

## Land, Law and Desire in Marlowe's *Edward II*

Nowhere in Marlowe's *Edward II* is there actually any mention of the term sodomy. Following Alan Bray's seminal study of English Renaissance homosexuality<sup>1</sup>, critics such as Goldberg<sup>2</sup> and DiGangi<sup>3</sup> have suggested that intimations of sodomy inhere primarily in the socio-political transgressions that the play stages. Goldberg and DiGangi cite Gaveston's desire for theatrical debauchery, Edward's elevation of non-noble minions to the status of earls, Mortimer's rebellion against Edward and his presumed adultery with Isabella as fraught with suggestions of sodomy. In my paper, I explore one hitherto unidentified strand of the crisis in normative political behavior in order to contextualize the play's implied and, indeed, sustained engagement with the question of sodomy.

Such a strand derives from contemporary legal thinking on the precise relations between the king's private and public bodies. Drawing primarily upon Kantorowicz's *The King's Two Bodies*, I wish to argue that the dark suggestions of sodomy can be better understood (and hence historicized) if looked for in the play's explicit staging of the confusion over the relations between the king's two bodies by both the king and his supporters, on the one hand, and the rebellious barons, on the other.<sup>4</sup>

My point is that Marlowe's *Edward II* presents the case of sodomy as the transgression of the laws governing the interpretation of the relations between the king's two bodies. In the eyes of such contemporaries of Marlowe as Edward Coke, as Bray quotes, such a transgression was so dreaded and abhorred as to be considered "*crimen laesae majestatis*, a sin horrible, committed against the King; and this is either against the King Celestial or Terrestrial..."<sup>5</sup>

Apart from terms like treason and heresy, the one word they had to convey the egregiousness and unspeakability of such a crime was "sodomy - a term that for Phillip Stubbes qualified a range of "exercyses" such as "drunkenesse, whordome, [and] gluttony..."<sup>6</sup>

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<sup>1</sup> Bray, Alan. *Homosexuality in Renaissance England*. (London: Gay Men's Press, 1982) p26. Bray's seminal argument is that there was no recognition of the sodomite in early modern society except within a subversive behaviour that upset regnant power structures such as inherent in the patriarchal family and the relations between masters and servants.

<sup>2</sup> Goldberg, Jonathan. *Sodometries*. Stanford (Stanford University Press, 1992). See p119 for Goldberg's invocation of Bray's comments within the context of *Edward II*.

<sup>3</sup> DiGangi, Mario. *Marlowe, Queer Studies, and Renaissance Homoeroticism* in Marlowe, History, and Sexuality (New York: AMS Press, 1988), pp195-209.

<sup>4</sup> Kantorowicz, Ernst. *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1957). I owe Kantorowicz an immense debt insofar as I rely upon his research into the specific modality of the relations between king, crown and realm in the reign of *Edward II*.

<sup>5</sup> Bray, p20, pp24-5. Edward Coke, *Third Part of the Institutes of the Laws of England* (London, 1644), p58.

<sup>6</sup> Phillip Stubbs, *Anatomy of the Abuses in England in Shakespere's Youth* (London:Trubner &Co., 1877-9), p153.

While sodomy in my reading is not entirely evacuated of any specific homoerotic orientation, I argue that it takes on meaning primarily when the sexual impinges on the political: i.e. when homoerotic love between Edward and his favourites entails the disturbance of the normative relations between him as a natural body and a divine body. Therefore, the sodomitical may have less to do with the transgression of sexuality as the transgression of law.

