shillings or more were to be recorded on a roll kept by one of the clerks attached to the local chirograph chest who was to act only in the presence of one of the chirographers. Another clause would have changed the older rule, part of the privileges of the Jewish community specifically safeguarded by the charter of Henry II, which allowed a Jew who was sued for the return of a pledge allegedly pawned to him to deny receiving the object and prove his denial by an oath on his bible or scrolls. Jury trial (by a mixed jury of Christians and Jews) was now substituted in place of this arrangement.[3]

If this draft legislation really does come from the period 1284 x 1286 it would fall within the period after the enactment of the statute of Acton Burnel of 1283 and quite possibly after the enactment of the statute of Merchants of 1285. It thus belongs to a time when the King was offering Christian lenders the facility of having their loans officially registered and payment enforced by a process (imprisonment of the debtor; seizure and sale of *all* of his movables; delivery to the creditor of *all* his lands until the debt was paid off) which was considerably harsher than anything available even prior to 1275 for enforcing the repayment of Jewish loans. Under these proposals Jewish lenders would have enjoyed

1. It is presumably the fact that this is only a draft which explains why both these alternative possibilities are mentioned. Legislation of 1233 and 1239 had fixed the maximum rate of interest at 2d. in the pound per week. The lower figure proposed in this draft legislation works out at slightly more than 1½d. in the pound per week. Mundill's suggestion (*England's Jewish Solution*, p. 123) that for the purposes of this draft the half mark was 'valued' at 8s.8d. is clearly wrong.

2. Again the alternative, but incompatible, provisions reveal the status of this document as a draft.

3. Somewhat curiously, however, it retained wager of law, apparently single-handedly by the Jew on his scrolls, where the Christian could prove delivery of the pawned movable by the suit of Christians and Jews.

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a position that was a good deal less relatively privileged than had been the case earlier, now that Christian moneylenders could also have their debts registered and could obtain royal assistance in securing their repayment. Only in their ability openly to charge interest would they have enjoyed any real advantage over their Christian competitors and they would have been relatively disadvantaged compared with them in the sanctions available to secure repayment of their loans.

This text cannot as it stands represent legislation actually enacted during the 1280s.[1] It contains a number of mutually incompatible alternative provisions which could not have survived in a final draft, and the final clause of the text is no more than a note about the subject matter to be covered by the next clause in the text which was not even translated into a rough draft. Nor is it at all likely that our text is the draft of something which was later enacted in a more finished form, for what was said about Jewish money-lending at the time of the Expulsion in 1290 clearly presupposes that there had never been any official relaxation of the 1275 prohibition of usury. Nor are there hints in any of our other sources of any lost Jewish legislation of the mid-1280s allowing such a relaxation.

It was perhaps at about this time that Chancery came up with a new mechanism for the enforcement of the 1275 statute and one which also indirectly provides further confirmation of the use of the commodity agreement as a cloak for lending money at interest. At least three different registers of writs containing a copy of a writ ordering the Justices of the Jews to take action on the complaint of a named Christian alleging that a named Jewish creditor was demanding repayment of a debt of two sacks of wool worth twenty pounds and distraining the debtor for this despite the fact that the original loan had been only of a much smaller sum.[2] The writ specially draws their attention to the 1275 statute and the fact that this demand is in breach of the statute and orders them to see that justice is done 'in accordance with the statute and as by right and according to the law and custom of the said Jewry is to be done'.[3] The people named in the writ (Thomas of London and Haketin Polet) are real people and the writ itself seems to be a genuine one. There is no way of knowing whether this was the only time such a writ was issued or whether it formed the model for other such writs.

The Exchequer clerks who compiled lists of pre-Expulsion Jewish bonds in 1292 described these bonds as having come into the King's hands 'after

1. Robin Mundill formerly believed that the statute really was enacted and came into force during the 1280s: 'Anglo-Jewry under Edward I: Credit Agents and Their Clients', *Jewish Historical Studies*, xxxi (1988–90), 1–21 at 3–4, 6. In his most recent work he sounds more dubious: *England's Jewish Solution*, pp. 122–3. For previously scholarly discussion of this text see ibid., pp. 122–3.

