JUSTICE AND GRACE

Private Petitioning and the English Parliament in the Late Middle Ages

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For Kate

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Preface

The genesis of this study lies in the research I undertook for my DPhil in the mid- to late 1990s. I still remember the trepidation I felt at having to write a single chapter on a subject which had seemingly been dismissed by most modern historians as an unimportant aspect of parliamentary history after Edward II's reign (my thesis considered parliament from the late fourteenth century onwards). Several months spent in The National Archives trawling through the series SC 8 'Ancient Petitions' proved my fears to be groundless. Subsequent reflection further convinced me that rather more than a chapter in a doctoral thesis would be needed if I were to do full—if you will excuse the pun—justice to the private petition.

That I have been able to pursue my interest in private petitions and complete a monograph on the topic has been made possible by the enormous support I have received over the years, both from institutions and from friends and colleagues. After the completion of my doctorate I was fortunate enough to secure a British Academy Postdoctoral Fellowship which gave me invaluable breathing space to develop my ideas and consolidate the research for the book before appointment to a teaching post. This research time was supplemented more recently by the generous provision of departmental research leave by the University of Nottingham and by an AHRC research leave award. I have also benefited enormously from the help and assistance of countless librarians and archival staff: I single out, in particular, those who work at the J. B. Morrell Library, University of York; the Hallward Library, University of Nottingham; and the academic staff at The National Archives.

Undoubtedly, the greatest pleasure in writing a Preface is the opportunity it gives me to single out those individuals who have taken a particular interest in my research and whose helpful advice and criticism has undoubtedly greatly improved the quality of the final product. I reserve my greatest vote of thanks for Mark Ormrod. Over the years he has been my tutor, supervisor, mentor, and latterly, colleague. At every point he has been—and continues to be—an inexhaustible source of inspiration and encouragement. It was Mark who first awakened me to the possibilities of studying the late medieval period; without the remarkable academic and personal generosity he has shown to me

since, this book would never have been written. For everything, I am immensely grateful. I also pay particular regard to Chris Given-Wilson, Rosemary Horrox, and Tony Pollard, who have also, at various points in my academic career, given me invaluable help and assistance. I thank Mark and Chris, and the anonymous reader for OUP, for reading earlier drafts of the book. The book has gained enormously from their insights and suggestions: for its weaknesses no one but myself can be held responsible.

I consider myself extremely fortunate to have a number of very close friends and colleagues whose friendship and intellectual engagement I have benefited from enormously. These include Doug Biggs, David Crook, Jeremy Goldberg, Joseph Gribbin, Martin Heale, Andy King, Helen Lacy, Christian Liddy, Alison McHardy, Anthony Musson, Sarah Rees Jones, David Smith, and Craig Taylor. Anthony Musson has been particularly generous in supplying me with the manuscript reference for the front cover. It is my good fortune also to be surrounded by a group of colleagues in the School of History at Nottingham whose good humour and scholarly encouragement has been a source of great sustenance in the past four years. Finally, the period of writing up this book has coincided with my involvement in the AHRC funded project 'Medieval Petitions: A Catalogue of the "Ancient Petitions" in the Public Record Office'. I have derived considerable benefit from this project and pay particular credit to the hard work, resourcefulness, and expertise of its two principal researchers, Simon Harris and Shelagh Sneddon. This book, I hope, goes some way towards contextualizing private petitions; but it is as a result of the labours of Simon and Shelagh, above all, that the petitions themselves should now take a much more prominent place in historical research in the years to come. I also acknowledge the particular assistance Shelagh has given me in checking the transcriptions of petitions that have been included in Appendix 2.

Lastly, I thank my family for the love and support they have shown throughout my academic career. To my parents, I must acknowledge their unstinting belief in my abilities, and the enormous interest they have shown in my work. To my wife Kate, I owe a debt beyond measure. This book owes more to her than she knows, for her unfailing faith, support, and encouragement. The book is dedicated to her, with love.

Gwilym Dodd

August 2006

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List of Abbreviations

BIHR	*Bulletin of the Institute of Historical Research*
BJRL	*Bulletin of the John Ryland's Library*
C.Ch.R.	*Calendar of Charter Rolls*
CCR	*Calendar of Close Rolls*
CPR	*Calendar of Patent Rolls*
ODNB	*Oxford Dictionary of National Biography*
EHR	*English Historical Review*
P&P	*Past and Present*
PROME	*Parliament Rolls of Medieval England*
RDP	*Report from the Lords' Committees . . . for All Matters Touching the Dignity of a Peer*, 4 vols. (London, 1820–9)
Rot. Parl.	*Rotuli Parliamentorum*
SCCKB	*Select Cases of the Court of King's Bench*
Stats. of Realm	*Statutes of the Realm*
TNA	The National Archives
TRHS	*Transactions of the Royal Historical Society*

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Introduction

The subject of this book is the late medieval private petition. Private petitions were requests for favour or redress presented specifically within the context of parliament. Such requests were probably only known as 'private' (i.e. *peticions des singuleres persones*)[1] once the common petition appeared at the end of Edward II's reign, but insofar as the terminology describes a request which was presented to further the *private* or particular interests of the supplicant it can be applied to all petitions presented in parliament not submitted by the Commons. Private petitions were the forerunners of what would later, in the early modern period, be known as 'private bills': the use of the term 'petition' was a peculiarly medieval phenomenon and one that seems, in the context of English government, to have designated an entreaty made specifically to the king or his council.[2] Private petitions comprised a

[1] *PROME*, parliament of January 1352, item 8.

[2] There is general consensus that the terms 'bill' and 'petition' refer to essentially the same phenomenon: namely, written entreaties presented in a formal manner to a higher authority. In the parliament rolls, the words were used interchangeably, particularly where the complaints of private supplicants were referred to. If there was a distinction, it may have lain in a contemporary perception that whereas bills initiated litigation or legal processes between private parties, petitions were requests which aimed to secure royal grace. Thus, 'bills' were presented in the general eyre, in the common law courts and chancery; 'petitions' were presented to the king and the council—and the term predominated in a parliamentary context. It is interesting to note that the complaints presented by the Commons were uniformly referred to as 'petitions'. The distinction between 'bill' and 'petition' may have rested on a subtle, but important, difference of meaning. The origins of both terms can be found in earlier ecclesiastical processes, but whereas the term 'bill' (*billa*) may originally have been associated with libel process in the Church courts, the term 'petition' (*petitio*) is more readily associated with the act of entreating or beseeching a higher ecclesiastical authority: see *Select Cases before the King's Council 1243–1482*, ed. I. S. Leadam and J. F. Baldwin, Selden Society, 35 (Cambridge, 1918), p. xxxv; *Select Cases of Procedure without Writ under Henry III*, ed. H. G. Richardson and G. O. Sayles, Selden Society, 60 (London, 1941), pp. lxii–lxiii; G. Koziol, 'The Early History of Rites of Supplication', in H. Millet (ed.), *Suppliques et Requêtes: Le Gouvernement par la Grâce en Occident (XII^e–XV^e Siècle)* (Rome, 2003), pp. 21–36. From the late fifteenth century, parliamentary clerks began to replace the term

mixture of complaints and requests: the complaints tended to relate to injustices which could not be readily resolved through common law process; the requests were usually prompted by the supplicant's desire to obtain some form of royal favour, such as a grant, office, or pardon. The greatest proportion of private petitions were presented by named individuals, acting either singly or in small groups; but a significant number were also presented in the name of local communities: monasteries, counties, towns, villages, professional groupings, and so on. Unlike common petitions, which were (ostensibly) presented by the parliamentary Commons for the public good and which formed the basis of statutory legislation if granted by the Crown, private petitions, when granted, resulted in an instrument of government which usually only affected the petitioner.

What place did the private petition occupy in the late medieval English parliament? This is the basic question which this book seeks to answer. It is a question which has not been asked for some time, or at least it has not, until very recently, been the subject of fresh enquiry or appraisal.[3] The vast majority of work undertaken on the medieval parliament has tended to ignore the private petition. In fact, we continue to rely, for the most part, on a small cluster of articles produced in the early twentieth century to gain an understanding of the true nature and impact of the private petition.[4] We would have to search

'petition' with 'bill' to describe written supplications entered on the parliament roll. This apparently reflected an increasing tendency for supplicants to have their petitions drafted, from the outset, in the form in which they wished them to be enacted by the king, and this meant removing the older supplicatory opening clause. The term 'petition' was presumably no longer felt to adequately describe a document which did not explicitly ask for royal favour; see G. R. Elton, 'The Rolls of Parliament, 1449–1547', *The Historical Journal* 22 (1979), 1–29, p. 16.

[3] The two most recent discussions of private petitions—the first for some decades—are G. Dodd, 'The Hidden Presence: Parliament and the Private Petition in the Fourteenth Century', in A. Musson (ed.), *Expectations of the Law in the Middle Ages* (Woodbridge, 2001), pp. 135–49; and P. Brand, 'Petitions and Parliament in the Reign of Edward I', in L. Clark (ed.), *Parchment and People: Parliament in the Middle Ages* (Edinburgh, 2004), pp. 14–38.

[4] Some of the key works are H. G. Richardson and G. O. Sayles, *The English Parliament in the Middle Ages* (London, 1981), Chs. 6 and 17 (reprints of the articles: 'The King's Ministers in Parliament, 1272–1307', *EHR* 46 (1931), 529–50, and 'The King's Ministers in Parliament, 1307–1327', *EHR* 47 (1932), 194–203); A. R. Myers, 'Parliamentary Petitions in the Fifteenth Century', *EHR* 51 (1937), 385–404, 590–613; A. F. Pollard, 'Receivers of Petitions and Clerks of Parliament', *EHR* 57 (1942), 202–26; A. F. Pollard, 'The Clerical Organization of Parliament', *EHR* 57 (1942), 31–58. The one substantive monograph to be written on parliamentary petitioning is H. L. Gray,

still deeper and further back to find work which attempts to position the private petition into the broader context of the legal and governmental framework of the kingdom.[5] In seeking to revive what might crudely be described as a 'judicial' perspective on the medieval parliament, this book draws on an historiographical tradition which has for the most part been left to stagnate. The underlying premise of this tradition—that parliament performed an important role in the government of the kingdom as the recipient of written requests or complaints from the king's subjects—has never been directly challenged. But its neglect has helped create the impression that this function was of secondary importance to political and financial considerations in accounting for the development and nature of the medieval parliament.

William Stubbs has long been held to be the founding father of modern studies on the medieval parliament, and for good reason. For it was in his *Constitutional History of England* that the origins of the 'political' approach to parliamentary history may be found. Stubbs dismissed the private petition as an irrelevancy to the history of parliament: 'the system of petition to the king in council had been perfected before the commons were called to parliament; and thus the whole subject of judicature belongs to the history of the royal council rather than to that of parliament strictly so-called'.[6] For Stubbs, parliament gained its very definition by the presence within it of the parliamentary representatives. Parliamentary activity was thus judged almost entirely in terms of how the Commons projected themselves into the political arena. There was no place for judicial activity in this scheme because it did not directly involve the Commons: it belonged to an age before parliament had properly constituted itself.[7] Stubbs posed

The Influence of the Commons on Early Legislation: A Study of the Fourteenth and Fifteenth Centuries (Cambridge, MA, 1932). Parts of this work are flawed (see criticism in S. B. Chrimes, *English Constitutional Ideas in the Fifteenth Century* (Cambridge, 1936), pp. 236–49), but it still offers a large amount of useful description of the types of petition presented in the late medieval parliament.

[5] L. Ehrlich, 'Proceedings against the Crown (1216–1377)', in P. Vinogradoff (ed.), *Oxford Studies in Social and Legal History* (Oxford, 1921).

[6] W. Stubbs, *The Constitutional History of England*, 5th edn, 3 vols. (1891–1906), ii. 261.

[7] The fact that parliament continued to fulfil a judicial function even after the Commons had become an established presence within the institution was the cause of some perplexion to Stubbs who commented that 'it is not quite clear why the right of advising the crown in the determination of civil cases was restricted to the Lords, or why they should continue to form a council for the hearing of petitions to the king, when the commons did not join in their deliberations': ibid. For a penetrating critique of Stubbs'

a series of important questions about the dynamics of political power within parliament; but in addressing and refuting the challenge which his work created, more modern historians have unwittingly endorsed the very principle that informed his approach to the subject. For post-war historiography has almost uniformly measured the importance of parliament in terms of the impact its members had on the political life of the kingdom. The Whig interpretation of parliament has long been debunked, but the paradigm within which it was created has persisted.[8] Post-war scholarship on the medieval parliament is almost totally concerned with assessments of the medieval parliament as a *political* arena, as a place in which major political change was brought about by the interaction between the king, Lords, and Commons.[9] Within this large body of writing the Commons have taken centre stage.[10]

Too much emphasis on the work of Stubbs, monumental though it was, risks overlooking the point that his view of the medieval parliament ran very much against the prevailing trends of nineteenth-century scholarship. Indeed, the emphasis which this scholarship placed on the medieval parliament's status as the 'highest court of the realm'

views of parliament in this period see H. G. Richardson and G. O. Sayles, 'Parliaments and Great Councils in Medieval England', *Law Quarterly Review* 77 (1961), 1–49, esp. pp. 31–3, 44; (and for their rejection of the notion of a medieval 'political assembly' and/or 'representative parliament', p. 49).

[8] There is an interesting parallel with modern work on the government and politics of the fifteenth century, which John Watts proposed was similarly being approached 'from a Victorian perspective': *Henry VI and the Politics of Kingship* (Cambridge, 1996), p. 3.

[9] A view summed up by G. L. Harriss who, in accounting for the emergence of parliament, has stated that '[i]t is perhaps significant that . . . parliament [was] political rather than administrative in function': 'Political Society and the Growth of Government in Late Medieval England', *P&P* 138 (1993), 28–57, p. 37. A notable exception in this historiographical trend is the work of the legal historian Alan Harding in *Medieval Law and the Foundations of the State* (Oxford, 2002)—('the answering of petitions remained the core of parliament's business' (p. 180)).

[10] This can be illustrated by citing some of the most influential monographs to have been written on the medieval parliament in the second half of the twentieth century. In chronological order they include the following: J. S. Roskell, *The Commons in the Parliament of 1422: English Society and Parliamentary Representation under the Lancastrians* (Manchester, 1954); J. G. Edwards, *The Commons in Medieval English Parliaments* (London, 1957); J. S. Roskell, *The Commons and their Speakers in the English Parliament* (Manchester, 1965); G. L. Harriss, *King, Parliament and Public Finance in Medieval England to 1369* (Oxford, 1975). The preoccupation of modern historians with the Commons is also illustrated by the remarkable and ongoing efforts of the History of Parliament Trust to uncover details of the lives of MPs. The most recent medieval volumes are J. S. Roskell, L. Clark, and C. Rawcliffe (eds.), *The House of Commons, 1386–1421*, 4 vols. (Stroud, 1993).

arguably left a much greater mark on the work produced in the early twentieth century than the 'constitutional' approach adopted by Stubbs. No sooner had the work of Stubbs been published, than F. W. Maitland produced an edition of the hitherto unknown parliament rolls of 1305 in his *Memoranda de Parliamento*.[11] The introduction to this volume offers an outstanding assessment of parliamentary procedure, but also a very effective counterpoint to the view that it was parliament's representative quality that made it what it was. Of parliament under Edward I, Maitland reminded his readers that:

> a session of the king's council is the core and essence of every *parliamentum*, that the documents usually called 'parliamentary petitions' are petitions to the king and his council, that the auditors of petitions are committees of the council, that the rolls of parliament are the records of the business done by the council . . . [and] that the highest tribunal in England is not a general assembly of barons and prelates, but the king's council.[12]

This was more than simply a reaffirmation of the council's place in parliament; it was an important reminder that parliament was an occasion when a large amount of routine and relatively insignificant business was transacted by a small group of professional administrators, judges, and royal councillors. It is hardly surprising that Maitland placed this emphasis: there is little evidence within the rolls published in his *Memoranda de Parliamento* of the existence of political confrontation, but an abundance of evidence to show how busy the council and committees of triers would have been dealing with the small-scale complaints and requests of the king's subjects. Overall, Maitland's *Memoranda de Parliamento* can be said to have generated two important legacies. Firstly, it shored up a tradition which regarded parliament, in the first instance, as a judicial tribunal. The tradition had its modern origins in the pioneering work of Sir William Palgrave earlier in the nineteenth century,[13] but gained its fullest and most elaborate expression in the work of McIlwain (1910),[14] Erhlich

[11] *Memoranda de Parliamento*, ed. F. W. Maitland (London, 1893).

[12] Ibid., pp. lxxv–lxxvi.

[13] According to Palgrave, parliament's first task was to function as 'a High Court, in which the King and his Council were to be informed of the wrongs of the kingdom, and by whose authority such wrongs were to be addressed': 'Courts of the Ancient English Common Law—the Leet—the Shire—Parliament', *Edinburgh Review* 36 (1821–2), 287–341, p. 334.

[14] C. H. McIlwain, *The High Court of Parliament and its Supremacy: An Historical Essay on the Boundaries between Legislation and Adjudication in England* (New Haven and London, 1910). Note McIlwain's observation, which has as much force now as it did when

(1921),[15] and Pollard (1926).[16] Secondly, it pointed the way to a much closer examination of the way in which parliament functioned. For Maitland, the main advantages to be gained by publishing the parliament rolls of 1305 lay in the insight they provided 'into the manner in which the business [of parliament] was conducted' and the way in which the Crown's responses to petitions cast light on the broader workings of late medieval government.[17] Maitland was little interested in parliament as a forum for political dialogue: for him, parliament was, above all, an instrument of government and an important element in the judicial structure of the kingdom. It was the attention that he gave to the administrative processes and functionality of parliament—in other words, how parliament *worked*—which provided the model for much of the more specialized and technical work on the late medieval parliament at the beginning of the early twentieth century.

The reluctance of modern historians to build on this early scholarship by developing our understanding of parliament's role as the facilitator of royal government and justice is wholly understandable in view of the nature of the extant medieval parliamentary records. It is not the case that modern scholarship has consciously rejected Maitland's 'administrative' approach to the history of parliament in favour of Stubbs' political approach: it is simply that modern research has followed a route which appears to have been marked out by the particular changes to, and development of, the contemporary record. One obvious explanation for a historiographical concentration on the political dialogue which took place in parliament is that the main record of parliament, the parliament roll, survives only in expansive and uninterrupted form once the Commons had emerged as a real—and vocal—political force at the start of Edward III's reign.[18] It was also from this point that

it was written, that '[h]ardly anyone will deny the eminently judicial cast of Parliament in the middle ages; few have considered the importance of Parliament's retention of those judicial characteristics, after the other law courts grew into a separate existence' (p. 120).

[15] Erhlich, 'Proceedings against the Crown', *passim*.

[16] A. F. Pollard, *The Evolution of Parliament* (London, 1926). Pollard reserved some of his sharpest criticism for what he termed the Stubbsian 'myth of the three estates', asserting that 'in a system of three estates there is no natural or logical place for the large official and legal element which we find throughout in the high court of parliament', p. 67.

[17] *The Letters of Frederic William Maitland*, ed. C. H. S. Fifoot (Cambridge, 1965), pp. 70–1.

[18] For a recent description of the parliament rolls see W. M. Ormrod, 'On- and Off-the Record: The Rolls of Parliament, 1337–1377', in L. Clark (ed.), *Parchment and People: Parliament in the Middle Ages* (Edinburgh, 2004), pp. 39–56.

private petitions ceased to be enrolled, so the majority of the business now recorded on the parliament roll related to issues like taxation, legislation, and royal expenditure, which formed the very stuff of political negotiation and conflict. The commonplace assumption is that whilst judicial business was a central part of parliament's activities under Edward I and Edward II, very quickly under Edward III it was replaced by a new emphasis on political discourse, as the Crown's more regular need for taxation forced it to enter into a dialogue with the representatives of the counties and towns.[19] At best then, if the medieval parliament acted as a tribunal, it has been assumed that this function was confined to the final decades of the thirteenth century and the first decades of the fourteenth century. It is a view of medieval parliamentary development that conveniently allows for the 'judicial' perspective of Maitland, Pollard, Richardson and Sayles and others—because their work mainly concentrated on this earlier period—whilst permitting the full weight of historical attention to be drawn to the political activity of parliament in later periods.