What exactly are the two bodies of the king and how did late medieval lawyers differentiate the two and determine their relations? Simply put, late medieval English political thought held that a king possessed a dual persona: he was human by nature and divine by grace. As a human being, he was subject to time, error, decay and death; as divine, he was timeless, incorruptible and infallible. Legally speaking, from his human aspect, he was always subject to positive law (*servus legis*); however, from his divine aspect, he was always above it (*dominus legis*) as what pleased him became law.<sup>7</sup>

From the 14th century - especially with the reign of Edward I (the father of Edward II and the one whom the earls invoke to legitimize their hatred for Gaveston) - the relations between the king's human and divine bodies began to be cast in the form of a reciprocal relationship between the king and the Crown. As Kantorowicz notes, while contemporary lawyers saw the king and Crown as distinct, they firmly held them to be inseparable, underlining that the Crown was always and already incarnate in a king. With the king's demise, the Crown immediately attached itself to the natural body of the next legitimate king/heir to the throne and so forth, promoting the legal tenet that the Crown could and should never ever be separated from the natural body of a king.<sup>8</sup>

In the time of Edward II, as Maitland among other political historians have noted, a further elaboration of the relations between the king's two bodies took place.<sup>9</sup> A third key term was introduced: the rights of the realm. The Crown henceforth came to symbolize not just the divine properties and capabilities of the king but also, more explicitly, the inalienable rights of the kingdom that the king, during his Coronation oaths, swore to always uphold in consultation with his peers (both religious and lay) and the commons.<sup>10</sup>

Marlowe's *Edward II*, from the very outset, dramatizes the confusion over the king's two bodies in terms of a concerted disordering of the tripartite relations between king, Crown, and realm. The very first scene presents the devolution of royal prerogatives from King Edward II to his foreign friend/favourite

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<sup>7</sup> Kantorowicz comments extensively on Bracton's reflections of the king's status as both below and above law. See pp148-152 for his detailed commentary on what 13th century legal theorists like Bracton considered the appropriate nature of the paradox of being below and above law.

<sup>8</sup> Kantorowicz, pp364-66.

<sup>9</sup> Maitland, F.W. *The Constitutional History of England* (Cambridge: CUP, 1955).

<sup>10</sup> *Ibid*, p99. One of Edward II's Coronation oaths enjoins that the king defend the inalienable customary rights of the people: "Sir, will you grant and keep by your oath conform to the people of England the laws, and customs granted to them by the ancient kings of England your righteous and godly predecessors, and especially the laws, customs and privileges 'cause to be done in all your judgment equal and right justice and discretion in mercy and truth to your power'?"

Gaveston.<sup>11</sup> Edward without having consulted with his peers invites the French Gaveston to “come ... and share the kingdom with thy dearest friend”<sup>12</sup>. Edward's subsequent assertions of his will reflect little or no evidence of consultation with his peers or commons.<sup>13</sup> Unilaterally, Edward confers on Gaveston three different titles in rapid succession: “Lord High Chamberlain ... Earl of Cornwall, King and Lord of Man”<sup>14</sup>. Edward hastens to bestow discretionary and executive powers on the newly created earl: “Thou shalt have a guard ... Go to my treasury ... Receive my seal ... save or condemn and in our name command whatso thy mind affects or fancy likes”.<sup>15</sup>

Within the course of the opening scene alone, Edward with Gaveston both repudiates all three estates and usurps the rights of the land. Gaveston contemns a common soldier by suggesting that a hospital rather than a battlefield is a fit place for him; Edward and Gaveston contemptuously reject the council of the peers advising the banishment of Gaveston and both lose no time to defrock and actually seize the property of the Bishop of Coventry. Not only Gaveston's actual seizure of the bishop's house and goods but also his earlier desire for Italian masques and other costly entertainments anticipate further exploitations of the fiscal resources of the Crown for private pleasure. In acting thus with Gaveston, Edward violates the Coronation oaths that unequivocally held that the king will always act in consultation with the peers to preserve the tripartite relations between king, Crown and the kingdom.<sup>16</sup> The reactions of the peers routinely censure Edward's adamant refusal to take their council, and his flagrant alienation of the fiscal rights of the land inherent in the Crown.

Edward's mere elevation of Gaveston to the status of an earl throws into relief the peers' fears of the abuse of the rights of both the Crown and the land. Mortimer (jr.), the most vocal spokesman for the earls, pronounces Gaveston a “traitor.” Likewise, the earl Lancaster characterizes the king's actions on Gaveston's behalf as “disparaging” - i.e. economically depreciating - to them and to the land. The king's only recent dispossession of the Bishop's property for Gaveston's sake and his commitment to expend the resources of the land to promote Gaveston serve to substantiate these and later charges of

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<sup>11</sup> To Edward II, his closest advisors are friends whereas, to the rebels, they are flatterers or favourites.