2. Only twenty shillings according to two MSS., but twenty marks according to a third.

3. BL, MS Harley 748, fos. 30^{r-v}; Library of Congress, MS 131, fos. 27^{r-v}; Philadelphia Free Library, MS LC 14.16, fo. 174^{r}.

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the abjuration of the Jews from the kingdom' (*post abjurationem Judeorum a regno*). It seems unlikely that this refers to an 'abjuration' in the technical legal sense: a promise made by a criminal who has confessed his guilt of a major criminal offence to leave the country and not return (a confession and promise made in return for a promise that the criminal's life would be spared) for there seems to be no evidence of legal proceedings against members of the community or of any confession of guilt on their part. It is possible that it is just a pun though one that would have sounded better in French than in Latin. It may, however, represent some kind of attempt to put a favourable official gloss on the King's action, which would be of a piece with the attempt made to justify the Expulsion in a writ of November 1290 sent to the Treasurer and Barons of the Exchequer. The latter notes that despite the 1275 legislation the Jewish community had not turned to living by trade or by their own labour but had continued with money-lending, merely changing the form of the 'usury' concerned to *curialitas* (a favour). The implication is that such misconduct had merited their Expulsion.[1] The writ also speaks more generally of unspecified Jewish crimes (*scelera*) and breach of faith (*perfidi*).[2] The impression given (and intended to be given) is that Edward had been generous in the face of continued Jewish wrongdoing in allowing the departing Jews to keep their lives and such of their property as they could take with them.

More generally, the Expulsion itself fits into the wider general theme of how the exceptional legal position of members of the Jewish community in England, which had originally been an advantage, had increasingly become a disadvantage in that it put Jews for most purposes outside the Common Law and the protections it afforded to the King's Christian subjects. It may be this alone which explains how Edward and his advisers thought it possible (in legal terms) to expel a whole community from his kingdom. The Expulsion can of course be seen as no more than an act of *realpolitik*, an expression of the King's ultimate physical power over his subjects, more particularly over a marked group of his less powerful subjects. But it may be precisely because the Jewish community were still thought of as dependent on the King's 'protection' for their very presence in England that Edward and his advisers also thought it possible to withdraw that protection and expel them. They may be seen as merely making good on the threat implicit in the 1275 statute. When the King next withdrew his protection from a group of his

1. *Select Pleas*, pp. xl–xli.

2. There were two different cases in 1290 relating to allegedly forged debt obligations to Jews in the name of religious houses. For the petition of Reading abbey, the resulting proceedings in King's Bench in Easter term 1290 and related material, see PRO, SC 8/68, no. 3376; KB 27/123, mm. 6–6d, and *Reading Abbey Cartularies*, ed. B. R. Kemp (Camden 4th ser., xxxi and xxxiii, 1986–7), i, no. 234. For proceedings before the Justices of the Jews relating to an allegedly forged obligation of Osney abbey see BL, MS Harley 79, fo. 1r. Such *causes célèbres* may have played an important (if hitherto little noticed) part in precipitating the decision taken in June or July 1290 to expel the Jewish community from England.

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subjects in 1297 (this time it was the clergy) the consequences were much less drastic: the clergy were simply thereby coerced into paying taxation to the King. This was both because the clergy had a much more powerful protector (the Pope and the Church) and because they had long been protected by the Common Law enjoyed by the rest of the King's subjects; and the King clearly never envisaged expelling the clergy from England. But it would be ironic if their treatment was in fact suggested to Edward by the precedent of 1290. Some of the clergy, looking back, may have regretted their failure to stand up for the Jews of England in 1290. It would be nice to think that they did.

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