But even at the point when the private petition was pre-eminent it has hardly attracted more than a cursory examination in the scholarship of the past seventy years. In the historiography on parliament under Edward I and Edward II it is not the routine and predictable activity of petitioning that has attracted attention, but instead the unfolding of political crises, the actions and motivations of the baronage, the emergence of the nascent parliamentary Commons, and the constitutional significance of key parliamentary texts such as the *Modus Tenendi Parliamentum* and the Statute of York.[20] Again, the state of the surviving

[19] The views expressed by A. L. Brown typify this body of opinion. He posited that '[w]hen parliament was an opportunity for the king, councillors, curiales and officials to meet and sort out problems . . . the private petition, though a nuisance, had its place; when it became an assembly of the kingdom, common business drove it out': 'Parliament, *c*.1377–1422', in R. G. Davies and J. H. Denton (eds.), *The English Parliament in the Middle Ages* (Manchester, 1981), p. 122. For similar standpoints see G. O. Sayles, *The King's Parliament of England* (London, 1975), p. 110; G. L. Harriss, 'The Formation of Parliament, 1272–1377', in Davies and Denton (eds.), *The English Parliament*, p. 50; and J. R. Maddicott, 'Parliament and the Constituencies, 1272–1377', in Davies and Denton (eds.), *The English Parliament*, pp. 86–7.

[20] On 'political' developments in parliament during the period (with references) see two important articles by M. Prestwich: 'Parliament and the Community of the Realm in Fourteenth Century England', *Historical Studies* 14 (1981), 5–24; and 'The Ordinances of 1311 and the Politics of the Early Fourteenth Century', in J. Taylor and W. Childs (eds.), *Politics and Crisis in Fourteenth-Century England* (Gloucester, 1990), pp. 1–18. On the Statute of York see J. H. Trueman, 'The Statute of York

records must be held to be in large part responsible. Historians have had to contend with a diverse and extremely fragmented series of parliament rolls which makes an analysis of the distribution and quantity of petitioning in the parliaments of the period virtually impossible. Even greater methodological problems exist in tackling the originals of the petitions themselves. The greatest concentration of private petitions lies in TNA series SC 8—the so-called 'Ancient Petitions'—which contains approximately 17,600 documents. The series is an artificial collection created at the end of the nineteenth century. It is the result of a misguided decision to bring together as many different groupings of petitions as could be found in the archives of the Public Record Office and have them reordered in alphabetical order by name of petitioner. This entailed breaking up the original arrangement of the petitions from their contemporary files, and the separation of many individual examples from the warrants that accompanied (and dated) them. The net result was the creation of a collection of petitions whose parliamentary provenance and dating was now badly obscured, and in many instances seemingly lost entirely. These formidable methodological problems, together with a wholly inadequate index,[21] have been important factors to discourage modern scholars from undertaking any large-scale or systematic analysis of the petitions contained in the series SC 8. It could all have been very different: had Palgrave succeeded in publishing the *Parliamentary Writs* volumes in their entirety in the early nineteenth century, before the drastic rearrangements of the old medieval files of petitions, the shape of modern scholarship on the medieval parliament and the place of the private

and the Ordinances of 1311', *Medievalia et Humanistica* 10 (1956), 64–81; and J. R. Strayer, 'The Statute of York and the Community of Realm', *American History Review* 47 (1941), 1–22. On the *Modus*, Maude Clarke's discussion is still one of the best (M. Clarke, *Medieval Representation and Consent* (New York, 1964)), but for a more recent consideration (with references) see W. C. Weber, 'The Purpose of the English *Modus Tenedi Parliamentum*', *Parliamentary History* 17 (1998), 149–77. The present author cannot claim to be disassociated from these historiographical trends: see 'Parliament and Political Legitimacy in the Reign of Edward II', in G. Dodd and A. J. Musson (eds.), *The Reign of Edward II: New Perspectives* (Woodbridge, 2006), pp. 165–89.

[21] *Index of Ancient Petitions of the Chancery and Exchequer*, Lists and Indexes 1 (London, 1892, repr New York, 1966). The index lists only petitioners (and, in the case of multiple petitioners, only the first named) and provides no information on dating.

petition in it would almost certainly be very different to how it appears today.[22]

It is time, then, to redress this imbalance. At the moment, the neglect of the private petition has distorted our impression of what the late medieval parliament was for and what it did. We have been conditioned into thinking of the assembly primarily from a political point of view, and since conflict and acrimony will inevitably steal the limelight in this perspective, our attention has disproportionately been taken up in scrutinizing the crisis points of parliamentary history—the occasions when great constitutional clashes occurred between the king, Lords, and Commons. Such is the fascination with working out the particular dynamics of political power in the parliamentary setting that it is easy to overlook the fact that parliament was also a *working* institution: almost every assembly of the late medieval period spent an enormous amount of time on what was, on the face of it, rather unspectacular, routine legal or administrative work. The attention given to the assembly's political activity has created the impression that it was the Crown's need for taxation and the Commons' desire for remedial legislation which accounted for the underlying endurance of the parliamentary system in the late medieval period. In fact, there is an equally strong case for saying that it was parliament's contribution to the ordinary running of medieval government that made it such an indispensable part of political life, for the function it served in addressing such a wide variety of local grievances and requests was of immeasurable benefit to both the king and his subjects alike. By focusing on the private petition, the aim of this book is to begin a process of readjustment so that the extraordinary, high-flown political activity of the medieval parliament is balanced by an appreciation of its more routine, humdrum workings. Tudor historians long ago recognized the importance of this task, and in consequence the early modern parliament has enjoyed a much more rounded and comprehensive historical analysis than its medieval counterpart.[23]

[22] A significant proportion of the 9,000 or so petitions which Palgrave planned to include in his new publication derived from the original files of parliamentary petitions created by medieval chancery clerks.

[23] G. R. Elton, 'Studying the History of Parliament', in his *Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946–1972* (Cambridge, 1974), ii. 3–18 (esp. pp. 7–11); M. A. R. Graves, *The House of Lords in the Parliaments of Edward VI and Mary I: An Institutional Study* (Cambridge, 1981). Note the comment by Graves (p. 141) that 'There is a dawning realisation that parliament was neither intended to be, nor was it in practice, a political arena . . . [r]ather it was, both in purpose and actuality, a market place for the transaction of an infinite variety of legislative business'.

Two particular strands of historical enquiry inform the content of the book. In the first place there is an attempt to assess the importance of the private petition in the government and governance of the late medieval English realm. Recent work has offered new and exciting perspectives on questions about the way in which late medieval England was governed, how royal authority affected life in the localities, and where the balance lay between the formal and informal channels of communication between the king and his subjects. But the private petition has been left out of the equation, and in consequence, our understanding of the importance of petitioning in parliament, and of parliamentary petitioning within the broader structure of medieval government, is still founded on untested and outmoded assumptions about the role of institutions in this period.[24] In particular, considerable advances have been made in overturning the older, simplistic notions of the existence of exclusively 'public' and 'private' political forums, but parliament still remains resolutely identified as an institution that existed to serve public needs. Indeed, so far removed from the day-to-day running of the kingdom is parliament considered to be that one recent commentator has even suggested that 'parliament was not strictly part of government'.[25] The aim of this book is to show that throughout the late medieval period parliament continued to meet the requirements of both private and public interests, and that decisions taken within parliament impacted both at a localized, individual level and on the national and international stage. The point is worth emphasizing to counteract the view that parliament has no relevance to our understanding of the nature and scope of interaction between the king and his subjects.[26] The revisionism of older institution-oriented scholarship, of which this

[24] Petitioning has been considered in much broader terms, most notably, by A. Harding, 'Plaints and Bills in the History of English Law, mainly in the period 1250–1350', in D. Jenkins (ed.), *Legal History Studies 1972* (Cardiff, 1975), pp. 65–86; and T. S. Haskett, 'Access to Grace: Bills, Justice, and Governance in England, 1300–1500', in Millet (ed.), *Suppliques et Requêtes,* pp. 297–317.

[25] Watts, *Henry VI*, p. 82. This view echoes an earlier opinion of G. L. Harriss that '[p]arliament was not, like the council, part of royal government . . . ': 'Political Society and the Growth of Government', p. 39.

[26] In disputing J. R. Maddicott's assertion that by the 1370s parliament had become the chief intermediary between the Crown and its subjects, C. Carpenter has asserted that 'this can only have been true for matters affecting the whole kingdom, not for local everyday issues, for which the nobility would have been the channel of communication', C. Carpenter, 'Gentry and Community in Medieval England', *Journal of British Studies* 33 (1994), 340–80, esp. p. 364, n. 106. It may perhaps be safer to conclude that several different channels of communication were available to contemporaries hoping to secure

view is a product, is most certainly a welcome development, but there is a danger of leaning too far the other way and of assuming that the formal processes, bureaucratic systems, and administrative procedures involved in parliamentary petitioning played no part in shaping the English polity. These are now no longer fashionable areas of study; but they are just as important as (and are often inseparable from) the more informal and often unrecorded manifestations of social networking and lordship that have received greater emphasis in recent scholarship.

The second strand running through the book considers the place of private petitioning in the exercise of royal jurisprudence. This addresses a notable lacuna in modern scholarship which has singularly failed to consider the importance of the king's personal intervention in having particularly difficult or intractable legal cases resolved. It is particularly noticeable how the discretionary justice exercised by medieval kings has not traditionally been the subject of enquiry for legal historians who have preferred to focus their attention on other areas, and especially developments in the common law and the growth of equitable jurisdiction within chancery.[27] And yet, no complete assessment of the judicial system in late medieval England, nor indeed of the nature and scope of medieval kingship itself, can ignore the application of 'royal grace' in matters that could not be easily resolved through the exercise of delegated authority. With the exception of a small number of high profile disputes between high status adversaries, current historiography makes very little allowance for the fact that the king, through parliament, offered arbitration on a much wider scale, and to a much broader selection of his subjects, in cases which could not be resolved because of the shortcomings and limitations of common law procedure.[28] Nor, for that matter, is any more attention paid to the

the favour of the king: some were formal and 'institutional', whilst others were founded on personal connections and informal dialogue.

[27] Note the absence of a consideration of parliament in J. H. Baker's *An Introduction to English Legal History* (4th edn, London, 2002). It also escapes attention in Paul Brand's general survey of the legal structure in 'The Formation of the English Legal System, 1150–1400', in A. Padoa-Schioppa (ed.), *Legislation and Justice* (Oxford, 1997), pp. 103–21. The one exception is A. J. Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester, 2001), pp. 186–9.

[28] The emphasis has tended to fall on the arbitration exercised by the nobility. See, for example, E. Powell, 'Arbitration and the Law in England in the Later Middle Ages', *TRHS*, 5th ser., 13 (1983), 49–67; E. Powell, 'The Settlement of Disputes by Arbitration in Fifteenth-Century England', *Law and History Review* 2 (1984), 21–43; C. Rawcliffe,

opportunity parliament provided for the king's subjects to access royal patronage. This gap in our knowledge requires a broader treatment of the king's personal involvement in judicial matters. For the purposes of this study, however, the focus will be specifically on parliament's role as provider of discretionary justice.[29] The parliamentary context adds an extra dimension to the enquiry, for whilst many cases brought into parliament were dispatched as a result of a decision taken directly by the king, many other petitions were addressed by the king's representatives in parliament and, ultimately, by the authority of parliament itself. This emerging sense of a specifically *parliamentary* jurisprudence is an important theme to be considered in this study.

The structure of the book reflects its aim to provide a comprehensive treatment of private petitioning in the late medieval period. The study is divided into two parts: the first, comprising, Chapters 2–6, traces the development of private petitioning from its inception at the end of the thirteenth century to the final stages of its development in the mid-fifteenth century. These chapters adopt a roughly chronological approach to the material and their focus is primarily on the impact of petitioning within parliament itself. Attention is paid to the factors that influenced the number of petitions presented in parliament; and also to the changing roles of the king, Lords, Commons on the one hand, and the legal and administrative personnel of parliament on the other, in the petitioning process. There is no single thematic approach that informs the contents of these chapters: an examination of the reception of private petitions in parliament inevitably requires a multiplicity of approaches to the subject, taking into consideration what we can learn about the nature of medieval kingship, the character and performance of royal bureaucracy, the political and legal culture of the age, and so on. Chapters 7–9 are linked by their focus on the contents of the petitions themselves. These chapters attempt to lay down some of the parameters within which petitioning in parliament operated. It is well known that parliament was considered to be a court of 'last resort': so

'The Great Lord as Peacekeeper: Arbitration by English Noblemen and their Councils in the Later Middle Ages', in J. A. Guy and H. G. Beales (eds.), *Law and Social Change in British History* (London, 1984), pp. 34–54; C. Rawcliffe, 'English Noblemen and their Advisors: Consultation and Collaboration in the Later Middle Ages', *Journal of British Studies* 25 (1986), 157–77. The one notable exception is the recent work of Harding, *Medieval Law*, esp. Ch. 6.

[29] One of the few discussion to have considered the sorts of cases brought before parliament for resolution is C. Rawcliffe, 'Parliament and the Settlement of Disputes by Arbitration in the Later Middles Ages', *Parliamentary History* 9 (1990), 316–42.

what cases tended to be considered here, and *who*, exactly, made use of the discretionary justice—or the access to royal patronage—that parliament was able to provide? Separate chapters address these key areas from the point of view of individual petitioners, on the one hand, and petitions in the name of communities, on the other. *How* petitions were written is also a key question to address, and in Chapter 9 some of the key considerations in relation to the writing, vocabulary, and presentation of petitions in parliament are set out.

Although extant private petitions may be found in a number of different TNA series, this study will use as its main source the collection of records known by its modern appellation: 'Ancient Petitions' (SC 8). This series contains by far the largest number of parliamentary petitions and it is now easily accessible and searchable as a result of recent work to have its contents calendared and loaded into the Catalogue of TNA.[30] Readers will be aware that the methodological difficulties associated with the dating and (more importantly) the provenance of the petitions in SC 8, as outlined earlier in the Introduction, have not yet been addressed. For the purposes of this study, it is clearly vital to establish that these were indeed petitions presented in parliament. This book tackles the problem by adopting the supposition that the first 155 files of SC 8 (i.e. petitions numbered 1–7768) contain parliamentary material.[31] This assumption rests on a close analysis of the origins of 'Ancient Petitions', focusing in particular on the nineteenth century when the collection was formed by drawing on former series that had discernibly closer links to the original files of parliamentary petitions. The first 155 files of the current series SC 8 formerly constituted the bulk of the old nineteenth-century collection known as 'Parliamentary Petitions': these documents were subsumed into SC 8 when the latter was created at the end of the nineteenth century. The connection between 'Parliamentary Petitions' and 'Ancient Petitions' need not detain us as this is well documented;[32] the real challenge lies in proving the link between the old collection of

[30] The work has been done as a result of an AHRC Resource Enhancement Scheme which provided funds for the project 'Medieval Petitions: A Catalogue of the "Ancient Petitions" in the Public Record Office'. The project is directed by Professor W. M. Ormrod; the author is co-director.

[31] My methodology is explained in greater detail in Dodd, 'The Hidden Presence', passim. I hope to publish a fuller exposition of the archival history of SC 8 'Ancient Petitions' in the near future. A useful breakdown of the origins of the contents of SC 8 can be found in H. C. Maxwell-Lyte's 'Introduction' to *Index of Ancient Petitions*, Lists and Indexes, i (1892, repr. 1966), pp. 9–10.

[32] Ibid.

'Parliamentary Petitions' and the cases actually presented in parliament between the thirteenth and fifteenth centuries. Research in the field has been stymied by an uncertainty over the use of the term *parliamentary* to describe the earlier series, and a specific concern that the term may not have any sound methodological justification. In fact, the provenance of 'Parliamentary Petitions' appears to have been secure, for there exist a number of obsolete indexes and handwritten notebooks which prove the parliamentary pedigree of the early series by showing a clear and unbroken connection to the original files which held the petitions once they had been expedited in parliament. The notes were compiled by individuals (most notably Sir William Illingworth) who had access to the medieval files before they were dismembered and reorganized into a modern arrangement. This, then, is the crux of the case for regarding a large proportion of SC 8 as comprising specifically petitions presented in parliament. For the purposes of this study, and in light of these arguments, almost all the petitions used for illustrative purposes will be drawn from this initial run of 155 files of SC 8 (i.e. petitions 1–7768).[33]

The primary aim of the book, it should be stressed, is not to describe the content of petitions in exhaustive detail, but to analyse the significance and broader context of the phenomenon of private petitioning. To this end, significant use is also made of the parliament rolls which were employed extensively to record summaries of petitions (this phenomenon was limited to the late thirteenth and early fourteenth centuries), proceedings on cases brought by petitions, and other decisions and rulings which affected the evolution and development of private petitioning across the late medieval period. Chancery and exchequer records are also heavily utilized, particularly to address the vexed problem of quantifying the cases that were brought into parliament by private interests. These approaches reflect the fact that the book is not just about the private petition per se; it is about the private petition *in parliament*. Its aim is to consider how important parliament was as a venue for private complaint, and how important private complaint was in defining the nature and work of parliament. Such an approach cannot possibly do justice to the enormously rich and varied source material contained within TNA series SC 8. Clearly, this will not happen until many more specialized and narrowly focused studies have been published. In this book, petitions are employed primarily for illustrative purposes: to

[33] Some petitions may be drawn upon from outside this range, but only where their parliamentary provenance can be demonstrated.

demonstrate trends, to highlight changes, and to provide case studies in support of some of the more general conclusions reached in the discussion. In this, I have benefited enormously from the electronic searching facility which the 'Medieval Petitions' project now provides via TNA Catalogue. The hope is that by outlining some key areas in the development and nature of private petitioning in the late Middle Ages, the discussion will provide the starting point for a more inclusive appreciation of the importance of the petition in parliamentary history, as well as reinvigorate interest in the more general function served by the petition in the political and legal culture of the period.

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PART I

PRIVATE PETITIONS IN PARLIAMENT

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2

The Emergence of Private Petitions

2.1 BEGINNINGS

The absence of any direct contemporary reference means that it is not possible to state with certainty when private petitions first began to be presented on a regular basis in the late medieval parliament. Nevertheless, we can be fairly confident of two basic points: firstly, that when petitions began to be presented to parliament in large numbers, this was not a development which had evolved slowly over the course of the thirteenth century, but was the result of an abrupt and deliberate shift in government policy over a very short period of time; and secondly, that this sudden policy change occurred at some point in the 1270s, during the early years of Edward I's reign.[1] From its inception, early in the thirteenth century, parliament had acted as a 'superior' judicial court, but it was not until Edward I's reign that it performed this role regularly and on a large scale. The key point of difference lay in the fact that whereas prior to Edward I's reign parliament had been regularly used by the Crown to clear up particularly difficult or complex cases referred to it by the royal courts, under Edward I parliament was effectively 'opened up' so that the broader population could now access it directly and on their own initiative.[2] The earliest surviving evidence we have for the presentation of private petitions is a series of transcripts that

[1] The arguments for these two points have been most succinctly put by J. R. Maddicott, 'Parliament and the Constituencies, 1272–1377', in R. G. Davies and J. H. Denton (eds.), *The English Parliament in the Middle Ages* (Manchester, 1981), pp. 62–8.