<sup>12</sup> Marlowe, Christopher. *Edward II* (Ed. Roma Gill. Oxford: OUP, 1967), Act 1 Scene 1 lines 1-2 [1.1.1-2]. All subsequent play references are against this edition.

<sup>13</sup> Kantorowicz, pp150-2. Edward's assertions of royal will involved the resources (such as the treasury that Edward exploits to advance Gaveston) of the Crown or the offices of administration (such as the conferring of earldoms) and thus necessarily impacted upon the ruled - i.e. upon the limbs of the body politic of which he was the head. In theory, no king could assert royal prerogative without prior consultation with the peers as they were his co-rulers: the king was always conceived of as King in Parliament - a concept of sovereignty that Kantorowicz singles out as distinctively English with no precedent on the Continent.

<sup>14</sup> *Edward II*, 1.1.153-5

<sup>15</sup> *Edward II*, 1.1.165-9. These words recall the legal formulation of one half of the royal prerogative as defined in Bracton (quoted in Kantorowicz): “Nihil enim aliud potest rex, cum sit Dei minister et vicarius in terris, nisi id solum, quod de iure potest. Nec obstat quod dicitur:”Quod principi placet, legis habet vigorem” (fol. 107): In short, Edward utters the legal maxim that held that what pleased the king was law without going further to ensure that what is pleasing to the king must also be pleasing to the subjects. In a sense, the law is very clear on making royal prerogative contingent upon the assent of the peers. Hence, as Kantorowicz notes, Bracton's consistent presentation of the idea of the English king as always within a council or within the Parliament and never, as in the case of Edward, as acting unilaterally (Kantorowicz, pp148-152).

<sup>16</sup> Edward II's Coronation oaths are implicitly invoked by the rebels. See note 10.

disparagement that the peers level against Edward. An exasperated Lancaster, speaking for the peers and the commons, underlines Edward's duties to both them and the land in his warning: "Learn then to rule us better and the realm"<sup>17</sup> while Warwick strikes a more minatory note in his "Look to your own crown, if you back him [Gaveston] thus"<sup>18</sup> where "crown" elides the distinction between the natural "head" of Edward and the divine symbol of the body politic he bears by virtue of being a king.

What infuriate the earls and drive them to rebellion, as these examples show, are the overwhelmingly political implications of Edward's cultivation of Gaveston: implications that disrupt the reciprocal ties that bind king, peers and the realm. As if to underline the pre-eminently political nature of their contention, in the close of the first scene alone, Mortimer (jr.) makes it abundantly clear that it is not "[Edward's] wanton humour [that] grieves [him but that] one so basely born [Gaveston]/ Should by his [Edward's] sovereign favour grow so pert, and riot it with treasure of the realm / While soldiers mutiny for want of pay"<sup>19</sup>.

To the nobility the "wanton humour" between king and Gaveston is reprehensible not because it is homoerotic: Mortimer (sr.) justifies the legitimacy of homoerotic love by asserting that as great kings in the past have had male lovers, there is nothing inherently subversive about the king's passion for Gaveston. However, what is subversive, as Mortimer (jr.) makes explicit, is when the king's wanton humour interferes with the discharge of his regal duties. Mortimer (jr.)'s point of censure is not directed at the sexual - i.e. the homoerotic content of "wanton love" - but at the political - i.e. the fact that any wantonness in a king is subversive if it alienates the dignity of the Crown and the rights of the land.<sup>20</sup>

With the Crown's treasury being diverted from the soldiers to Gaveston, the land becomes increasingly vulnerable to enemies who scorn the might of the king and make inroads. Hence, Mortimer (jr.) accuses Gaveston of being "a robber of king's renown"<sup>21</sup>: the absence of the definite article preceding the expression "king's renown" signifies in all probability the individual dignity that attaches to any king - i.e. not to the particular king Edward II but to any legitimate bearer of the perpetual royal office. At the same time, Mortimer (jr.) accuses him of being a thief in the sense of one who steals the resources of the land and of the Crown - one for whom Edward swears more than once that "could [his] Crown's revenue bring him back, he would freely give it to his enemies"<sup>22</sup>. In the eyes of the peers, Gaveston, as at once a robber and a thief, thus fits their definition of a "traitor" to both the perpetual renown or

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<sup>17</sup> *Edward II*, 1.4.39

<sup>18</sup> *Ibid.*, 2.2.93

<sup>19</sup> *Ibid.*, 1.4.401-5

<sup>20</sup> *Ibid.*, 1.1.390-400

<sup>21</sup> *Ibid.*, 2.5.73

<sup>22</sup> *Ibid.*, 2.4.307-8. "Ah Spenser, not the riches of my realm / Can ransom him..." (3.2.3-4).

dignity of kingship as well as to the more economic/fiscal rights of the realm that the Crown represents.<sup>23</sup>

It is precisely in light of such political considerations that the wantonness of Edward's love, from the perspective of Edward's peers, takes on the tinge of something they single out at various points as "excessive," "loose" and "unnatural" - three adjectives (for which I offer three examples) that point to the sodomitical as understood in 16th century everyday parlance. Lancaster in a response to Edward's excessive show of grief over the imminent banishment of Gaveston, exclaims: "Diabolo, what passions call you these?"<sup>24</sup> As Lawrence Normand has noted, Lancaster, "having no name for what he is seeing, reach[es] for a language other than English ... the expletive "Diabolo" invoke[s] Spain as a place of powerful, alien pleasures, but also suggest[s] the Christian horror of homoeroticism as manifesting the "diabolic."<sup>25</sup> Kent, no less than Lancaster registers the namelessness of Edward's passions when he characterizes Edward's weakness for Gaveston (and the other favorites who replace him) as a kind of "looseness and unnaturalness": "And certify what Edward's looseness is / Unnatural king to slaughter noble men/And cherish flatterers."<sup>26</sup> Likewise, Isabel underlining the effect of Edward's "looseness" on the Crown and the land, alleges "And, Edward, thou art one among them all / Whose looseness hath betrayed the land to spoil ... Of thine own people patron shouldst thou be."<sup>27</sup> As Catherine Belsey notes, desire in *Edward II* not only exceeds the signifier but, as "its imperatives are absolute, it also exceeds the Law, which is orthodoxy, propriety and, above all, order of meaning."<sup>28</sup>

Edward's loose/wanton/unnatural passions point toward the sodomitical precisely because their imperatives are "absolute" and "excessive," and, to qualify Belsey's "Law," treasonous in the sense of being transgressive of the norms governing the relations deemed proper between king, Crown, and realm. However, in light of the same legal criteria, how do we read the actions or reactions of the rebellious peers? As we shall see, they are increasingly similar to Edward's insofar as they disrupt the relations between Edward, the Crown he bears, and the rights of the land.

From the very outset, the rebellious earls under Mortimer (jr.) do more than merely distinguish the Crown and the rights of the realm, on the one hand, and the king, on the other. They see two as separate. Mortimer (jr.) asserts

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<sup>23</sup> The rebellious earls frequently hurl the charge of treason against Gaveston where treason carries the specific sense of the alienation of the rights of the Crown and of the land. Arundel, in same scene, claims that the earls "wot / He (Edward) that the care of the realm remits / And drives his nobles to these exigents / For Gaveston" (2.5.61-64).

<sup>24</sup> *Edward II*, 1.4.318

<sup>25</sup> Normand, Lawrence, *What passions call you these? Edward II and James VI*, in *Christopher Marlowe and English Renaissance Culture*, ed. Darryll Grantley and Peter Roberts (Vermont, 1999) p189.