[2] Under Henry III petitions or 'plaints' were presented in parliament, but only sporadically and in very small numbers; see G. O. Sayles, *The King's Parliament of England* (London, 1975), pp. 42–5. On the very limited nature of petitioning under Henry III, see D. A. Carpenter, 'The Beginnings of Parliament', in *The Reign of Henry III* (London, 1996), p. 384; A. Harding, *Medieval Law and the Foundations of the State* (Oxford, 2002), pp. 170–5. For early examples of cases referred to parliament, see G. O. Sayles, *The Functions of the Medieval Parliament* (London, 1988), pp. 82 (v), 117 (ii), 122–3 (ii, iii, iv).

have been printed in the first pages of the *Rotuli Parliamentorum*.[3] These consist of sixty-four petitions which have been dated to the late 1270s, with the largest number positively identified to the parliament of May 1278.[4] They do not constitute an original *roll* of petitions,[5] but rather the contents of an original file, or a selection of cases from a number of files, initially recorded by William Prynne and transcribed by Sir Matthew Hale in the seventeenth century. The nascent character of these early supplications is indicated by the great diversity of diplomatic style employed by the individuals responsible for drafting them; over half of the sixty-two petitions presented in 1278 had employed different forms of address and whilst twenty-three of the sixty-four (36%) were written in Latin the remainder were written in French.[6] By 1305, if not sooner, the language and diplomatic of petitioning were to become far more standardized: the vast majority of petitions by the end of Edward I's reign were written in French and were routinely addressed to the king or to the king and his council.

The historical conundrum attached to the petitions of 1278 is whether they mark the actual inauguration of petitioning in parliament or whether they are merely an accident of survival, large quantities of petitions having already been presented in parliament previously. It must be said that a preliminary consideration suggests that 1278, if this was the first year when petitioning really took off, fits quite conveniently into the broader picture of judicial and administrative reform undertaken by Edward I in the 1270s. Between October 1274 and March 1275 Edward instigated a major inquiry in the localities whose purpose was not only to investigate the rights and liberties alienated from the Crown, but also the excesses of sheriffs and other royal officials and the misdeeds of private bailiffs.[7] This great inquest, known as the Hundred Rolls inquiry (because offences were enrolled according to the hundreds of each county), was originally

[3] *PROME*, Edward I, Petition 1. [4] Ibid., Introduction.

[5] Michael Prestwich has described these petitions as composing a roll: *Edward I* (New Haven and London, 1988), p. 465. H. G. Richardson and G. O. Sayles have pointed out that the dating of a couple of these petitions is incorrect, which appears to confirm that they were not part of a single document or roll drawn up at the time of one parliament: *The English Parliament in the Middle Ages* (London, 1981), Ch. 19, p. 139, n. 2. For a discussion of the relationship between rolls of petitions and files, see Appendix 1.

[6] L. Ehrlich, 'Proceedings against the Crown (1216–1377)', in P. Vinogradoff (ed.), *Oxford Studies in Social and Legal History* (Oxford, 1921), pp. 84–5; Maddicott, 'Parliament and the Constituencies', p. 63.

[7] H. Cam, *Studies in the Hundred Rolls: Some Aspects of Thirteenth Century Administration* (Oxford, 1921), pp. 114–92; idem, *The Hundred and the Hundred Rolls* (London, 1930), pp. 27–51; Prestwich, *Edward I*, pp. 92–8.

intended to be followed by a special judicial commission charged with hearing and determining the cases brought to light, but Edward's preoccupation with the war in Wales meant that it had no chance to convene. It was not until 1278 that Edward I was at last able to mobilize the judiciary into addressing the findings of the Hundred Rolls inquiry. The result was not a new general commission, but a significant expansion in the remit of the general eyre which, from August 1278, began to administer seventy-two new articles—including *Quo Warranto* cases—that were directly based on the 1274–5 inquiry.[8] The year 1278 thus represented an important stage in the expansion and increased availability of royal justice in the localities. It is quite feasible that the introduction of petitioning in parliament was intended to complement these developments by providing a recognized forum at the centre for cases which could not otherwise be dealt with locally by the justices of eyre.

The problem with this hypothesis is that the general eyre of 1278 was set up at the Gloucester Parliament in August, whereas the petitions printed in the *Rotuli Parliamentorum* have been dated to an earlier parliament held at Westminster in May.[9] Clearly the two initiatives were not conceived as a single coordinated judicial programme. In fact, petitioning in parliament probably predated the addition of the new articles to the eyre by more than simply a few months, for it is difficult to comprehend how the May parliament could possibly have marked the start of full-scale petitioning in parliament when no local representatives are recorded to have been returned either to this session or to the preceding parliament of November 1276.[10] This point is made not in reference to the possible role of MPs as the sponsors of private petitions, but to the vital part they might have played in transmitting the Crown's initial intention to receive complaints in parliament. There is no indication that an announcement of this nature was made by letters patent or statute: how, then, could the petitioners of the late 1270s, who came from places as widely dispersed, and as far removed from Westminster, as Anglesey, Cheshire, Berkshire, Nottinghamshire, and Cambridgeshire, have known that parliament was open for large-scale petitioning?[11] In fact, there is internal evidence from the 1278

[8] D. W. Sutherland, *Quo Warranto Proceedings in the Reign of Edward I, 1278–1294* (Oxford, 1963), pp. 25–36.

[9] Richardson and Sayles, *English Parliament*, Ch. 5, pp. 137–8.

[10] E. B. Fryde, D. E. Greenway, S. Porter, and I. Roy (eds.), *Handbook of British Chronology*, 3rd edn (London, 1986), pp. 545–6.

[11] *PROME*, Edward I, Petition 1, items 25 (21); 28 (24); 38 (34); 43 (40); 59 (56).

petitions themselves to indicate that petitioning predated these first extant records. Richardson and Sayles noted that one petition referred to a supplication presented in a previous parliament, which had been sent to the exchequer by Robert de Scarborough and Nicholas de Stapelton 'who were assigned to receive petitions' in that assembly;[12] and they identified two further petitions which almost certainly should have been ascribed by Hale to earlier parliaments—the earliest date being 1275.[13]

Interestingly, J. R. Maddicott has argued that it was in April 1275, in the first parliament of the reign, that petitioning first appeared.[14] Maddicott bases this view on the apparent link between parliament and the appearance of special commissions of oyer and terminer, many of which were evidently first issued to hear and determine cases that had been brought to light by parliamentary petitions.[15] He points to the fact that in May 1275, shortly after parliament had ended, special commissions of oyer and terminer suddenly appear in the records for the first time and over a third of these initial cases were noted to have been issued in response to a 'plaint'.[16] The parliamentary provenance of these first commissions is further suggested by the fact that commissions of oyer and terminer issued in the following years appear to have clustered into periods immediately following the close of sessions of parliament.[17] Maddicott's views have recently been endorsed by Paul Brand, who has identified at least two further cases that were brought to the attention of the king, presumably as petitions, in April 1275.[18] One factor that could be regarded as significant in this respect is that it was from this year that parliament began to meet regularly, more often than not on a biannual basis. From the very beginning of his personal rule Edward appears to have envisaged parliament as a consistent and predictable part of the political calendar. This contrasted with the reign of Henry III, when parliament had met

[12] *PROME*, Edward I, Petition 1, items, 44 (41); Richardson and Sayles, *English Parliament*, Ch. 6, p. 534.

[13] Ibid., 40 (37) and 41 (38); Richardson and Sayles, *English Parliament*, Ch. 19, p. 139, n. 2.

[14] J. R. Maddicott, 'Edward I and the Lessons of Baronial Reform: Local Government, 1258–80', in P. R. Coss and S. D. Lloyd (eds.), *Thirteenth Century England I* (Woodbridge, 1986), pp. 1–30.

[15] Ibid., pp. 23–5. The date first seems to have been suggested by Sayles, *King's Parliament*, p. 76.

[16] See *CPR 1272–1281*, pp. 87, 118–20.

[17] Maddicott, 'Edward I and the Lessons of Baronial Reform', p. 25. However, see my discussion in Ch. 7, pp. 200–2.

[18] P. Brand, 'Petitions and Parliament in the Reign of Edward I', in L. Clark (ed.), *Parchment and People: Parliament in the Middle Ages* (Edinburgh, 2004), pp. 14–15.

on a more ad hoc and irregular basis, primarily because its meetings were determined by the Crown's occasional need for taxation and/or its intermittent desire to consult the political community on important matters of policy.[19] The change under Edward I reflected a shift in the Crown's perception of what functions parliament should serve. Parliament now fitted into a set pattern of regular meetings and this, almost certainly, was to allow it to cater for the constant stream of complaints which now began to filter through to central government from the localities.[20]

On the face of it, J. R. Maddicott's theory is the most convincing explanation for the emergence of the private petition; the year 1275, sandwiched as it was between the Hundred Rolls inquiry, which had demonstrated the urgent need for government action, and the Welsh war, which temporarily refocused the king's attention elsewhere, was the most opportune moment before 1278 for Edward I to introduce the 'momentous innovation'[21] of large-scale petitioning at parliament. It is quite conceivable that it took three years for there to have been the sort of number and geographical distribution of petitions that we see in the surviving examples dating to the Easter parliament of 1278. Maddicott's precise dating to the parliament of May 1275 is also very plausible, given the highly suggestive evidence of the commissions of oyer and terminer[22] and the fact that we have evidence for the appointment of triers (or auditors) of petitions in April 1275;[23] but one or two loose ends remain. In the first place, it is noticeable that it was not until the October parliament of 1275 that Edward I started to deal with *Quo Warranto* proceedings. These were cases where individuals had been issued with writs compelling them to show the warrant (hence, *Quo Warranto*) that

[19] A point made by R. F. Treharne, 'The Nature of Parliament in the Reign of Henry III', in *Simon de Montfort and Baronial Reform: Thirteenth-Century Essays* (London, 1986), p. 209.

[20] Evidence for a conscious policy of holding regular parliaments can be found in a letter Edward sent to the pope in June 1275 in which he refers to a meeting 'of the council of *procures* of the realm in parliament, which is usually celebrated in England about the octaves of the Resurrection': *CCR 1272–1279,* p. 197 (cited by Richardson and Sayles, *English Parliament*, Ch. 5, p. 134).

[21] Maddicott, 'Parliament and the Constituencies', p. 62.

[22] Note, however, that commissions of oyer and terminer were being issued as early as March 1273, and that the commissions of May 1275 were not the first to be issued as a result of a 'plaint': there are earlier examples dating to November 1274; *CPR 1272–1281*, pp. 32, 114.

[23] An enrolled patent letter dating to 26 May 1275 refers to a dispute between the city of York and the abbot of St Mary's, York, in which John son of John and Master Geoffrey de Haspal were appointed as triers in parliament: *CPR 1272–1281*, pp. 119–20.

entitled them to hold a franchise from the Crown. In the words of D. W. Sutherland, from November 1275, 'a thin but constant stream of references in the Close Rolls and the Exchequer Rolls shows that the king maintained his intention to judge in parliament the warrants for franchises'.[24] If we accept, as most historians do, that the Hundred Rolls inquiry prompted the introduction not only of *Quo Warranto* proceedings in parliament, but also of petitioning in parliament,[25] there is an obvious discrepancy in the chronology. Either there was not such a close relationship, or it was not until the second parliament of Edward I's reign, which met in the autumn, that petitions began to be presented in parliament in large numbers.

The second point concerns the presence in the parliament of April 1275 of a considerable body of representatives from the localities. Writs had been issued to sheriffs before this assembly ordering them to ensure the attendance of four knights from each county and four or six burgesses from every city, borough, and market town; in all, it has been estimated that between 700–800 representatives were present in the April parliament, which was the highest number of MPs ever returned in the late Middle Ages.[26]Maddicott rejected the suggestion that these individuals had been summoned to assent to the new customs duties on wool and hides and postulated instead that their presence was required to ensure that the first Statute of Westminster had 'as large an audience as possible'.[27] He further argued that an (undiscovered) invitation to deliver *querelae* was probably sent out to the counties before the April parliament and that the representatives may have brought with them the grievances of their constituents. The writs sent to the sheriffs ordering parliamentary elections was the most obvious mechanism for the Crown to solicit petitions, if this is what it did; but the few surviving examples contain no hint of such an invitation, stating merely that the representatives should attend parliament at the allotted time.[28] It is also curious that no mention was made in the Statute of Westminster itself of the Crown's intention to have parliament deal with large numbers of complaints. As one of the most comprehensive and widely publicized acknowledgements of a king's commitment to restore the rule of law, the statute was the obvious way for Edward to indicate the

[24] Sutherland, *Quo Warranto Proceedings*, p. 21.
[25] Maddicott, 'Edward I and the Lessons of Baronial Reform', p. 24.
[26] Ibid., p. 15. [27] Ibid., *Stats. of Realm*, i. 26–39 (items i–li).
[28] C. H. Jenkinson, 'The First Parliament of Edward I', *EHR* 25 (1910), 231–6.

new role which he envisaged for parliament, and yet the assembly was not mentioned once in the legislation. Perhaps, in the end, we should regard the start of large-scale petitioning in parliament as a more gradual process. The only plausible way to reconcile the divergent strands of evidence is to conjecture that in April 1275 complaints were presented in parliament unsolicited, but that the Crown, recognizing the advantages to the practice, sent the representatives away at the end of the session fully concordant with its intention to accommodate petitioning on a grand scale in the future. The year 1275 marked the inauguration of private petitions in parliament, but whether it was the April or October parliament that witnessed the first real fruits of the Crown's new policy is unclear: the oyer and terminer evidence favours the earlier parliament; but the *Quo Warranto* proceedings and the practicalities of advertising the new procedure point to the later parliament held in October.

2.2 MOTIVES

Having hinted at the involvement of the broader political community when petitioning first emerged it is important to stress that the new procedure depended entirely on the goodwill of the Crown for its inception and also for its continued presence on the parliamentary agenda in time to come. We can be sure that petitioning in parliament was welcomed by the broader population; but it was the Crown that was responsible for setting up the bureaucratic and judicial infrastructure necessary to deal with petitions in parliament, and it was the Crown (or the king, his councillors and justices) that had to give up precious time to scrutinize private grievances and pass judgement over them. In explaining why Edward I should have solicited the complaints of his subjects in the mid-1270s, one must acknowledge the importance attached by contemporaries to the principle that it was the king's duty to dispense justice to his subjects. In a sense, by introducing widespread petitioning in parliament, Edward I was simply conforming to the expectation, affirmed in his coronation oath, that justice should be made available to all those who sought it.[29] Nor should we necessarily assume that this judicial function was embraced simply out of political necessity; there are indications that Edward I took a strong personal

[29] H. G. Richardson, 'The English Coronation Oath', *Speculum* 24 (1949), 44–75.

interest in the dispensation of justice and, at least in the first part of his reign, had a very real concern that justice should be made widely and readily available to all his subjects.[30] This much is indicated by the very first close letter issued by Edward to all his sheriffs three days after his succession in November 1272. Having declared his intention to clamp down on those who broke the law, Edward then described himself as 'the debtor to all and singular of the realm in the exhibition of justice and in the preservation of the peace'.[31] The letter ended by announcing that 'the king is and will be prepared to exhibit justice, by the Lord's will, to all and singular in all rights and things touching them against all persons whatsoever, great and small'.[32] If it were not for the timing, one might easily see *this* as the invitation to the king's subjects to have their grievances brought before parliament. The declaration expressed in very clear terms the basic principle that underlay private petitioning in parliament, namely, that any of the king's subjects could, if they wished, take their individual complaints to the very heart of government, indeed to the king himself, and appeal for justice against whoever or whatever aggrieved them. The announcement showed very clearly Edward's determination to fulfil his judicial obligations to his subjects and it prepared the way for the transformation of parliament into a large-scale judicial forum once the king had returned to England in August 1274. But there were other more practical reasons why the king should have opened parliament up to large-scale private petitioning. These factors can be grouped into two main areas: on the one hand, the *pressures* which the king faced to reform the judicial structure and have petitioning in parliament take a central place within it; and, on the other hand, the *incentives* which existed in pursuing this action as a means of enhancing the reach and scope of the king's authority.

2.2.1 Pressures

The greatest pressure Edward I faced when he returned to England in 1274 was the urgent need to restore confidence in the authority and

[30] Prestwich, *Edward I*, pp. 294–5.

[31] *CCR 1272–1279*, p. 1.

[32] This declaration may have formed the basis of the report by the Furness chronicler who recorded that at his coronation Edward had ordered justice to be maintained everywhere, the guilty, even knights and great men, were to be hanged, and justices, bailiffs, and sheriffs were to take no bribes: *Chronicles of the Reigns of Stephen, Henry II and Richard I*, ed. R. Howlett, 2 vols. (Rolls Series, 1884–9), ii. 567.

reputation of the Crown. The Baronial Reform Movement of 1258–60 had revealed some fundamental flaws in the kingship of Henry III and, whether or not Edward supported this movement,[33] he cannot have failed to have drawn some important lessons from the opposition that his father had faced.[34] In one important respect Edward appears to have borrowed directly from the agenda advocated by the barons in 1258, for the Provisions of Oxford had specified exactly the sort of 'regularisation' of parliament that Edward had implemented at the very start of his reign. The Provisions had expressed the need for parliaments to meet three times a year at fixed dates to allow it 'to review the state of the realm and to deal with the common business of the realm and of the king together'.[35] At this point, it is doubtful whether the barons envisaged parliament as a petitionary forum in the way it was to develop under Edward I, but the seeds had been sown for a more proactive and schematized employment of parliament as an interface between the king and his subjects. There were other important continuities between the reform agenda of the mid-thirteenth century and the 'official' policies adopted by the Crown in the 1270s. A central element of the programme propounded by Henry III's opponents, and one of the principal reasons they succeeded in attracting such a broad constituency of support against the king, was their determination to provide justice in the localities, particularly against the corruption and malpractice of local or Crown officials. This overriding concern was manifested at the very beginning of the reforms in 1258: in the undertaking made by the opposition magnates in the Oxford Parliament to provide good lordship to their tenants; in the commission given to the justiciar, to correct the faults 'done by all other justices, and by officials, by earls, barons and all other persons'; and in the county commissions charged 'to hear all complaints of any trespasses and injuries whatsoever, done to any persons whatsoever by sheriffs, bailiffs, or any other persons'.[36] These measures not only demonstrated the sensitivity of the reform barons

[33] D. A. Carpenter, 'The Lord Edward's Oath to Aid and Counsel Simon de Montfort, 15 October 1259', *BIHR* 58 (1985), 226–37; H. Ridgeway, 'The Lord Edward and the Provisions of Oxford (1258): A Study in Faction', in Coss and Lloyd (eds.), *Thirteenth Century England I*, pp. 89–99; Prestwich, *Edward I*, pp. 24–34.

[34] Maddicott, 'Edward I and the Lessons of Baronial Reform', pp. 1–30.

[35] *Documents of the Baronial Movement of Reform and Rebellion, 1258–1267*, ed. I. J. Sanders (Oxford, 1973), pp. 110–11. For discussion, see Treharne, 'Nature of Parliament', pp. 221–4.

[36] *Documents of the Baronial Movement,* pp. 96–113. For a discussion of these measures see J. R. Maddicott, *Simon de Montfort* (Cambridge, 1994), pp. 151–72.

to conditions in the localities; they also highlighted the catastrophic failure of Henry III's regime to provide a reliable and effective system of local justice.[37] When Edward I succeeded to the throne in 1272 he inherited a kingdom that was on the brink of internal collapse: faced with this situation he had no choice but to address and rectify the failings of his father, even if this meant tacitly embracing the underlying principles of proactive and impartial kingship that had been espoused by his father's opponents.

The county commissions, in particular, showed the willingness of the Reform Movement to embrace local aspirations, for they were entrusted not to royal justices but to four 'prudent and law-worthy knights' from each county of the kingdom.[38] Significantly, the knights had originally been charged to attend the county court and give the justiciar the cases that they heard; but this was soon modified and they were directed instead to present the complaints straight to the king and council in the parliament of October 1258.[39] This did not mark the beginning of a new judicial convention; but it did reinforce the function of parliament as a point of contact between central government and local people, in which the former could generate political support and the latter could air their grievances. It is noteworthy too that it was from this point that the practice of sending representatives to parliament gathered momentum: in the parliament of October 1259 the 'community of the bachelors of England' (i.e. the knights) protested at the slow pace of reform; in 1261, the king and rebellious magnates summoned knights to rival assemblies; in 1264 Simon de Montfort summoned knights to a parliament; in 1265 he summoned knights and burgesses, 'not merely to witness, but also to bring forward their grievances and to participate' in the January parliament;[40] and local knights were probably summoned to at least two parliaments between 1268 and 1270.[41] Thus, when Edward I succeeded to the throne he not only confronted a stark political reality—that failure to provide adequate judicial machinery to mollify local discontent risked instability and possibly political opposition—he also faced the

[37] D. A. Carpenter, 'King, Magnates, and Society: The Personal Rule of King Henry III, 1234–1258', *Speculum* 60 (1985), 39–70, esp. pp. 44–9, 62–70.