<sup>26</sup> *Edward II*, 4.1.7-9. No sooner is Edward certain that the nobles will no longer release Gaveston than he confers honors upon Spenser (jr.). His bestowal of an earldom and the title of Lord Chamberlain on Spenser (jr.), recalling his earlier creation of Gaveston Lord Chamberlain, suggests that Spenser has replaced Gaveston in his affections. In short, Spenser (jr.), and the other favourites - Spenser (sr.) and Baldock - become in the eyes of the rebels the new object of Edward's wanton love

<sup>27</sup> *Edward II*, 4.4.10-13

<sup>28</sup> Catherine Belsey, *Desire's Excess and the English Renaissance Theater, Edward II, Troilus & Cressida, and Othello in Erotic Politics: Desire on the Renaissance Stage*, ed. Susan Zimmerman (London, 1992), p86.

that "the king shall lose his crown, for [they] have full power, / And courage too, to be revenged at full."<sup>29</sup> They reason that to protect the rights of the land they must dispense with the king. While Mortimer speaks of lawfully revolting against the king<sup>30</sup> or "depos[ing] him and elect[ing] another king," Warwick threatens Edward with dispossession of the Crown ("Look to your crown ..."<sup>31</sup>) when Edward asserts the supremacy of his royal will.

The opening scene of the last act stages a separation of the Crown from its bearer that all laws proscribed and that in Marlowe's own day was cited as an example of unspeakable - indeed treasonous - behaviour.<sup>32</sup> With the Bishop of Winchester and Lancaster urging Edward to resign the crown and Edward now resisting, yielding and then holding back the crown only to finally relinquish it, the scene brings to the fore the treasonous - hence sodomitical - implications of the separation. In Edward's extreme reluctance to yield the Crown and in his reasons for doing so, one senses the force of the laws proscribing any separation of crown and king. Edward shudders at the thought of separation, vowing "not [to] be guilty of so foul a crime": in underlining the enormity of the crime, Edward invokes the political, and not necessarily sexual, sense of "foulness" that sodomy carried for Elizabethan lawyers like Coke. Furthermore, as soon as Edward relinquishes the crown, he acknowledges that he has transgressed mortally and has little hope for survival.<sup>33</sup> In saying so, Edward illuminates the political sense of sodomy as the foul transgressive political act (even if voluntary) of separating king and Crown.

To the majority of the secular peers, however, the forcible separation of crown from king raises no serious legal issue at the outset: Mortimer (jr.) claims that it is in the interests of the realm and the peers that Edward needs to be deposed in order for the heir - Edward III - to be crowned.<sup>34</sup> By contrast, clerical peers such as the Archbishop of Canterbury deem any separation of the king from his crown as illegitimate. The Bishop warns a bellicose Mortimer that no matter what they do they should "not lift [their] swords against the king" - a warning consonant with the position of the late medieval Church (from under Pope Innocent the III) that held that the bishops would not assist in severing the relations between the king and Crown under any circumstances.<sup>35</sup>

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<sup>29</sup> *Edward II*, 1.2.59-60

<sup>30</sup> *Ibid.*, 1.2.73

<sup>31</sup> *Ibid.*, 2.2.92

<sup>32</sup> For a clear exposition of the laws proscribing the separation of the crown and its legitimate bearer, see Kantorowicz, pp143-192, and pp379-81.

<sup>33</sup> *Edward II*, 5.1.122-3: "...yet how have I transgressed / Unless it be with too much clemency?"

<sup>34</sup> Winchester asserts that "it is for England's good" and "princely Edward's right" that "[they] crave the crown" (5.1.37-8); Trussel urges Edward to resign the crown because "the parliament must have present news" about the king's decision (5.1.84); Leicester, after Edward has resigned the crown, makes it clear that the "the council of the queen" have taken over the kingship (5.1.135-6). As Mortimer (jr.) explains to allay the queen's fears, "[the] king hath wronged [the] country and himself / And we must seek to right it as we may" (4.5.76-7).