[38] *Documents of the Baronial Movement*, pp. 98–9; M. Powicke, *The Thirteenth Century, 1216–1307*, 2nd edn (Oxford, 1962), pp. 143–4.

[39] Maddicott, *Simon de Montfort*, p. 165.

[40] Ibid., pp. 316–17.

[41] For the return of representatives to parliament in this period see Carpenter, 'The Beginnings of Parliament', pp. 390–5.

raised expectations of local men, who had already tasted the benefits of parliamentary representation and the opportunity it provided of having local grievances brought forward directly before the king. These pressures would have been accentuated by the fact that many of the local aspirations and grievances which emerged during the period of baronial reform—particularly over the issue of official misconduct—still remained unsatisfied by the time Edward finally returned to England in 1274.[42] Edward I could attempt to revitalize royal justice in the localities in order to reduce the misbehaviour of royal and seignorial officials there, as he did. But ultimately the only way to ensure that the victims of official misconduct could have their grievances effectively addressed was to take the case away from its local context and bring it to the centre where it would receive full and proper attention without the victim having to endure intimidation or subversion at the hands of their oppressor. The concentration of the professional and legal classes in parliament, at a time when their normal duties had been suspended because parliament itself was in session, presented the ideal occasion in which these cases could be brought to judgement.[43]

The Baronial Reform Movement not only raised expectations from a political and judicial point of view; it also made a significant contribution in establishing the 'plaint' as an accepted legal device to gain redress.[44] The plaint was the forerunner of the parliamentary petition. Although some were presented in the central law courts, it was principally in the eyre—the principal agency of royal justice in the provinces in the thirteenth century—that the plaint established itself, alongside the writ, as the mechanism which initiated legal procedure. The essential characteristic of the plaint was that unlike an original writ, which was

[42] Maddicott, 'Edward I and the Lessons of Baronial Reform', pp. 2–9.

[43] For a discussion of the royal justices in parliament, see D. Higgins, 'Justices and Parliament in the Early Fourteenth Century', *Parliamentary History* 12 (1993), 1–18. Parliaments were often held concurrently with the law terms. In this situation the justices were expected to set their legal duties to one side whilst they attended to the (legal) affairs of parliament. Inevitably this impacted on the work of the royal courts, as is demonstrated by an entry in a king's bench roll which noted the inability of the justices of eyre at York in 1279 to provide the king with the record and process of a plea, because of the absence of William of Saham and his colleagues 'who are at present in the king's parliament'; Sayles, *Functions of Medieval Parliament*, p. 164 (i). For the career of Saham, see P. Brand, 'Saham, William of (*c*.1225–1292)', *ODNB*.

[44] For what follows see A. Harding, 'Plaints and Bills in the History of English Law, mainly in the period 1250–1350', in D. Jenkins (ed.), *Legal History Studies 1972* (Cardiff, 1972), pp. 65–82.

issued from chancery as a result of a plaintiff's specific request (and fee), the plaint could be presented (with no fee) direct to a royal judge and might therefore begin an action in its own right.[45] Whereas a plaintiff suing a writ was bound by a very rigid set of legal rules and conventions, which could restrict the subject-matter of the grievance and the scope for redress, the plaint was far more flexible: it could be made either verbally or by written 'bill' and its subject-matter was virtually unlimited and certainly covered a much greater range of grievances than the system of writs accommodated. Whereas the issuing of a writ invariably required the plaintiff to employ the services of a lawyer or attorney, whose knowledge of legal procedures and Latin would have been essential, a plaint was much more straightforward to compile not least because it was customary to draft such pleas in French.[46] The introduction of plaints thus not only extended the scope of redress available to potential litigants; it also considerably increased the range of people to whom redress could be provided.

Before the Reform Movement, plaints in the eyre were not unheard of,[47] but were probably very few because strict limitations were placed on the time within which they could be heard—apparently twelve months after the injustice had been committed.[48] The year 1258, however, was a turning point, for the revival of the justiciarship seems in large measure to have been aimed at ensuring that long-standing grievances, presented in the form of a plaint, could be heard and redressed. When the justiciarship was abandoned and a new scheme was devised in the parliament of October 1259, in which special justices of eyre perambulated through the regions on three county circuits, a more generous time frame was allowed to plaintiffs: all trespasses committed within the previous seven years could form the subject-matter of a plaint to the justices.[49] On the resumption of the general eyre in 1261 time limitations on plaints seem to have been discarded completely. This, together with a greater freedom accorded to the scope of grievance that plaints could embody—particularly over actions of trespass and

[45] *Select Cases of Procedure without Writ Under Henry III*, ed. H. G. Richardson and G. O. Sayles, Selden Society, 60 (London, 1941), pp. lxix–clv. For discussion of writ procedure, see A. H. Hershey, 'Justice and Bureaucracy: The English Royal Writ and "1258" ', *EHR* 113 (1998), 829–51.

[46] *Select Bills in Eyre, A.D. 1292–1333*, ed. W. C. Bolland, Selden Society, 30 (London, 1914), p. xix.

[47] *Roll of the Shropshire Eyre of 1256*, ed. A. Harding, Selden Society, 96 (London, 1981), p. xxiv; idem, 'Plaints and Bills', p. 68.

[48] *Select Cases without Writ*, p. xxxiii.

[49] Ibid., pp. xxxiv–xxxvi.

debt—increasingly opened the procedure to a wider body of litigants.[50] Indeed, it was a measure of the growing popularity of the plaint, together with the importance attached to it by royal clerks, that from 1261 special sections of *querele de transgressionibus* began to appear in separate membranes on the eyre rolls, denoting those cases which had been initiated by the presentation of an oral or written complaint.[51] The introduction of petitioning under Edward I did not, therefore, mark the beginning of a new judicial convention, but drew heavily on customs and practices that were already in place. Petitions in parliament had, to a great extent, been anticipated by plaints or *querelae* in the eyre—a point which Alan Harding makes particularly effectively when he observes that 'the eyres were the *parlemenz* [sic] of the real commons of England'.[52] (In fact, the comparison might more appropriately be made the opposite way round: the inception of large-scale petitioning in parliament effectively transformed it into a superior, centralized, and static general eyre, with all the non-specialism, omnicompetence, and receptivity to public demand that had been the hallmarks of the latter.) Whether this climate of the plaint represented a pressure on Edward I or simply a useful framework with which to introduce an additional level to the procedure, in the form of parliamentary petitioning, is a question to which no positive answer is possible; but we may suspect that the inauguration of petitioning in parliament served an extremely useful, and necessary, role in alleviating some of the burden that the eyre was now facing as a result of the growth of plaint procedure.

2.2.2 Incentives

Treated in isolation, the previous section implies that petitioning in parliament grew as a result of political and legal developments that lay outside the control of Edward I. Some historians appear to have endorsed this view by suggesting that petitioning was not encouraged by the Crown but was foisted on it by a populace hankering for more effective and vigorous royal justice in the localities.[53] Although, to some

[50] Ibid., p. cvi; *Roll of the Shropshire Roll*, pp. xlii–xliii; Harding, 'Plaints and Bills', pp. 70–1.

[51] Ibid., p. 68.

[52] A. Harding, *The Law Courts of Medieval England* (London, 1973), p. 87.

[53] G. L. Haskins, 'The Petitions of Representatives in the Parliaments of Edward I', *EHR* 4 (1938), 1–20, pp. 9–13; Powicke, *Thirteenth Century England*, p. 350.

extent, this view has been discredited, the above discussion does highlight a crucial point: that Edward did not shape the circumstances in which he succeeded to the throne and his initial actions, including the encouragement of petitioning in 1275, are very likely to have been influenced by trends and pressures inherited from the previous reign. Against this, however, it is indisputable that petitioning served some extremely useful purposes for the Crown and that, far from being forced into the new procedure, Edward is more likely to have seen it in positive terms, as an opportunity to promote royal interests and significantly increase his own personal authority. This positive outlook is suggested by the fact that petitioning in parliament was not an isolated phenomenon, but was paralleled by other instances in the reign when Edward I directly solicited the complaints of his subjects: in 1279, for example, he invited the delivery of complaints against his disgraced chamberlain, Adam de Stratton; in October 1289, a general inquiry was launched into the misdeeds of royal officials, in which the aggrieved were told to bring their complaints to Westminster; and in 1294, complaints were probably solicited against Edward's treasurer, William March (in 1307, at the very start of Edward II's reign, a similar process was used against another royal treasurer, Walter Langton).[54] When we note that on each of these occasions Edward's reason for inviting complaints was so that his own officials might be brought to account, we are provided with an important clue as to why the Crown willingly embraced the idea of regular petitioning in parliament. Whereas these rather ad hoc commissions were directed against corrupt royal officials operating at the 'centre', parliament provided an excellent opportunity for the king's subjects to bring to attention the wrongdoing of sheriffs and other royal officials in the localities.

In fact, it is very clear that Edward placed great importance in bringing his rapacious local ministers to heal: in 1274 and 1278 the king affected widespread changes in the personnel and duties of his sheriffs and, as we have seen, the Hundred Rolls inquiry of 1274–5 specifically charged local juries to expose official misconduct.[55] Moreover, in 1278 the writs of summons to the general eyre explicitly stated, for the first time,

[54] Maddicott, 'Parliament and the Constituencies', pp. 65–6. For the 1289 inquiry see P. Brand, 'Edward I and the Judges: The "State Trials" of 1289–93', in Coss and Lloyd (eds.), *Thirteenth Century England I*, pp. 31–40. Maddicott's revision of Powicke and Haskins rests on the reassertion of the views of L. Riess, The *History of English Electoral Law in the Middle Ages*, trans. K. L. Wood-Legh (Cambridge, 1940), pp. 3–5.

[55] Prestwich, *Edward I*, pp. 93, 235; Maddicott, 'Edward I and the Lessons of Baronial Reform', pp. 19–20, 26–7.

that justices were to hear complaints concerning the king's ministers and bailiffs, the ministers and bailiffs of others, and anyone else. The particular advantage offered by parliament as a forum for the airing of these kinds of grievances was that the assembly could be held regularly (twice every year instead of once every seven years, which was the average interval between visitations of the eyre) and cases could be heard relatively free from subversion by local interests.[56] J. R. Maddicott summed up the benefits Edward derived from soliciting complaints against his ministers by stating that his purpose was threefold: 'to demonstrate his care for his people's interests, to acquire the evidence needed for the conviction of the accused and to let it be known that the same procedure might be used against future wrongdoers'.[57] Behind these reasons, however, lay a far greater incentive: by introducing a legal channel by which men (or women) of lesser status could seek redress without resorting to local judicial structures (which could be dominated by powerful interest groups), Edward not only made local government more accountable, but in doing so significantly increased the power and control that the Crown wielded over its servants. The Crown could enforce and enhance its authority in the localities by drawing on the services of local men to act on the king's behalf, but all this counted for nothing if these same men used their connection to the Crown in a way that resulted in the alienation of the population from royal governance. The actions of unscrupulous and unpopular local officials damaged royal prestige and weakened royal authority within local communities. The use of parliament as a venue for local complaint promised to be decisive in counteracting this unsatisfactory state of affairs, by allowing individuals to bypass local power structures and gain redress direct from the king himself. Petitioning in parliament also provided an extra dimension to the control and influence which the Crown exercised locally, for the possibility of presenting a petition to the king at parliament all at once made the Crown more accessible to people who had hitherto remained relatively isolated from royal governance. In short, large-scale petitioning in parliament represented an important stage in the growth and influence of the late medieval English state.

Petitions about the misdeeds of officials, though important, actually did not constitute the majority of cases to reach parliament; only 20% of the sixty-two petitions presented in the late 1270s were of this nature

[56] Maddicott, 'Parliament and the Constituencies', pp. 66–7.

[57] Ibid., p. 66.

and of the twenty-three petitions presented by county communities between 1298 and 1307, only 30% fell within this category.[58] In fact, the inauguration of petitioning should be placed in the much broader context of Edward I's desire to keep tabs on local affairs generally. This certainly involved hearing about the misconduct of royal officials, but it also entailed dealing with a whole range of other issues, from disputes over land to the complaints of religious orders and the plight of local communities. From the very beginning, petitions presented in parliament covered a remarkable diversity of subject-matter. Amongst the petitions dated to 1278 is one from a group of London bakers complaining about the unpaid debts of the king's father; a complaint against the action of John de Warenne, earl of Surrey, who was accused of exercising powers in excess of the rights he possessed as holder of the barony of Lewes; and a request from Theobald de Neville asking to have his rights recognized in two mills and seven acres of arable land in Tugby.[59] There was the petition of Lady Alice Beauchamp who complained that she had been ejected from lands in Horseheath by James Audeley, and had been unable to find suitable remedy locally, in assize proceedings, because of the power of Gilbert de Clare, earl of Gloucester (an accusation that was to become a common feature of petitions of this nature).[60]Judgement had subsequently been found in her favour, but the whole process was now threatened by the interference of Audeley's brother, William, against whom Alice now petitioned. There were also petitions from collective entities, such as the inhabitants of the town of Flint, who managed to secure the grant of an annual market lasting eight days; the community of Cheshire, who complained that they were being forced to plead outside their 'home area' contrary to the usages and free customs granted to them under Henry III; and the 'community' of the Cistercian Order who wished to uphold their immunity from writs of caption, whereby excommunicates were arrested by the secular arm.[61] The enormous variety of complaint to be presented in parliament, so soon after the Crown had opened the institution up to large-scale petitioning, provides important clues to explain why the process was to become so popular in such short time, for the great many different types

[58] Maddicott, 'Parliament and the Constituencies', p. 64; Haskins, 'Petitions of Representatives', pp. 9–11.

[59] *PROME*, Edward I, Petition 1, items 7 (3), 32 (28), and 40 (37).

[60] Ibid., item 42 (39).

[61] Ibid., items 4, 28 (24), 19 (15).

of cases demonstrated parliament's almost limitless capacity to deal with all manner of grievances or requests brought to it by the king's subjects.

This great assortment of petitionary subject-matter should caution us into assuming that Edward I's overriding motivation in having parliament deal with large numbers of complaints was simply to have the institution bring his recalcitrant officials to account. Petitioning in parliament is likely to have been conceived in much broader terms, as a way for the Crown to reach out into the localities and extend its authority into the affairs of local people and communities. This point becomes clearer when we consider that the parliamentary petition fitted into the much broader and more well-known strategy pursued by Edward to investigate the condition of the lands under his control. This was manifested, in a domestic context, in the Hundred Rolls inquiry of 1274–5, the inquiry of March 1279, and the Kirkby Inquest of 1285; and in an international context, by Edward I's inquiries into Gascon affairs in 1273–4, and into the patterns of landownership in North Wales in 1280 and 1283.[62] Each of these investigations presented an opportunity for the Crown to project and assert its authority into the furthest parts of the kingdom. The difference between these commissions and parliament, of course, was that petitioning in parliament offered the king a continuous and relatively effortless flow of information from the localities. Large-scale royal inquests or inquiries had advantages, not least the fact that their agendas could be set and controlled by the Crown, but in general they were time-consuming and cumbersome, often expensive and, importantly, most had only a short lifespan. Having local people come to parliament with complaints about particular incidents was a very efficient and cost-effective way for the Crown to concentrate its resources on dealing with the 'hotspots' of lawlessness and transgression as and when (and where) these cropped up in England or in the English dominions. Indeed, it is worth remembering that the configuration of parliament into a regular forum for large volumes of petitions all at once furnished the institution with an international complexion which it had not previously possessed, as remedial action by the English Crown suddenly became much more accessible to the king's 'foreign' subjects.

[62] For the English inquiries, see Prestwich, *Edward I*, pp. 235–7. For Gascony and Wales, see S. Raban, 'Edward I's Other Inquiries', in M. Prestwich, R. Britnell, and R. Frame (eds.), *Thirteenth-Century England IX* (Woodbridge, 2003), pp. 43–57.

Petitioning provided Edward with a mechanism for keeping tabs on the actions of his local officials and it enabled the Crown to monitor conditions in the localities. But there were other considerations, for the very process by which a supplicant could bypass all local courts and seek redress at the centre had extremely important implications for the king's sovereign power. The petition, and in a more general sense, the 'plaint' significantly expanded the legal concept of trespass in which a petitioner's grievance was implicitly identified with a breach of the king's peace as well as a personal injury.[63] By increasing the scope and availability of recourse against trespass, the king was directly extending the reach of royal justice, and by implication, his own personal authority. Indeed, by setting up parliament as the highest court in the realm, to which any of his free subjects could theoretically turn, Edward was giving very tangible expression to the notion that the king was the supreme judicial and sovereign power in the kingdom. A king's ability to hold a court of last resort, in which decisions were final and could not be challenged in any other court, gave expression to two of the key principles of political and legal theory to emerge in the course of the thirteenth century: firstly, that the king was emperor in his kingdom; and secondly, that no true king recognized any superior.[64] Edward I could draw on two established and developed systems of appellate jurisdiction to see how the application of these formulae worked in practice. The two models were, respectively, the system of appellate jurisdiction established at the papal curia, and the emergence of the *Parlement* of Paris as a court of resort for all those jurisdictionally subject to the king of France. Let us briefly consider the nature of these two systems of appeal and their influence in England.

It was in the second half of the twelfth century that the papacy developed the facility to act as a court of final appeal and first instance for all those who wished to secure the intervention of the curia in cases that required judgement in canon law.[65] Across this period, and especially during the pontificate of Alexander III (1159–81), the right to have petitions considered at Rome expanded to include not only cases brought by bishops, and other *causae majores*, but also the appeals

[63] Harding, 'Plaints and Bills', p. 80.

[64] J. Canning, *A History of Medieval Political Thought, 300–1450* (London, 1996), pp. 124–5; A. Bossuat, 'The Maxim "The King is Emperor in his Kingdom": Its Use in the Fifteenth Century before the Parlement of Paris', in P. S. Lewis (ed.), *The Recovery of France in the Fifteenth Century* (New York, 1972), pp. 185–95.

[65] For what follows see J. E. Sayers, *Papal Judges Delegate in the Province of Canterbury 1198–1254: A Study in Ecclesiastical Jurisdiction and Administration* (Oxford, 1971).

and first-instance cases of lower status ecclesiastics and laymen. The development of a broad-based and widely available system of appellate jurisdiction is a significant factor to explain the great expansion of papal power during the twelfth and early thirteenth centuries.[66] It enabled the papacy to assert its primacy in all religious matters not only over local metropolitan jurisdictions but also over the ecclesiastical jurisdiction of secular rulers.[67] The great and ever growing recourse of petitioners to Rome necessitated the creation of an elaborate and sophisticated administrative apparatus to handle the appeals. In the early thirteenth century the papal chancery began to divide petitions into those cases which asked for grants (e.g. of privileges, protections, confirmations, and indulgences), which were sent before the pope, and those which required the issue of routine mandates (e.g. to deal with presentation, violence, usury, injuries, undue exactions, despoliation, and so on), which were sent into the court of Auditors, whose members were primarily cardinals.[68] This has obvious parallels with the twin track system to be adopted later in the English parliament where petitions requiring the exercise of royal grace were reserved for the king whilst those of a more mundane nature were delegated to royal justices who were similarly—and probably not coincidentally—termed 'auditors'. One wonders whether these similarities derived in part from the observations Edward made in person during his stay with Pope Gregory X on his journey home to England in 1273.[69] For thirteenth-century English kings the papal system of appellate jurisdiction was not, as far as we can tell, the cause for significant resentment; but its existence was a reminder that in certain spheres the king of England was not complete master within his domain and that England itself was subject to the superior jurisdictional overlordship of an external power.[70]

[66] For context, see C. H. Lawrence, 'The Thirteenth Century', in idem (ed.), *The English Church and the Papacy in the Middle Ages* (Stroud, 1965; repr. 1999), pp. 141–5.

[67] Canning, *Medieval Political Thought*, p. 95.

[68] On the division of petitionary business into these two categories, as outlined by Cardinal Guala in his *libellus* of 1226, see J. E. Sayers, *Papal Government and England during the Pontificate of Honorius III (1216–1227)* (Cambridge, 1984), pp. 21–2.

[69] Prestwich, *Edward I*, pp. 82–3.

[70] This subordinate relationship to the papacy was particularly enhanced in England's case by the surrender of the kingdom to the pope's feudal overlordship in 1213: see Sayers, *Papal Government*, pp. 162–71. On the matter of papal litigation, J. R. Wright states '[r]oyal opposition to English litigation at the Roman court in the early fourteenth century seems to have been confined for the most part to cases in which the crown itself stood to lose ground' (*The Church and the English Crown, 1305–1334* (Toronto, 1980), p. 136).

The influence and impact of the *Parlement* of Paris on Edward I was in many ways very different from that of the papal curia; but in one important respect it is possible to make a comparison. Just as Edward I and his predecessors were subject to the ecclesiastical jurisprudence of the pope, and were accordingly obliged to employ proctors to represent and, if necessary, defend their interests at the curia, so too Edward I and his father employed proctors to act for them at the *Parlement* of Paris as a result of the fact that, as dukes of Gascony, they were subject to the secular appellate jurisdiction of the king of France. The political and diplomatic background that set in train the conditions that would eventually lead to conflict between England and France is well established in the secondary literature and need not be rehearsed here.[71] However, it is worth highlighting that the *Parlement* of Paris would never have become such a thorn in Edward I's side had it not been for the single-minded determination of Louis IX (St Louis, 1226–70) to set up a system of appellate jurisdiction that was intended to be vigorously asserted throughout the kingdom of France. Alan Harding has recently outlined the main stages of this development, pointing in particular to the middle decades of the thirteenth century as the point at which the *Parlement* began to attract complaints from individuals and local communities.[72] From 1255, if not earlier,[73] the *Parlement* began to meet on a triannual basis, which meant that supplicants knew in advance when and where they could present their complaints. It may well be that the demand of the Provisions of Oxford for three annual parliaments drew directly on this French model. In using the English parliament as a forum in which to bring recalcitrant and corrupt royal officials into line, Edward I was following in exactly the footsteps of Louis, whose primary motive in establishing the *Parlement* as a regular and superior court of appeal was to monitor the activities of his principal royal officials in the regions—the *baillis* and *enquêteurs*. One of the other facets of the *Parlement* of Paris

[71] The best analysis is provided in M. Vale, *The Angevin Legacy and the Hundred Years War, 1250–1340* (Oxford, 1990), pp. 48–63.

[72] For what follows see Harding, *Medieval Law*, pp. 160–70. Few original petitions survive, but their results—in the form of brief résumés of decrees—were written up in the *Olim*, and are now printed in volume 1 of the *Actes du Parlement de Paris par Edgard Boutaric*, 2 vols. (Paris, 1863; repr. New York, 1975).

[73] It is also from the mid-1250s, and specifically 1254, that the first records of the *Parlement* survive, though scholars are quick to point out that the *Parlement* most certainly was functioning as a regular court of justice before this date: J. H. Shennan, *The Parlement of Paris* (Stroud, 1968), p. 15; W. C. Chester, *Louis IX and the Challenge of the Crusade: Study in Rulership* (Guildford, 1979), pp. 143–4.

was the increased hold it provided Louis over his magnates. The flow of petitions from the localities to the centre effectively broke down the boundaries that had formerly allowed the remoter parts of the French kingdom to exist in virtual political isolation. Now, recourse to *Parlement* extended the reach of royal justice across the length and breadth of the realm so that no subject of the king need necessarily settle for a ruling or judgement given by their local lord. The right of all the French king's subjects to present appeals at the *Parlement* of Paris meant, in effect, that the legal framework of the kingdom now came to be placed very firmly and tightly under the control of the king. Perhaps more than any other instrument of government, the appeal brought French magnates more closely within the orbit of royal control by making them answerable to the Crown for their actions in the localities.

Even before Edward had reached England in 1274 he would have come to appreciate the full implications of his position as vassal to the French king. In 1273, before returning to England, Edward had spent almost a year in Gascony trying to subdue the recalcitrant Gascon nobleman Gaston de Béarn, but had been frustrated in this purpose by an appeal that Béarn had made to Philip III in the *Parlement* of Paris.[74] The matter was far from settled when Edward finally departed for England in the following August, at which point he must have had a very clear idea of the huge possibilities that appellate jurisdiction presented to a king who wished vigorously to impose his right to superior jurisdiction over the entirety of his domain. This was to become an increasingly difficult problem for Edward as the full extent of French judicial overlordship came to be asserted more confidently and more assertively by Philip III and then by his son Philip IV.[75] The simple truth was that in drawing appellants to the *Parlement* of Paris, and by offering these appellants French royal protection and, frequently, judgements in their favour, the French Crown was not only seriously undermining, but also humiliating English authority in Gascony. Edward's response to the situation was twofold: in Gascony, the legal structure was overhauled and the Seneschal was invested with new powers in an attempt to restrict as many appeals as possible from going to Paris;[76] and in England, the English parliament was made

[74] Powicke, *Thirteenth Century*, pp. 284–6; Prestwich, *Edward I*, pp. 300–1.

[75] See J. A. Kicklighter, 'English Related Cases at the Parlement of Paris, 1259–1337', Emory University, Atlanta, PhD thesis, 1973, pp. 60–89.

[76] P. Chaplais, 'The Chancery of Guyenne 1289–1453', repr. in *Essays in Medieval Diplomacy and Administration* (London, 1981), Ch. 8; idem, 'The Court of Sovereignty

available to Gascons to provide an alternative to the *Parlement* of Paris for grievances that could not be redressed locally.[77] In this context, the English parliament was being used not to uphold or strengthen English royal authority, but to project the ducal sovereignty of the English king as a counterpoint to the royal authority of the French king.

It is worth clarifying that the English parliament was never a court of 'appeal' in the way that the French *Parlement* has come to be seen. Very few, if any, of the surviving petitions presented to the English parliament explicitly sought to overturn judgements that had been made as a result of the judicial activities of local courts or lords. Almost certainly this reflected an important difference between the respective legal structures of the two kingdoms: whereas in France trespass litigation was still overwhelmingly considered in private seigneurial courts, and was therefore subject to appeal in the *Parlement* as a way of allowing the French Crown to claim ultimate jurisdiction over the legal process, in England the Crown had already by this point made a case for its monopoly both of great (capital) and of lesser causes (trespasses).[78] In a sense, the French Crown had to develop an appellate jurisdiction precisely because so much jurisdictional initiative remained intact at a local level.[79] In England the Crown's immediate jurisdiction was much more widespread. In fact, appellate jurisdiction was already, in a sense, provided by the king's central courts—king's bench and common pleas—as well as by the exchequer.[80] As we shall see later in this study, the English parliament was very careful to operate in a way which complimented and supplemented the actions of these courts so that only very occasionally, where error was alleged in the proceedings, was it necessary for the institution to review the judgements made in the

of Guyenne (Edward III–Henry VI) and its Antecedents', in J. S. Hamilton and P. J. Bradley (eds.), *Documenting the Past: Essays in Medieval History Presented to George Peddy Cuttino* (Woodbridge, 1989), esp. pp. 137–41.

[77] Gascons were not necessarily given a free choice in this matter; see J. A. Kicklighter, 'French Jurisdictional Supremacy in Gascony: One Aspect of the Ducal Government's Response', *Journal of Medieval History* 5 (1979), 127–34.

[78] Harding, *Medieval Law*, pp. 123–46. [79] Ibid., pp. 160–70.

[80] See the opening remarks by M. K. McIntosh, 'Central Court Supervision of the Ancient Demesne Manor Court of Havering, 1200–1625', in E. W. Ives and A. H. Manchester (eds.), *Law, Litigants and the Legal Profession* (London, 1983), pp. 87–8. On the king's bench operating in review of errors of judgement made in other courts, see *SCCKB*, iv, ed. G. O. Sayles, Selden Society, 74 (London, 1955), pp. xxxvi–xxxvii; R. V. Turner, *The English Judiciary in the Ages of Glanville and Bracton* (Cambridge, 1985), pp. 203–5.

royal courts at a lower level.[81] Indeed, it was far more common for petitionary business to travel in the opposite direction, from parliament to the king's bench or the exchequer, if a resolution was considered to be more appropriately provided in one of these contexts.[82] It is true that some cases were referred 'upwards' into a parliamentary setting, but this was normally done at the behest of the justices or on the orders of the king himself because the matter pertained to royal interests.[83] In technical terms, the English parliament was overwhelmingly a court of 'first instance', scrutinizing cases which had not as a general rule been previously judged at a lower legal or seigneurial level. It was more usual for petitioners to go to parliament because they could not *gain* justice in the localities, or because a judgement rendered by a central court had not been properly implemented, rather than that they were not happy with the judgements they had received.

Nevertheless, the principle of appellate jurisidiction was still a powerful one, particularly in the way it enabled the king to project royal jurisprudence into areas that had not previously been affected by the expansion of English common law. The advent of regular petitioning in parliament made this the first institution of central government to cut through the jurisdictional barriers that had previously allowed some regions to remain virtually free from royal interference. In the English domestic context, this meant that all the king's free subjects, including those who were inhabitants of the semi-autonomous palatinates of Cheshire and Durham and those who lived inside other powerful seigneurial liberties or franchises, had the opportunity to bypass their lord and seek the direct intervention of the king in their lives.[84] This

[81] See Ch. 7, pp. 214–15. J. F. Baldwin discusses a few examples: *The King's Council in England during the Middle Ages* (Oxford, 1913), pp. 337–8. See also Sayles, *Functions of Medieval Parliament*, pp. 213 (iii), 370 (iii).

[82] See Figure 3, Ch. 3. Some good examples of cases referred to king's bench can be found in Sayles, *Functions of Medieval Parliament*, pp. 148 (i), 184 (iv), 206 (i), 277–8 (iii), 358–9 (v), 389 (iv), 398 (iii).

[83] Harding, *Medieval Law*, p. 175 n. 98. See, in addition, Sayles, *Functions of Medieval Parliament*, pp. 173 (v), 175 (ii), 177 (i), 189 (i & ii), 382 (viii), 387 (i).

[84] See T. Thornton, 'Local Equity Jurisdictions in the Territories of the English Crown: The Palatinate of Chester, 1450–1540', in D. E. S. Dunn (ed.), *Courts, Counties and the Capital in the Later Middles Ages* (Stroud, 1996), pp. 27–52; idem, 'Fifteenth-Century Durham and the Problem of Provincial Liberties in England and the Wider Territories of the English Crown', *TRHS* 6th ser., 11 (2001), 83–100, pp. 86–9. Petitions from the inhabitants of the palatinates of Durham and Chester can be readily found by searching The Catalogue of TNA. It is interesting to note that parliament in the

was probably one of the most important facets of petitioning from the Crown's point of view, for it allowed the king to hear cases concerning areas in which the king's writ did not ordinarily run—a principle that was directly upheld in the first Statute of Westminster of 1275, according to which, if a crime was committed 'in the Marches of Wales, or in any other Place, where the King's Writs be not current, the King, which is Sovereign Lord over all, shall do Right there unto such as will complain'.[85]It was a situation demonstrated by a petition from Richard de Hoton, prior of Durham, who complained to the king in the parliament in 1301 that Anthony Bek, bishop of Durham, had refused to return writs to the king's court in accordance with a modus vivendi reached between the two clergymen.[86] The prior requested the king's protection, which was granted for two years together with an assurance that trespasses committed by the bishop in the priory would be addressed.

In a broader context, it also meant that the English Crown now had an extremely effective mechanism to project the king's authority into the outlying territories of Ireland, Wales, Scotland, and Gascony. In 1290, we have the first evidence that receivers were appointed in parliament to sort petitions from England, Ireland, and Gascony, and in 1305 there were receivers for England, Scotland, Wales, Ireland, the Channel Islands, and Gascony.[87] The types of cases to come before parliament from these territories very effectively illustrate the point that the English parliament exercised a jurisprudence configured primarily to compliment existing legal structures in place locally. Take, for example, the first extant roll of Irish petitions, dating to the parliament of April 1290.[88] Of the nineteen petitioners to have their cases recorded on the roll only one directly sought to overturn a judgement made locally: the archbishop of Armagh asked the king to reverse a judgement made in the bench at Dublin whereby the temporalities of five Irish bishoprics had been adjudged to belong in the custody of the English Crown when they were vacant.[89] The archbishop claimed

fourteenth century seems to have been far more readily turned to by the inhabitants of Durham than chancery in the fifteenth century, which attracted hardly any business at all.

[85] *Stats. of Realm*, i. 31 (item 17). [86] SC 8/179/8950.

[87] Richardson and Sayles, *English Parliament*, Ch. 6, pp. 542–3.

[88] *PROME*, Edward I, Roll 3. For discussion of Irish petitions presented in the English parliament, see Richardson and Sayles, *English Parliament*, Ch. 15, pp. 133–8; B. Hartland, 'Edward I and Petitions Relating to Ireland', in Prestwich, Britnell, and Frame (eds.), *Thirteenth-Century England IX*, p. 62.

[89] *PROME*, Edward I, Roll 3, item 23.

that he and his predecessors had always held such vacancies themselves and that the new ruling now 'dishonoured' the status, liberties, and property of his church. In this instance, the judgement of the king's justices in Ireland was upheld: the archbishop was reminded that the case had already been considered in a previous parliament where the king had upheld his right to 'recover' the custody of vacant bishoprics in Ireland, as he did with bishoprics in England. The majority of Irish petitions recorded in January 1290, however, were of a rather different order, generally falling into two categories. In the first group were petitions which asked the king for favour or special dispensation. Examples include a petition from Philip Penlyn, one of the king's bailiffs in Ireland, asking for a pardon for the escape of a prisoner in his custody; a petition of the prior of Bridgetown asking that their poor men should not be troubled with jury service; a petition from the abbot of Dunbrody asking the king to remove delays in a plea the abbot had brought against the Templars in Ireland; and a petition from Richard Exeter for permission to surrrender lands in Connacht which were now worth less than the fee farm the petitioner was charged for them.[90]In the second group were petitions which complained about the actions of the king's ministers in Ireland. The subjects of complaint included the chancellor, justiciar, escheator, and, most prominently of all, the treasurer of Ireland, Nicholas of Clare, who was accused by a number of individuals of a whole range of abuses of office, including corruption, extortion, and dishonesty.[91] These were complaints which sought to rectify defects within a system of government that was at every point controlled and shaped by the English Crown. Thus, if the terminology of 'appeal' is to be used in any way, it most appropriately and straightforwardly describes a process in which petitioners directly called upon the king to have local difficulties or personal wishes addressed and/or resolved by his intervention and mandate.

Much the same pattern can be seen in the petitions presented in Edward I's reign from Gascony.[92] Again, the vast majority were not 'appeals' as such, but requests for the king's grace in matters that often necessitated a royal mandate to gain proper redress. Under Edward I, the greatest concentration of extant Gascon petitions appears to date to

[90] Ibid., items 3, 7, 20, and 29. [91] Ibid., items 1, 21, 22, 27, 32, 33–56.

[92] For background, see P. Chaplais, 'Les Appels Gascons au Roi d'Angleterre sous le Règne d'Edouard I^{er} (1272–1307)', repr. in *Essays in Medieval Diplomacy*, Ch. 6.

the last years of the reign, and particularly the parliament of February 1305,[93] which may indicate a special drive on the Crown's part to re-orientate the duchy's jurisdictional focus after the disruption and French occupation of most of the region between 1294 and 1303. Many Gascon petitions were straightforward requests for favour. A good example is the request of Remfre de Durfort, knight of the Agenais, who asked in 1305 to have an arpent of wood in the viscounty of Gaure to enable him to rebuild mills and houses which had been destroyed by the French.[94]Others sought the payment of outstanding royal debts. Typical was the supplication of Richard Trenhs, priest and chaplain of Bordeaux castle, who reminded the king that he had not been paid since the castle had come into the king's hands, and asked that the constable of Bordeaux might be given orders to make the payment.[95] A handful of petitions sought to overturn or reverse decisions taken by the king's senior Gascon officials—an example is the request of Eudo de Calazat of Bordeaux in 1305 who asked to have the banishment of five Bordeaux citizens revoked because the petitioner claimed that they had been unjustly tried for murder.[96] Some sought the king's permission: the jurats of Monsegur, for example, requested licence to build four gates in the wall surrounding their town at the king's expense, whilst they, for their part, enclosed the rest of the town at their own cost.[97]One of the greatest motivations for Gascons to petition the king seems to have been the opportunity it presented of short-circuiting local administrative processes by having the king instruct local Gascon officials directly to take action on their behalf. Typical was the petition of Peter Arnaud of Saubrigues, who requested to have a letter sent to the seneschal of Gascony, the major of Bayonne, and Peter Arnold of Vicq, ordering them to distrain Gerard Sauguine, the petitioner's proctor and attorney, for not delivering the legal services for which Arnaud had paid.[98] Such petitions highlight the advantages which parliament provided Edward I by allowing his Gascon subjects an outlet to voice their grievances and achieve redress which, by the very nature of the

[93] This is suggested by the clustering of warranty notes *per peticionem de Consilio* to this parliament, for which see figure 2 and accompanying discussion below (pp. 61–6). It cannot be a coincidence that an extremely impressive committee of triers (the only one recorded since 1290) was appointed to deal with Gascon business in this assembly: *PROME*, Edward I, Roll 12, item 1 (1); *Memoranda de Parliamento*, ed. F. W. Maitland (London, 1893), p. lviii.

[94] SC 8/85/4209. [95] SC 8/96/4783 (1305). [96] SC 8/101/5008.

[97] SC 8/125/6241 (1305). [98] SC 8/71/3503 (*c*.1300).

process, compelled them to identify closely with the English Crown and the English king's authority. Few Gascon petitions challenged decisions taken in local Gascon courts; but then this was not the role which Edward intended the English parliament to take in the duchy. For this purpose he had set up a seneschal's court, the *Curia Vasconie*: it was here, rather than in the Westminster parliament, that Edward placed his hopes of overcoming the jurisdictional headache posed by the *Parlement* of Paris.[99] It was not in English interests to accept that the judgements made in this court were anything but final.

Petitioning was used in a rather more aggressive way in Wales and Scotland, as a means of consolidating and reinforcing military conquest. The reception of Welsh petitions as early as 1278 indicates that petitioning was intended to play an important part in Edward's campaigns against his recalcitrant Welsh princes; these early petitions were from individuals who lived on lands belonging to Llywelyn ap Gruffydd who had recently taken up arms against the king.[100] The same strategy appears to have been adopted in Scotland where Edward similarly used the concept of last resort (*ultimum ressortum*) to clarify his jurisdictional superiority over the territory. In what was probably the first such instance, Edward accepted a series of supplications from the burgesses of Berwick in 1292 which directly challenged the judgements given in the Scottish court of the Guardians (the highest court of Scotland).[101] The episode has been described as 'a shattering demonstration of what was meant by the intensification of judicial lordship'.[102] But once English authority had been established (at least in Wales), the petitions fitted into the same pattern that we see for Ireland and Gascony: cases which did not generally undermine or seek to override local judicial structures. The fundamental difference between

[99] Chaplais, 'Court of Sovereignty', pp. 137–9.

[100] *PROME*, Edward I, Petition 1, items 1 (1), 9 (5), 25 (21), 30 (26)—Carmarthen, Flint, Anglesey, Montgomery.