<sup>35</sup> As Kantorowicz notes (pp357-9) with regard to the period of Edward II's reign, "the Glossa Ordinaria on... ] Honorian decertal indicates that the bishops too, and not only the kings, have to promise not to alienate. Lucas de Penna, writing in the

Indeed, the vacillating Kent's soliloquy much later, while on the battlefield with the nobles against the king's army, calls to mind the Bishop's advice not to take up arms against the king: a contrite Kent cries out "Proud Mortimer, why dost thou chase / Thy lawful king, thy sovereign with thy sword / Vile wretch, and why hast thou, of all unkind/borne arms against thy brother and thy king? ... Thou God ... punish this unnatural revolt"<sup>36</sup>. The revolt is "unnatural," the rebels "vile" because directed against one whom the laws protect. In short, the rebellion, for all the justifications that peers like Mortimer (jr.) or the queen may offer, is nothing but a violation of the laws defending the inseparability of king, Crown and land. Inescapably noticeable in Kent's characterization of the revolt is the appearance of similar terms already deployed to describe Edward's actions: the adjectives - "unkind, vile and unnatural" - used in relation to the question of law (i.e. the illegality of fighting against a lawful sovereign) call to mind in particular Kent's earlier use of "unnatural" to describe the king's "slaughter of nobles," and recall Isabel and Mortimer's application of the nouns "looseness" and "wanton humour" respectively to censure the king's actions.

My point is that no sooner does the play veer toward the imminent separation of king and Crown than it begins to present the actions of triumphant rebels as increasingly identical with those of the defeated Edward/favorites. Individuals like Kent begin to judge the rebels' actions as politically illegitimate in a vocabulary strikingly reminiscent of the denunciatory language used by the rebels to characterize the king's actions. Even the Queen "rues [her] lord's ill fortune" and Mortimer's clandestine plot against the king's life point to grave doubts that now emerge about the legitimacy of the deposition and killing of the king as well as their joint rule over "the real [and the new] king."<sup>37</sup> Specifically, the pains Mortimer takes to ensure that the killing of the king remains so mysterious that no hand can be attributed to it almost enact the "unnaturalness" or "unnameability" to which the term sodomy, as has already been pointed out, was usually applied by lawyers like Edward Coke.<sup>38</sup> The executioner Lightborn, whose name reflects the Biblical type of the sodomite - Satan - chooses a mode of killing that leaves no visible mark on the body: his aim, in consonance with Mortimer's warrant of execution, enacts the attempt to commit an action that would resist any investigation, any criminal categorization or, indeed, any understanding of who or what killed the king.

The resolution of the political - hence sodomitical - crime of separation of king and crown, takes place as soon as Edward's heir holds a council with his supporters to avenge the regicide of his father. King Edward III, emerging from the council chamber, levels the charge of treason against Mortimer (jr.) who suffers the appropriate penalty reserved for sodomites and traitors - hanging, drawing and quartering. The young king then casts the queen into

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fifties of the fourteenth century, holds that bishops and kings are "equiparate" with regard to their oaths concerning alienation"; likewise Pope Innocent III gave assurance that Archbishop Langton with his diocesans would promise the king, by oath and in writing, not to permit anyone to plot or attempt "against his [the king's] person or against the Crown".

<sup>36</sup> *Edward II*, 4.5.12-18

<sup>37</sup> *Ibid.*, 5.4.65.

<sup>38</sup> Refer to note 5. For Coke, sodomy was "crimen laesae majestatis" — i.e. a crime injurious to the majesty of the king.

prison holding that he “do[es] not think her so unnatural.”<sup>39</sup> In characterizing Mortimer (jr.)’s action as “monstrous treachery,” deploying the adjective “unnatural” when judging the queen, and calling for vengeance, Edward III has recourse to the same linguistic register of sodomy that we have already looked at. However in all his efforts to punish the “unnatural” or “monstrous” actions of the rebels, he does not act unilaterally. The play characterizes the crowned king’s first action as proceeding from a collaboration/consultation with his council of lords. The king and the peers act in unison to repair the rupture between king, Crown and the realm, and in doing so, expunge once and for all any further suggestions of sodomy.

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<sup>39</sup> *Edward II*, 5.5.76