[101] More detailed consideration of the relationship between Scotland and the English parliament can be found in G. Dodd, 'Diplomacy, Sovereignty and Private Petitioning: Scotland and the English Parliament in the First Half of the Fourteenth Century', in M. Penman and A. King (eds.), *England and Scotland in the Fourteenth Century: New Perspectives* (Boydell and Brewer, forthcoming). English judicial overlordship was never properly established in Scotland, and apart from a brief flurry of activity at the end of Edward I's reign, the English parliament was never resorted to on a large scale by the Scottish people.

[102] R. R. Davies, *Domination and Conquest: The Experience of Ireland, Scotland and Wales 1100–1300* (Cambridge, 1990), p. 105. See also Richardson and Sayles, *English Parliament*, Ch. 13, pp. 308–9.

the relationship between the Paris *Parlement* and Gascony, on the one hand, and the English Parliament and English dominions on the other hand was that jurisdiction in Gascony was contended. This provided an opportunity for the French *Parlement* to attract appeals from disgruntled suitors in a way that never really occurred in the English parliament, which generally complimented local power structures where these were approved and controlled by the English king.

All in all, petitions from Ireland, Gascony, Scotland, and Wales highlight the crucial point that the English parliament was not simply a domestic institution which served the needs of the king's English subjects, but was accessible to a much broader 'international' public. For Edward, like his French counterpart, the inclusive nature of parliamentary petitioning served to heighten and clarify his status as the sovereign power within the territories over which he claimed lordship. Attracting supplications to a central institution integrated these dependencies more firmly into the body of the realm of England. As R. A. Griffiths put it, the institution of parliament, and the reception there of petitions from all the king's lands, formed a crucial part of the king's desire to establish a sense of ' "imperial" unity' in his rule.[103]

We will never know exactly what Edward I's principal motive was to reconfigure parliament so that it became a forum for large-scale and regular petitioning by his subjects. Any of the factors outlined above might have been enough to persuade him that petitioning in parliament held a number of important advantages for the Crown. One thing that we can be sure of, though, is that the decision affected a significant change in the nature and role of parliament in the English polity. By inviting complainants to parliament, and by setting up (in time) an elaborate bureaucratic and judicial apparatus to cope with the petitions, Edward drew parliament far closer into the orbit of royal government. Parliament was no longer, as it had been under Henry III, an assembly that was called in reaction to pressing political, diplomatic, or financial needs; from the beginning of Edward I's reign it had become an intrinsic and *proactive* part of the regular functioning of royal government in the localities. The Crown, through the parliamentary petition, was now soliciting information from its subjects in order to make its local governance

[103] R. A. Griffiths, 'The English Realm and Dominions and the King's Subjects in the Later Middle Ages', in *King and Country: England and Wales in the Fifteenth Century* (London and Rio Grande, 1991), p. 52.

more effective and wide ranging. This chapter has concentrated on the positive aspects of this development in order to explain why the Crown should have encouraged petitioning in 1275. But there were negative consequences, as Edward I was soon to discover. The introduction of large-scale petitioning in parliament handed much more initiative for starting governmental process to the king's subjects: royal government, through parliament, was now more so than ever dependent on the ebb and flow of the 'consumer demand' of petitioners. This was potentially damaging to the Crown in two ways: firstly, the popularity of petitioning meant that considerable time and resources had now to be devoted to their expedition in parliament, when many assemblies would inevitably meet at times when much more urgent matters needed attention. And secondly, because parliament was now at the very centre of the judicial structure of the kingdom, on the occasions when the Crown neglected petitioning, this could have important consequences for the state of law and order in the kingdom and it could also run the risk of alienating sections of the population who had come to expect that their grievances should receive proper consideration. By introducing large-scale petitioning in parliament Edward I had committed the institution to discharging a function which it was not always in the best position to do, and he had raised the expectations of the population which the Crown would not always be able to fulfil.

As early as the late 1280s the remedial function served by parliament had evidently become so ingrained in the contemporary mindset that the anonymous author of the *Mirror of Justices* was able to assert that 'it is an abuse that whereas parliaments ought to be held for the salvation of the souls of trespassers, twice a year and at London, they are now held but rarely and at the king's will for the purpose of obtaining aids and collection of treasure'.[104] Petitioning in parliament had come to be regarded as an inalienable right of the king's subjects and, at least to the lawyer's mind, the provision of justice now constituted the primary function of parliament: its fiscal function was a regrettable distraction. Indeed, by aligning taxation with the 'king's will', and placing it in opposition to petitioning, the implication of the statement was that parliament's 'judicial' function furnished it with an authority and role

[104] *The Mirror of Justices*, ed. W. J. Whittaker, Selden Society, 7 (London, 1895), p. 155. For context and dating, see D. J. Seipp, 'The Mirror of Justices', in J. A. Bush and A. Wijffels (eds.), *Learning the Law: Teaching and the Transmission of Law in England, 1150–1900* (London, 1999), pp. 84–112, esp. pp. 88–91.

within the polity that operated quite independently of the king or his wishes: the king was committing an abuse if he did not ensure that parliament provided justice to his people, as it ought to do. Petitioning in parliament, at least for the Crown, was thus a double-edged sword, and as we will see in the following chapter this made for a highly erratic and inconsistent pattern of petitioning in the parliaments of both Edward I and Edward II.

3

'High Noon'—Private Petitions, *c*.1290–*c*.1330

The years between 1290 and 1330 represented the high-water mark of private petitioning in the late medieval parliament. It is almost certainly the case that more private petitions were presented during this forty-year period than were submitted in all the remaining 170 years of the late medieval parliament's history. F. W. Maitland has done more than any other scholar to reveal the vast scale of private petitioning at this time and his classic edition of the rolls of petitions compiled in 1305 is often cited to demonstrate how private business dominated the early fourteenth-century parliament.[1] The problem that confronts historians, however, is one of context and perspective. For whilst we have tantalizing glimpses of the numbers of petitions that flowed into a handful of individual parliaments between 1290 and 1330, it is less easy to determine overall trends across the period. How typical of the reigns of Edward I and Edward II, for example, were the parliaments of 1305 and October 1318, when we know that many hundreds of petitions were presented in the former and over 300 in the latter? Was the flow of petitions into parliament fairly continuous, from one assembly to the next, or did numbers fluctuate; and if so, for what reasons and by what degree? What systems were put into place in parliament to handle petitions and how did these affect the volume of private business which parliament came to expedite? To what extent, if at all, was the volume of petitioning in parliament determined by the political climate and/or the personal disposition of the king? These questions provide the backdrop

[1] *Memoranda de Parliamento*, ed. F. W. Maitland (London, 1893). See A. F. Pollard, *The Evolution of Parliament* (London, 1926), p. 42; G. L. Harriss, 'The Formation of Parliament, 1272–1377', in R. G. Davies and J. H. Denton (eds.), *The English Parliament in the Middle Ages* (Manchester, 1981), p. 49; W. M. Ormrod, *Political Life in Medieval England, 1300–1450* (Basingstoke, 1995), p. 33; D. A. Carpenter, 'The Beginnings of Parliament', in *The Reign of Henry III* (London, 1996), p. 383.

to the discussion in the first two sections of the chapter; the final section focuses more narrowly on the way in which the Crown responded to petitions, and its receptiveness to the grievances and requests of the king's subjects.

3.1 THE GROWTH OF PETITIONING AND THE GROWTH OF BUREAUCRACY

Petitioning in parliament may originally have been conceived by the Crown with the limited goal of ensuring that royal officials were held to account for their actions, but from the point when large numbers of petitions flowed into the institution in 1278 it would have been obvious that the parliamentary petition was regarded by local people in a much more inclusive way, as a mechanism that offered satisfaction for a much greater range of grievances and requests. It is quite possible that the Crown was surprised by the scale of petitionary business that the institution attracted. After all, parliamentary petitioning began as a result of the initiative shown by the Crown, but the type of complaint and the *amount* of complaint brought into parliament was to a large degree determined by the petitioners themselves. In this way, the Crown was adopting a passive stance in the implementation of government, for it was allowing the king's subjects an important degree of control over the extent to which it interfered in their local affairs. This was a very efficient and cost-effective method of governance, because it allowed the king to focus Crown resources into those areas that really needed attention; but it came at a price. It meant that the demands made on parliamentary time by the presentation of private petitions could never be accurately predicted, and it also meant that the Crown had to adapt and modify the systems it employed in parliament in response to these levels of demand.

For much of Edward I's reign the Crown coped with the large number of petitions presented in parliament by having the receivers divert a large proportion of them away for specific treatment within the key departments of state.[2] The evidence centres on two royal ordinances, one promulgated in 1280, the other in 1293. In May 1280, a letter close decreed that

[2] For recent discussion see P. Brand, 'Petitions and Parliament in the Reign of Edward I', in L. Clark (ed.), *Parchment and People: Parliament in the Middle Ages* (Edinburgh, 2004), pp. 34–5.

Because the people who come to the king's parliament are often delayed and disturbed to the great grievance of them and of the court [*sic*] by the numerous petitions which are presented to the king, many of which may be expedited before the Chancellor and justices; it is ordained that those that concern the seal are to come before the chancellor; those that touch the exchequer are to be sent to the exchequer; those that concern the justice and law of the land are to be sent to the justices; and those that touch the jewry are to be sent to the justices of the jews.[3]

With such a measure it was hoped that only 'those [petitions] which are so great or of so much grace' that chief officers 'cannot do them without the king' would be sent to the king and his council for expediting.[4] In other words, the king and council would only deal with those cases which had not initially been dispatched by the royal ministers. The chancellor, justices, and barons of the exchequer were naturally integral members of the late medieval parliament; but the use of the term 'the exchequer' is striking because it suggests that an institutional distinction was being drawn between parliament on the one hand, which dealt with petitions reserved for the king and/or the council, and those departments of central government on the other hand, whose heads were to take responsibility for the remaining private business. Psychologically, if not physically, it appears that these latter petitions were being removed from a parliamentary context. The ordinance of March 1293 placed greater emphasis on the organizational implications of the system, beginning with a declaration that petitions were to be handed to 'receivers' who, after careful examination, were to ensure that:

Those [petitions] that concern the chancery shall be put on a file . . . and the others that concern the exchequer in another file; and those that concern the justices shall be treated in like manner. Afterwards those that shall be before

[3] *CCR 1279–1288*, p. 56. Discussion of this declaration can be found in L. Ehrlich, 'Proceedings against the Crown (1216–1377)', in P. Vinogradoff (ed.), *Oxford Studies in Social and Legal History* (Oxford, 1921), p. 235; H. G. Richardson and G. O. Sayles, *The English Parliament in the Middle Ages* (London, 1981), Ch. 6, pp. 534–5; J. G. Edwards, '"Justice" in Early English Parliaments', in E. B. Fryde and E. Miller (eds.), *Historical Studies of the English Parliament*, 2 vols. (Cambridge, 1970), i. 284–5.

[4] As Richardson and Sayles point out, this did not necessarily indicate that petitions had not been dispersed in this way before 1280 because a petition dating to 1278 mentions that the receivers had sent material to the exchequer in a way similar to the terms outlined in the ordinance of 1280: *English Parliament*, Ch. 6, p. 534. See also G. O. Sayles, *The Functions of the Medieval Parliament of England* (London, 1988), p. 152, for a record of advice given by the receivers to a petitioner that he should go to the exchequer with his grievance.

the king and council shall be kept separately on another file. And likewise those that ought to have been answered previously [shall be put] on a separate file.[5]

Again, one can readily see that the bodies responsible for trying petitions were only incidentally associated with parliament, and that parliament itself appears to have acted primarily as a focal point—a reception area—for petitioners to bring their complaints, before these complaints were then dispersed to the various key departments of state. This has important implications for the early records of parliament, for it suggests that under Edward I each file of parliamentary petitions actually contained only those cases which had been handled by the king and council, which constituted only a proportion of the total number of cases that had been initially presented in parliament.[6]

At some point, there was a change of emphasis as parliament increasingly developed the capacity to receive and dispatch petitions in its own right. It is difficult to state exactly when and why this shift occurred; but it seems reasonable to conjecture that it was closely linked with the emergence of formal and highly professional committees of triers who were able to expedite petitions in increasingly large numbers. This must have been a gradual process, for we know that as early as 1290—before the ordinance of 1293—separate panels of triers were assigned to hear petitions from England, Ireland, and Gascony.[7]

[5] *CCR 1288–1296*, p. 289; Richardson and Sayles, *English Parliament*, Ch. 6, p. 542.

[6] The implication of these administrative guidelines can be illustrated by the records which survive for the parliament of 1302, and in particular by the series of petitions contained within the modern files SC 8/314–16. These petitions would seem to have been cases that had been transmitted from parliament to the exchequer for adjudication. They remained in the exchequer until their transference in the late nineteenth century into the modern series SC 8 (as part of the 'Ancient Petitions—Exchequer' subclass). The selective nature of the early files is also suggested by the surprisingly small number of petitions which Sir William Illingworth recorded for parliaments which met in the 1280s and early 1290s (40, 16, 18, and 18, respectively). Possibly, these figures represented only those petitions that had been considered by the king and council (Illingworth's notes on the extant files of petitions, as they existed in 1804, can be found in TNA/PRO 36/19). Finally, an entry on a memoranda roll dating to 1295 provides evidence for the collection of petitions in the exchequer: after a summary of the case, the roll notes that 'this petition was sent here to the exchequer by the king's council . . . the petition will be found among the petitions returned to the exchequer from the parliament'; Sayles, *Functions of the Medieval Parliament*, pp. 221–2. Another entry, dating to 1299, records that petitions sent to the exchequer from parliament 'are in the custody of the treasurer's remembrancer' (p. 235).

[7] Richardson and Sayles, *English Parliament*, Ch. 6, p. 542 n. 3; and Sayles, *Functions of the Medieval Parliament*, p. 196 (ii) (a record of expenses paid to clerks 'writing out the pleas of the king under the auditors of plaints' in the parliament of January and April 1290).

It is interesting to note that this coincided with similar developments across the channel, as 'masters of requests' began to be appointed in the French *Parlement* from 1291 to provide initial scrutiny of the cases brought before the court.[8] Exactly what function the early English triers fulfilled is difficult to say in view of the fact that their role in shielding the king and council from the bulk of petitionary business was already, it appears, being performed by the chancellor, treasurer, and senior judges. It is possible that their primary function was to follow up cases which had come before the king and council and which required an administrative or judicial input which the king and council neither needed nor wished to make themselves. A couple of references to the 'auditors' (i.e. triers) of 1290 illustrates this process clearly: one enrolled petition which had come before the king and council noted the response 'let justice be done in respect of them before the auditors' and another recorded that 'the case is being dealt with before the auditors of complaints'.[9] The duties of the triers becomes clearer in February 1305 when their responsibilities were spelled out in what is the first extant record of their formal appointment. Their charge, 'to answer all those [petitions] which they can answer without the king', showed how petitionary traffic in parliament had now changed direction so that the king and council were now *receiving* petitions from the triers, rather than sending them.[10] It is interesting to note that whilst the parliament roll listed panels of triers for Scotland, Gascony, Ireland, and the Channel Islands, nothing explicit was said about English triers—though the duties of the 'English' receivers were outlined.[11] This suggests that the original motivation for setting up specialized panels of triers, who had

[8] J. H. Shennan, *The Parlement of Paris* (Stroud, 1968; repr. 1998), pp. 18–19; A. Harding, *Medieval Law and the Foundations of the State* (Oxford, 2002), pp. 165–6.

[9] *PROME*, SC 9/2 item 51 (45), 113 (93).

[10] *PROME*, SC 9/12 item 1.

[11] I therefore concur with Maitland (*Memoranda de Parliamento*, p. lx), but disagree with Richardson and Sayles (*English Parliament*, Ch. 6, p. 545), that the four men to whom petitioners were directed to hand in their petitions in February 1305 were *not* charged to act as the triers of these petitions. Ironically, this view is in part verified by the biographical work that Richardson and Sayles themselves undertook on the individuals assigned to the panel, all of whom were senior clerks in royal administration (Caen was a chancery clerk; Kirby was a clerk of the exchequer; Bush was a clerk of the Household; and Rothbury, though a common lawyer, is to be noted primarily for his position as a clerk of the council). In contrast, the panels of triers for foreign petitions contained senior royal judges and other individuals who held positions of political importance: this was far more typical and appropriate for the dispatch of judicial business in parliament (ibid., pp. 536–7, 540–1, 545–6).

full powers to expedite petitions in their own right, lay in the need to make provision for 'foreign' petitions. These cases stood to benefit the most from the sort of focused and specialized consideration which the membership of such panels could offer.[12]

If the English panel of triers was a little later in developing than the foreign panels, in 1305 the overall effect was the same, for the king sent instructions to his chancellor and treasurer three weeks before parliament met ordering that they, along with members of the council, should 'deliver as many . . . petitions as you can before we come, so that no petitions shall come before us in person, save only those which cannot in anywise be delivered without us, and these last you are to have well tried and examined and set in good order'.[13] It is interesting to compare this instruction for advance delivery of petitions, ahead of parliament, with the order sent out to sheriffs on 13 October 1289 instructing them to have a proclamation made that anyone who felt themselves aggrieved by any of the king's servants during Edward's absence abroad should come to Westminster on 12 November 1289 'to show and prosecute' their grievances before a group of specially appointed *auditors quererlarum*.[14] It would suggest that the role of the triers was originally conceived in terms of preparing the ground for a parliamentary session, making sure that the petitionary business could be dispatched as efficiently and speedily as possible once parliament had begun. The arrangement of 1305 represented a halfway point between the earlier practice, whereby petitions were dispersed to the various departments of central government for resolution, and the later, more formal appointment of a committee of 'English' triers whose membership, though it did not immediately include the senior officers of state, was nevertheless expected to work in close conjunction with the chancellor and treasurer. In 1305 the Crown had set up a system which meant that instead of petitions being sent out of parliament to other departments, these departments (or their heads) were now effectively being brought into parliament, where petitions could conveniently be scrutinized and dispatched at one time and in one venue. The latter years of Edward I's reign thus witnessed an important realignment of

[12] Richardson and Sayles have shown that the Gascon and Scottish panels were dominated by men who possessed expert knowledge on the affairs of Gascony and Scotland respectively: *English Parliament*, Ch. 6, pp. 545–6. For some reason not readily apparent the Irish panel did not have a similar representation of 'Irish' experts.

[13] *Memoranda de Parliamento*, ed. Maitland, p. lvii (quotation slightly amended).

[14] Sayles, *Functions of the Medieval Parliament*, pp. 195–6.

parliament's place in royal administration: no longer was its adjudication limited only to matters that concerned the king and council; now it stood at the very heart of royal government and had the capacity to receive and provide answers to virtually any grievance submitted to the receivers.

Under Edward II the trend of concentrating judicial authority in the hands of the triers would have been considerably reinforced by the addition of lay and spiritual lords to the panels. This development first comes to light in the parliament of January 1316, though the absence of evidence in earlier parliaments (especially the assembly of 1315) suggests the possibility that it had occurred before this date.[15] Richardson and Sayles have shown how, from this point, the 'official' element on the panels, comprising trained lawyers and professional administrators, increasingly began to be outnumbered by a baronial element, consisting principally of bishops and barons.[16] Though an expert contingent was still maintained and was absolutely intrinsic to the working of the panels, Richardson and Sayles argued that the increased presence of the lords was 'deliberately designed to restrict the authority of the official class', and they concluded that the tendency to 'thrust the official element in the background' was characteristic of Edward II's reign.[17] Although it is possible that political considerations played a part,[18] it is unlikely that the colonization of the panels of triers by bishops and barons stemmed from a crude anti-bureaucratic sentiment. The most pressing concern was pragmatism. It made perfect sense to reinforce the panels with members of the peerage because this would inevitably extend the triers' jurisdictional reach and therefore their capacity to deal with greater quantities of petitions without having to defer them to the king and council.

That pragmatic considerations, above all, accounted for the expansion of the committees is suggested by the fact that the peers who joined the officials on the panels were undoubtedly selected on the strength of their proven track record of competent and successful administrative or political service to the Crown. It was not a case of 'amateur' peers joining 'professional' lawyers: the bishops and barons were (or had been)

[15] *PROME*, parliament of January 1316, SC 9/20 item 1.

[16] Richardson and Sayles, *English Parliament*, Ch. 17, pp. 197–9.

[17] Ibid., p. 199. See also *Rotuli Parliamentorum Hactenus Inediti*, ed. H. G. Richardson and G. O. Sayles (Camden Society, London, 1935), pp. xii–xiii.

[18] See below, p. 75.

leading members of the governing elite who possessed the experience and knowledge of government processes to significantly increase the productivity of the panels. The bishops appointed in October 1320 included Walter Langton, bishop of Lichfield and Coventry, who had served as treasurer (1295–1307, 1312) and had been a king's councillor; John Langton, bishop of Chichester, who had served as chancellor (1292–1302, 1307–10) and had also acted as a king's councillor; John Droxford, bishop of Bath and Wells, who had served as acting treasurer in 1295 and later as controller (1290–5) and then keeper of the wardrobe (1295–1307, 1308–9); Thomas Cobham, bishop of Worcester, who had started his career as a king's clerk and had become a senior diplomat with particular expertise in Gascon affairs; and Adam Orleton, bishop of Hereford, who had similarly started as a king's clerk and had subsequently become a highly experienced diplomat—Orleton and Cobham (with Droxford) were assigned to deal with petitions from Gascony, Ireland, and the Channel Islands.[19] It is interesting to note that with the exception of Walter Langton and Stephen Gravesend, bishop of London, none of the bishops appointed as triers in 1320 could be said to have enjoyed the favour of the king or were staunch supporters of Edward's rule: Orleton and Droxford both threw in their lot with the barons in 1322; John Langton had been appointed as one of the Lords Ordainers in 1310; and Cobham's election to the see of Canterbury had been overridden by Edward in 1313.[20] This suggests that it was administrative and clerical expertise, above all, that counted when the Crown came to choose which members of the episcopate were appointed as triers. In contrast, at least three of the four barons appointed to the committees were trusted members of the regime (John Somery and Richard Grey were royal knights; Guy Ferre was nephew to Edward II's tutor).[21] They were still able administrators, however—a point suggested by the fact that Somery and (the fourth individual) Hugh

[19] Biographies of these bishops can be found in *ODNB*. All have been written by Roy Martin Haines, except for the biography of John Langton, which is written by M. C. Buck. Of the bishops, only Stephen Gravesend, bishop of London, had no notable administrative experience, though he remained ardently loyal to Edward II throughout the troubles of the reign; R. M. Haines, 'Gravesend, Stephen (c. 1260–1338)', *ODNB*.

[20] K. Edwards, 'The Political Importance of the English Bishops during the Reign of Edward II', *EHR* 59 (1944), 311–47, esp. pp. 333, 336.

[21] Biographical details of these individuals have been taken from T. F. Tout, *The Place of the Reign of Edward II in English History* (Manchester, 1914); J. R. Maddicott, *Thomas of Lancaster, 1307–22: A Study in the Reign of Edward II* (Oxford, 1970); and J. R. S. Phillips, *Aymer de Valence, Earl of Pembroke, 1307–1324* (Oxford, 1972).

Courtenay were appointed to the standing council of 1318, following the treaty of Leake; and Richard Grey was appointed as seneschal of Gascony in 1324. Uniquely in the late medieval period, the personnel assigned to the panels in October 1320 were reappointed, virtually to a man, in the parliament of July 1321.[22] This adds further weight to the impression that the formation of the panels was determined above all by the desire to create a most efficient, hard-working, and experienced team of triers.

The introduction of members of the peerage onto the panels of triers consolidated and strengthened parliament's administrative framework, but whether their presence did much to reduce the petitionary burden facing the king and council is difficult to determine. The unique list of petitioners' names dating to October 1318 is informative on this—and on a number of other important issues.[23] The document appears to record the destination of all the private petitions presented in this assembly. It identifies 336 petitioners altogether. There are no references to petitions being sent to other departments of government, as a list compiled during one of Edward I's early parliaments might have done. Instead, the petitions are grouped into five categories which identify the destination of petitions within parliament, that is to say: those directed to the 'Great Council' (7%); those which were reserved for the king (21%); those concerning the king's debts (5%); those listed as not expedited (9%); and the remainder—classified as 'petitions which have been dealt with'—which presumably signified petitions that had been dealt with by the triers (56%). The percentages provide useful confirmation of the fact that the triers were doing most of the work: they expedited 189 petitions altogether. But this did not leave the king free to attend to other business. One of the most interesting aspects to the list is the light it sheds on the amount of private business which was handled personally by the king (76 petitions altogether). This was an impressive workload to shoulder during a session of parliament. It can be corroborated, to an extent, by comparing the evidence of 1318 with the parliament rolls of 1315 and the files of petitions which were transcribed by Palgrave for the assemblies of May 1322 and February 1324. In the Hilary parliament of 1315, the king with his council accounted for 91 petitions (in

[22] *PROME*, parliament of July 1321, item 1. This involved no fewer than twenty-two individuals.

[23] For this and what follows, see *PROME*, parliament of October 1318, E 175/1/22.

1318, petitions handled by the king *and* Great Council numbered 98).[24] In 1322 and 1324, the presence of the endorsements *coram rege*, *coram domino rege*, or *coram magno consilio* on the individual petitions allows for a similar calculation: in 1322, 50 petitions (16% of the total) were marked *coram rege,* whilst only 2 cases were marked *coram magno consilio*; and in 1324 no fewer than 101 petitions (46%) were endorsed *coram rege*, whilst a further 14 (6%) were marked *coram magno consilio*.[25] In 1324, over half of the petitions presented in parliament are indicated to have been expedited in the presence of the king and/or Great Council; this was an extraordinarily heavy burden.

It is tempting to conclude that much of the king's time at parliament must *still* have been taken up with the mundane business of expediting private petitions, despite the existence of an elaborate bureaucratic apparatus explicitly designed to lighten this load. But Maitland highlighted an endorsement made on a petition of 1305 which stated that 'these 32 [petitions] were dealt with before the King on Sunday in the first week of Lent'.[26] For the king to have handled such a large number of petitions in a single day, we may suppose that many cases and particularly those which raised issues of some complexity, had already been thoroughly researched and prepared by the justices and other triers in parliament. In a large number of cases which were expedited *coram rege* or *coram magno consilio*, and which were not straightforward grants of royal patronage, the king probably gave his assent to responses that had already been tabled by his well-informed advisers and experts. This much is suggested by Edward I's letter of 1305 when he commanded his chief ministers to ensure that petitions which came before him should be 'well tried and examined and set in good order'.[27] Occasionally, the endorsements of petitions reveal this process at work: a petition presented by the prior of Monk Bretton (Yorks.) in 1327, for example, in which he asked to be released from a debt which had resulted from a malicious lawsuit during Edward II's

[24] *PROME*, parliament of January 1315.

[25] TNA/PRO 31/7 101–3, 98–9.

[26] *Iste xxxij* [petitions] *expeditæ sunt coram rege die dominica prima Quadragesimæ*: *Memoranda de Parliamento*, ed. Maitland, pp. lxi, 48. The original petition is SC 8/124/6195.

[27] *Memoranda de Parliamento*, ed. Maitland, p. lvii. Occasionally (e.g. SC 8/120/59 63), the triers appear to have written out a suggested answer on the dorse of a petition, to which the king gave his assent.

reign, was first examined by the council[28] whose endorsement read: 'It seems to the council that it is to be done if it pleases the king; and for that reason, [the petition should go] before the king'.[29] In a different example, the petition from the 'good people of London', asking for the renewal of ordinances regulating the weighing of corn and flour, was annotated *coram rege* to show that the request had been passed to the king, but the endorsement made it clear that the case had really been dealt with by his councillors who ordered the petition to be sent before the royal justices for them to do justice in the matter.[30] Later in the fourteenth century, in the ordinance of January 1349, it is noteworthy that the king instructed all those with petitions concerning the king's favour to present them initially to the chancellor and keeper of the privy seal, who were then to pass them onto him 'with their advices thereon'.[31]

If the king is more than likely to have benefited from the hard work and preparation of his ministers in expediting the petitions which came before him, the same can also be said of the triers whose considerable burden was probably alleviated to some extent by the assistance provided by chancery clerks. This is indicated by the presence on the list of petitioners of October 1318 of a dozen or so names of clerks to whom petitions had apparently been 'delivered' (*liberantur*). These notations appear only in the group of petitions expedited by the triers. Some of the names also appear on the enrolments of these petitions expedited in October 1318.[32] One of the clerks, William Cliff, had been appointed as trier in 1318, and another was one of the receivers; but of the remaining individuals, most of whom can be identified as senior clerks of chancery, no mention is made of them in any other context in this parliament.[33] Since virtually all the references

[28] It is not clear whether, in this instance, the 'council' and the 'triers' were considered as separate entities. Many of the individuals appointed to the committees of triers were also informally, if not formally, members of the king's council, so the terms may well have been used interchangeably in this period. For discussion of this, see Ch. 4, p. 97.

[29] SC 8/259/12910.

[30] SC 8/120/5987 (*c.*1307–*c.*1327): 'Because it is attested before the council that a plea is pending on this matter . . . this petition is to be sent to the said justices'.

[31] *CCR 1346–1349*, p. 615.

[32] *PROME*, parliament of October 1318, SC 9/21, items 65–292.

[33] William Cliff had acted as keeper of the great seal in March 1318. Robert Askby was appointed as a receiver: he had acted as keeper of the great seal in February 1318. Of the remaining clerks, Geoffrey Welleford, Hugh Burgh, William Airmyn, and William

specify that the petitions had been delivered *to*, rather than by, these clerks the most likely explanation for their role is that they acted as a holding point for those petitions which were to come before the triers. Possibly, one of their tasks was to 'prepare' the petitions by gathering the information that was needed to expedite them. However, the one full reference we have to the responsibilities of these clerks notes that 'the petitions listed below have been delivered to William of Airmyn, a clerk appointed together with others to deal [*ad tractandum*] with the business concerning the Flemings and the English'.[34] The meaning of this clearly hinges on what 'dealing' with petitions entailed. Whilst one suspects it fell short of full redress, because these Anglo-Flemish petitions do not appear to have received answers, the use of this phraseology implies that the clerks' duties extended well beyond the mundane organization of paperwork. Either way, the presence of these clerks demonstrates how much must have occurred 'behind the scenes' to ensure that petitionary business was properly transacted in parliament; it indicates the level of manpower necessary to support the more visible work of the triers; and it shows the extent to which chancery as a whole was mobilized when parliament met in order to provide an organizational and administrative framework essential to the institution's smooth and efficient running.

3.2 PATTERNS OF PETITIONING, 1297–1325

It is not possible to understand how levels of petitioning in parliament fluctuated from one assembly to another by using what survives of the extant petitions in TNA SC 8 or by drawing on the enrolments of petitions published in *PROME*. This evidence is either too incomplete or too selective to shed any useful light on general trends across the period 1290–1325. The only alternative is to exploit the evidence of the notes

Herlaston had all recently acted as keepers of the great seal: Tout, *Place of Edward II*, pp. 290–4. Henry of Edwinstowe has been identified as a chancery clerk by Richardson and Sayles, *English Parliament*, Ch. 22, pp. 377–8; for Thomas Tynton, see *PROME*, parliament of October 1318, SC 9/21, item 68; for John of Norton; *CPR 1317–1321*, p. 57, *CCR 1313–1318*, p. 290, and *CCR 1318–1323*, p. 415. The identities of Nassington, Werth, and Cosyngton have not been established. One final name to appear in E 175/1/22, in relation to the 'management' of the petitions, is that of the knight John Botetourt.

[34] *PROME*, parliament of October 1318, SC 9/21, item 120.

of warranty that were applied to chancery instruments to record the authority by which grants, commissions, or some other instrument of government had been made. These notes of warranty are to be found on the enrolments of chancery letters or on the transcriptions of chancery instruments in exchequer and (to a much lesser extent) in king's bench records, where the convention was that the transcript included such a note. The most common and familiar of these notes include *per ipsum Regem*, *per ipsum Regem et Consilium*, and *per breve de private sigillo*, indicating that letters under the great seal had been mobilized, respectively, by the king, by the king and council, and by writ of the privy seal.[35] One other particularly common warranty note, at least in the first decades of the fourteenth century, read *per peticionem de Consilio*. The authority of the warranty note *per peticionem de Consilio* derived from the endorsement of the petition itself.[36] In literal terms, it meant that an action of government had been authorized by a petition expedited before the council. For the most part, the note has escaped detailed historical analysis, not least because the invaluable work of Wilkinson and Brown on the subject focused on later periods when *per peticionem de Consilio* no longer regularly appeared in the chancery record.[37] Consequently, its significance for measuring petitionary business in parliament has never been fully exploited.[38]

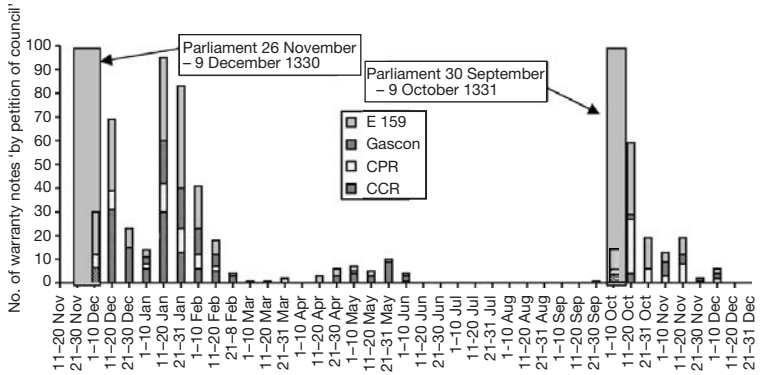
The importance of the warranty note *per peticionem de Consilio* lies in the fact that it signified, specifically, that an instrument of government had been authorized by an answer given to a petition presented in parliament. The proof of this lies in the fact that virtually all these warranty notes cluster into periods when parliament was either in session or had

[35] See B. Wilkinson, 'The Authorisation of Chancery Writs under Edward III', *BJRL* 8 (1924), 106–39; A. L. Brown, 'The Authorization of Letters under the Great Seal', *BIHR* 37 (1964), 125–55. The work of Wilkinson and Brown was founded to a great extent on the pioneering researches of H. C. Maxwell-Lyte, *Historical Notes on the Use of the Great Seal of England* (London, 1926). The practice of making notes of warranty began in the early 1290s, possibly in 1293 (Maxwell-Lyte, *Historical Notes*, p. 19).

[36] Ibid., p. 193.

[37] Wilkinson focused on the warranty notes of 1341 and Brown examined those issued in 1404–5.

[38] The parliamentary provenance of the warranty note is acknowledged by Maxwell-Lyte, but is not followed up: *Historical Notes*, pp. 192–4. Baldwin initially considered the note to indicate that petition that had been presented to the council at any point irrespective of whether parliament was in session (J. F. Baldwin, *The King's Council in England during the Middle Ages* (Oxford, 1913), p. 375), but later he revised this view and recognized the parliamentary context—though the matter was given only fleeting attention: J. F. Baldwin, 'The King's Council', in J. F. Willard and W. A. Morris (eds.), *The English Government at Work 1327–1336*, 3 vols. (Cambridge, Mass., 1940), i. 148.



1. The Parliamentary Imprint on Chancery Records

recently finished, when those petitions that had not been expedited during parliament were quickly dispatched in the weeks (and months) following the assembly's close.[39] This link between warranty note and parliamentary session is demonstrated in Figure 1. It shows the chronological spread of warrants issued across a period of fourteen months early in Edward III's reign when two parliaments were held at Westminster. The clustering of the warranty notes to the duration and aftermath of the two parliamentary meetings is clear to see. The chart is particularly useful for showing the proportion of warranty notes issued after parliament had ended; in fact, the vast majority appear to have been recorded outside parliamentary time, suggesting that it was common practice for parliament to end without the greater proportion of petitioners having received a final resolution to their grievance. This provides a clear indication of the amount of time that was necessary to subject the complaints and claims of petitioners to proper scrutiny before the Crown was in a position to offer its assistance. In the first parliament to feature in Figure 1, which met between 26 November and 9 December 1330, it took a period of two months before the bulk of the petitions presented in that assembly had been cleared (allowing for a break over the New Year period). Some cases evidently carried through to late spring.[40] For the

[39] The warranty notes issued in response to petitions from Gascony (and enrolled on the Gascon rolls) appear to be the exception to this rule. See Ch. 4, note 94.

[40] Some of the letters close issued in May 1331 (and warranted *per peticionem de Consilio*) specify that the matter had arisen 'by petition before the king and his council in parliament': see *CCR 1330–1333*, pp. 228, 231, 241, 242, 243, and 245.

present purposes, however, the significance of the chart lies in the great lacuna of the summer months, a period when the absence of parliament clearly resulted in a corresponding dearth of warranty notes *per peticionem de Consilio* in chancery records. With the meeting of the autumn assembly in September, the warranty note once again appears.

The warranty note *per peticionem de Parliamento* (i.e. 'by petition of parliament'), which regularly appears in the chancery rolls of the later fourteenth century, was not in common usage during the reigns of Edward I and Edward II and in the first decades of Edward III's reign. Instead petitions presented in parliament, which then led to a grant, commission, or payment, were identified by chancery clerks exclusively as petitions that had been dispatched by the council. It was not that parliament and the council were considered to be synonymous, but rather that the handling of petitions in parliament at this point was restricted to the central core of its membership who were most conveniently described by the clerks as the king's councillors. This raises an interesting problem, for the absence of the warranty note *per peticionem de Consilio* in periods when a parliament had not recently sat suggests that the council did not routinely dispatch petitions not presented in parliament. Certainly, it is difficult to believe that this note would not also have been utilized had the council dispatched petitions consistently throughout the year. Such a conclusion has both methodological and historical significance. Methodologically, it goes some way towards dispelling the frequently voiced concern that the petitions of the late thirteenth and early fourteenth centuries could just as plausibly have been presented outside parliament as in it because of the general form of their address. And historically, it suggests that the council had not yet developed the capacity, as it was to do later in the fourteenth century, to deal with large numbers of petitioners directly—one of several factors which might explain why petitioning was concentrated in parliament at this time.[41]

There are some obvious limitations to counting warranty notes in order to compare levels of petitioning in parliament. Above all, they do not account for every petition presented in parliament because they record only successful petitions, and only those successful petitions which left a particular imprint on selected records of central government.

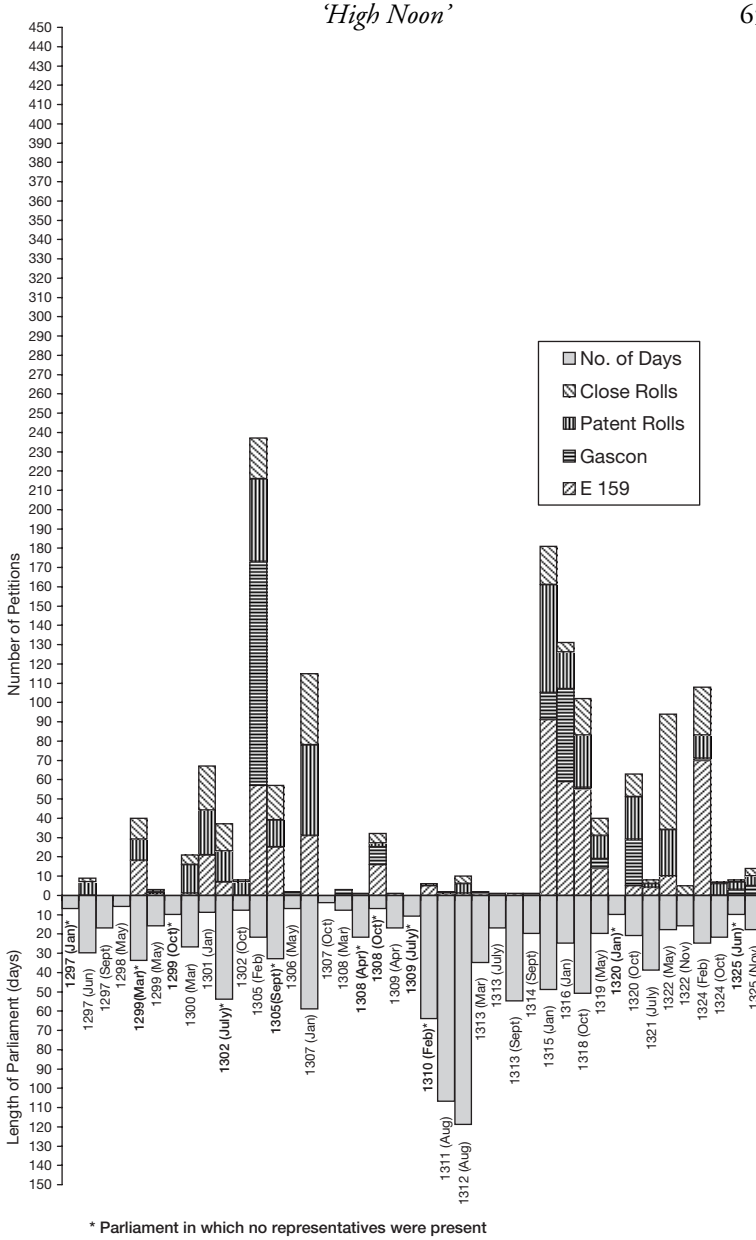
[41] See G. Dodd, 'Henry IV's Council, 1399–1405', in G. Dodd and D. Biggs (eds.), *Henry IV: The Establishment of the Regime, 1399–1406* (Woodbridge, 2003), pp. 95–115.

Not every petition in parliament had a positive outcome; not every successful petition resulted in an action for which enrolment on a chancery roll or the exchequer memoranda roll was the most appropriate course of action; and not every petition which resulted in an outcome that could have been enrolled was enrolled, because enrolment required petitioners to pay a fee and not every petitioner would necessarily have chosen to make this financial outlay.[42] There is also the crucial point that petitions handled specifically by the king, or by the king and council, generally carried the warranty note *per ipsum Regem*, *per ipsum Regem et Consilium*, and *per breve de private sigillo*.[43] The warranty note *per peticionem de Consilio* appears to have been reserved for those petitions which did not come within the specific purview of the king. In other words, it was used mostly for petitions handled by the panels of triers and by the council, if the council was not acting in the presence of the king. Government instruments authorized *per peticionem de Consilio* therefore accounted for only a proportion of the total number of petitions presented in a single parliament. This is illustrated by the parliament of October 1318, where a total of 102 warranty notes *per peticionem de Consilio* were enrolled on the chancery and exchequer rolls out of an overall total of 360 petitions known to have been presented in parliament altogether—a ratio of less than one in three (28%).

The warranty notes do not provide a measure of absolute numbers of petitions presented in any one parliament, but they do offer new and exciting opportunities to measure petitioning trends over an extended period of time. For the remainder of this section discussion will focus on the results of a survey of warranty notes for the period 1297–1325 (see Figure 2). The survey concentrates on those sources which yield the largest quantity of authorizations, namely, the patent rolls, close rolls, Gascon rolls, and the *Brevia Baronibus* section of the exchequer

[42] For the fees charged generally for enrolment see Maxwell-Lyte, *Historical Notes*, pp. 340–2, 365. Some impression of the scale with which individuals chose not to have enrolments made of their cases can be gauged by the contents of *Calendar of Chancery Warrants Preserved in the Public Record Office, A.D. 1244–1326* (London, 1927), which contains all warrants issued by the privy seal which did not then result in an entry in a chancery roll.

[43] This has been established by searching through the close and patent rolls to identify those warranty notes issued for the petitions listed in October 1318 as having been expedited by the king: warranty notes *per ipsum Regem* and *per ipsum Regem et Consilium* were found, but none authorized *per peticionem de Consilio*. See *PROME*, parliament of October 1318, E 175/1/22.



2. Private Petitions in Parliament, 1297–1325: The Evidence of Warranty Notes

memoranda rolls.[44] King's bench records have also been surveyed in this period for evidence of such authorizations, but only a tiny number have been discovered and these data have not therefore been included in the survey. The patent, close, Gascon, and exchequer memoranda rolls most certainly do not account for all the warranty notes *per peticionem de Consilio* issued as a result of a parliamentary petition and which would no doubt be discovered in larger numbers if a wider selection of records were consulted.[45] The purpose of the survey, however, is not to account for every last warranty note of this kind, but to indicate patterns of petitioning across the period and for this purpose, the four types of record are more than sufficient. To allow for the fact large numbers of petitions were often not handled for several weeks, and sometimes months, after parliament had ended, the survey assigns to each parliament all warranty notes *per peticionem de Consilio* issued either during parliament itself or in a period of up to three months after parliament had ended, when the residue of petitionary business had, finally, been cleared up.

Perhaps the most striking aspect of Figure 2 is the evidence it provides to show how variable the success rate of petitions presented in the first decades of the fourteenth century was. It demonstrates not only that the number of successful petitions fluctuated to extremes in consecutive parliaments, but that for the first seven years of Edward II's reign almost no petitions resulted in an action that was subsequently recorded in the main records of chancery and the exchequer. We cannot assume, of course, that the absence of warranty notes indicated that fewer petitions (or none at all) had been presented in parliament: the Crown could still have received, but not answered, petitions, in parliaments for which the number of warranty notes is negligible. But there is an interesting correlation between the number of warranty notes for the period 1297–1325, and the survival of the parliamentary records from the same years, which confirms the impression that there were periods when petitioning was almost totally absent in parliament. A striking parallel exists between the results in Figure 2,

[44] It is likely that some overlap exists between the warranty notes issued for entries in the exchequer memoranda rolls and some of the chancery writs (to the exchequer) recorded on the close rolls. However, since it has been estimated that less than a quarter of such writs were enrolled in this way, the overall figures should not be distorted too seriously: see *Calendar of Memoranda Rolls (Exchequer) Preserved in the Public Record Office, Michaelmas 1326—Michaelmas 1327* (London, 1968), p. xiii.

[45] See, for example, Brand, 'Petitions and Parliament', notes 31 and 32.

on the one hand, and the existence of parliament rolls and files of petitions (where known)[46] on the other. Rolls or files of petitions exist, or have been known to exist, for the parliaments of October 1302, February and September 1305, January 1307, August 1312, January 1315, January 1316, October 1318, May 1319, October 1320, May 1322, and February 1324.[47] These are precisely the parliaments which can be seen in Figure 2 to have left significant numbers of warranty notes *per peticionem de Consilio* in the chancery and exchequer rolls. The match is so precise that there are very few parliaments in Figure 2, which resulted in more than a dozen warranty notes, for which there is not also corresponding evidence for petitioning in a roll or (formerly recorded) file.[48] By the same token, there are no extant records indicating that large-scale petitioning took place in a parliament for which there are not also large numbers of warranty notes. The survival rate of late thirteenth- and early fourteenth-century private petitions is clearly not nearly as disheartening as we might have thought.[49] The apparently random and chronologically scattered nature of the extant rolls and old files does not indicate the loss of an enormous quantity of the original parliamentary record but reflects the enormous fluctuation, and possibly in many cases the total absence, of petitioning in many of the parliaments of Edward I and Edward II.

The lengthy break in petitioning during the first years of Edward II's reign is particularly striking and throws into question one of the basic assumptions that underpins modern scholarship on the parliaments of this period. This is the view that whilst the dispensation of justice may not have constituted the defining 'essence' of early fourteenth-century parliaments, as Richardson and Sayles argued, nevertheless

[46] This information can be found in the notes of Illingworth, currently classified as TNA/PRO 36/19.

[47] *PROME*, SC 9/25 mm. 1–2 (1302); SC 9/12 (1305); Vetus Codex—1307 (January 1307); SC 9/17, 26 (August 1312); SC 9/18 (January 1315); E 175/1/22 (October 1318); SC 9/22 and C 49/4/25 (May 1319); SC 9/23 (October 1320). The evidence for petitions presented in May 1322 and February 1324 can be found in Illingworth's notes (TNA/PRO 36/19) and the transcriptions of petitions made by Sir Francis Palgrave and currently kept in TNA as TNA/PRO 31/7 101–3 (May 1322), 98–9 (February 1324).

[48] The exceptions are the parliaments of March 1299, March 1300, and January 1301.

[49] See, for example, Pollard's statement that the thousands of extant petitions represent 'only a fraction of the petitions sent to parliaments between the reigns of Edward I and Richard III': *Evolution of Parliament*, p. 41.

the legal aspect remained very much at the heart of the functions fulfilled by parliament in these years.[50] Yet, in Figure 2, it can be seen that in only half the parliaments that met between 1305 and 1325 is there evidence from the chancery and exchequer rolls that petitions had been expedited in any great number. In only nine out of thirty-two assemblies of this period (i.e. less than a third) does the evidence of the warranty notes suggest that the Crown handled petitions in significant numbers. In all the debates that have raged about the function of parliament under Edward I and Edward II the discussion has always focused on how important or prominent *non*-judicial parliamentary business was alongside petitioning. Petitioning itself is assumed to have been intrinsic to the functions which parliament discharged.[51] In fact, Figure 2 shows that fewer parliaments were summoned in these decades to deal with petitions than those which met to attend to other business such as the affairs of state, matters relating to foreign policy, and/or taxation. Fundamentally, judicial business was not a constant or continuous feature of parliament's activity. It is true that on occasion private petitions flooded parliament and dominated its proceedings, but these parliaments are in the minority compared to the assemblies for which no evidence exists of large-scale petitioning.

Richardson and Sayles were highly dismissive of the notion that in this period several kinds of parliament met;[52] but on the basis of the evidence presented in Figure 2 it is difficult to conclude anything else. Parliaments were most assuredly *not* of one kind only: in some assemblies, the full apparatus for handling and dispatching petitionary business appears to have been in place and consequently the assembly took on a very obviously 'judicial' character; in other assemblies, however, petitionary business was negligible, if it existed at all, and so the assembly was presumably free to concentrate on other matters—the

[50] See, for example, M. Prestwich, *English Politics in the Thirteenth Century* (Basingstoke, 1990), p. 134.

[51] For example, Goronwy Edwards, arch critic of Richardson and Sayles, at no point questioned whether (to paraphrase him) 'the dealing out of justice was parliament's main or primary function': ' "Justice" in Early English Parliaments', p. 280. His contention was that the dispensation of justice represented the 'essence' of parliament. Richardson and Sayles expressed their standpoint most forcefully in *English Parliament*, Ch. 26 (p. 43: '[t]he one constant attribute of parliament, so far as our evidence goes, was, for the better part of a century, the hearing of private petitions').

[52] Ibid., p. 31.

'grosses busoignes'[53] of the realm.[54] There is no evidence to suggest that the Crown routinely announced in advance whether a parliament was to make proper provision for handling private petitions and so it was probably not uncommon for some petitioners to travel to parliament only to be frustrated in their hope to secure redress.[55] It may be significant in this respect that in one of the 'non-judicial' parliaments of the latter part of Edward II's reign—the parliament of November 1325—MPs presented a list of grievances to the Crown which included the complaint that petitions delivered in parliament, which had been adjourned before the king or the chancellor, were not acted upon.[56] Had the petitioners received advanced warning that the king did not intend to devote his energies or the time of his ministers to expediting petitions it seems unlikely that such a complaint would have been made. The expectation seems to have been that parliament should always cater for the needs of petitioners; the reality often fell somewhat short of this.

Richardson and Sayles asserted that it would have been obvious to contemporaries which assemblies called by the king were councils and which were parliaments,[57] but if we take the 'judicial' function out of the equation it becomes clear that there was often very little to distinguish between those meetings of parliament where petitions were absent and those enlarged meetings of the council where a representative selection of the political community attended.[58] In this way, to distinguish

[53] The phrase is discussed by Edwards, '"Justice" in Early English Parliaments', p. 285.

[54] Although he does not explore the concept at length, there is some discussion of 'judicial parliaments' in Harding, *Medieval Law*, p. 176.

[55] No indication of the judicial nature of parliament was made in the writs of summons, where these were directed to sheriffs to organize parliamentary elections. In the writs directed to sheriffs to hold elections for the great 'judicial' parliament of January 1315, for example, the intended business of the parliament was merely stated as 'various arduous affairs touching the king and the state of the kingdom, and especially touching our land of Scotland': *RDP*, iii. 245–6. One of the few pieces of evidence showing the Crown advertising its desire to hold a 'judicial' parliament is the letter written by Edward I to his chancellor three weeks before the parliament of February 1305. In it, the chancellor, along with the treasurer, is commanded to have proclamations made in the Great Hall of Westminster, the chancery, before the justices of the bench, in the Guildhall, and at Westcheap that all petitioners should deliver their grievances in advance of parliament so the council could expedite as many as possible before the arrival of the king: *Memoranda de Parliamento*, ed. Maitland, pp. lvi–lvii.

[56] SC 8/8/392 (1325).

[57] Richardson and Sayles, *English Parliament*, Ch. 26, pp.1–6. By the time of Edward III's reign this assertion is probably correct, but it is difficult to sustain in an earlier period.

[58] This carries most weight when applied to the reign of Edward I. The council meetings of November 1294 and May 1306 both had the appearance of parliamentary meetings (taxation was granted and representatives attended) but neither

between a meeting of the council and a meeting of parliament on the basis of function alone is highly problematic because the apparently one distinctive feature of parliament's activity—the wholesale dispatch of petitionary business—occurred on only an intermittent basis. Even so, allowing for the fact that parliament's record in dispatching petitionary business was irregular and haphazard, the fact that the warranty notes cluster to periods when only parliament was in session or had shortly ended, and were absent in periods when meetings of the king's Great Council occurred,[59] suggests that large-scale petitioning was nevertheless an activity still associated exclusively with this assembly. Almost certainly this was because it was only in parliament that the Crown was prepared to set up the administrative and judicial apparatus necessary for such cases to be dealt with effectively.

Why should the parliaments in the second half of Edward II's reign have been so emphatically 'judicial' in nature when, in the first thirteen assemblies to meet between 1307 and 1314, the Crown appeared decidedly reluctant to consider much petitionary business at all? This important question requires us, briefly, to consider the broader context in which the parliaments of this period were called. The obvious explanation is that the discrepancy indicated the existence of a close link between parliamentary petitioning and more general levels of lawlessness. In so far as volumes of recorded litigation can be used to show levels of criminal activity, the evidence both of special commissions of oyer and terminer and of indictments brought before the commissions of gaol delivery indicate that the 'crime wave' of Edward II's reign

was classified as a parliament. Whilst the 1294 meeting was straightforwardly noted to have been a 'council', no contemporary designation for 1306 has survived and recent scholarship is divided over whether to classify it as a parliament (cf. Prestwich, *Edward I*, pp. 457, 467; *PROME*, Trinity 1306, Introduction). Similar uncertainty surrounds the meeting of the council in March 1298 (*PROME*, Lent 1298, Introduction). In light of the fact that warranty notes issued in response to parliamentary petitions specified the council and not parliament it is tempting to believe that contemporaries were far less concerned than modern scholarship about the precise use and definition of such terminology.

[59] This is best demonstrated by considering the meetings of the Great Council in the first decade of Edward III's reign. The dates of these meetings are 15–23 September 1327; 21 July–6 August 1328; 23–7 September 1336; 26 September–4 October 1337; and 26 July–2 August 1338 (source W. M. Ormrod, *The Reign of Edward III: Crown and Political Society in England 1327–1377* (London, 1990), Table 5). A tiny number of warranty notes were issued at the time of some of these council meetings; not enough, however, to suggest that petitioning was anything but a very irregular, insignificant, and secondary aspect of the business attended to.

did not begin much before the mid-1310s, at exactly the point when parliament began to receive significant numbers of complaints from private petitioners.[60] The timing is certainly suggestive; but there is a difficulty. The petitions presented in parliament in the second half of Edward II's reign do not give the impression of a kingdom on the brink of anarchy. Take, for the purposes of illustration, the petitions presented in the parliament of October 1318. There *are* cases enrolled on the parliament roll which could be classified as complaints about lawlessness. The petition of the earl of Richmond's tenants of Danby, about the trespasses allegedly committed against them by John Page and other malefactors, is a case in point, as is the petition of John of Droxford and Margaret, his wife, who complained that the earl of Hereford, Peter of Dovedale, and others had unjustly seized their manors.[61] But this type of complaint was unusual. The petitions were actually far more diffuse in the subject-matter they raised. They included a complaint that the king was in wrongful possession of lands and tenements; that an abbot's temporalities were being overassessed; that royal justices assigned to oversee the repair of channels, drains, and gorces (fishing weirs) were not discharging their responsibilities strictly enough; that foot soldiers had absconded with the wages provided to them by the supplicants; and that a sheriff had made a fraudulent election return to the current parliament.[62] If there was a deep-seated crisis in law and order in the second half of Edward II's reign it does not seem to have manifested itself in the petitions presented to parliament.

It is true of petitioning at any point in the late medieval period that the level of private business flowing into parliament was determined as much by the receptiveness of the Crown to such business as it was by the 'consumer demand' of the petitioners themselves. Herein, perhaps, lies the explanation for the huge discrepancy in the volume of petitionary business handled in Edward II's parliaments. In the early years of Edward II's reign all indications point to the fact that there was neither the will (on the part of the king) nor the necessary

[60] R. W. Kaeuper, 'Law and Order in Fourteenth-Century England: The Evidence of Special Commissions of Oyer and Terminer', *Speculum* 54 (1979), 734–84, p. 741; B. A. Hanawalt, *Crime and Conflict in English Communities 1300–1348* (Cambridge, MA, 1979), p. 279 (table 12). For more general discussion see A. Musson and W. M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke, 1999), Ch. 4.

[61] *PROME*, parliament of October 1318, SC 9/21, items 81 and 105.

[62] Ibid., items 65, 67, 70, 73, and 79.

conditions (within parliament itself) to allow private petitioning to function properly and effectively. The first of these points is suggested by the fact that parliament's role as the forum for dealing with the complaints of the king's subjects was upheld by the opposition to the king both in the Stamford articles of 1309 (article 6) and in clause 29 of the Ordinances issued in 1311.[63] For the political community at least, Edward's reluctance to organize parliament so that it could accommodate and resolve the complaints of his subjects constituted an important failing of his kingship. The complaint of 1309 is particularly striking, for it suggests that the shutting out of petitionary business from parliament was suspected by the political community to be no temporary aberration, but a permanent arrangement. The petition stated that:

> the knights, men of the cities and boroughs and other towns, who have come to parliament at [the king's] commandment, both for themselves and for the people, and have petitions to deliver about oppressions and grievances committed against them, which cannot be redressed by the common law, nor in any other way except by special grant, he [the king] does not appoint men to receive their petitions, as it was done in parliament in the time of the king his father.[64]

The assembly of April 1309 was the fifth parliament to meet in Edward II's reign, and although some petitions were evidently addressed in the assembly of October 1308 (see Figure 2), the complaint implies that Edward had yet to hold a properly functioning 'judicial' parliament. For the authors of article 6, who were presumably the parliamentary representatives attending the current session, this evidently constituted a significant departure from previous custom.

It is difficult to comprehend why Edward should have adopted such an unpopular stance in relation to the petitionary business parliament had traditionally discharged: configuring parliament so that it could handle a large volume of complaint hardly constituted an imposition on the king's authority or an affront to his royal dignity. It did, however, entail a commitment of both time and labour, and this may be the explanation for Edward's obduracy. Some indication of the king's

[63] G. L. Harriss, *King, Parliament and Public Finance in Medieval England to 1369* (Oxford, 1975), p. 109; Maddicott, *Thomas of Lancaster*, p. 98; M. Prestwich, 'The Ordinances of 1311 and the Politics of the Early Fourteenth Century', in J. Taylor and W. Childs (eds.), *Politics and Crisis in Fourteenth-Century England* (Gloucester, 1990), pp. 10–11.

[64] *Select Documents of English Constitutional History 1307–1485*, ed. S. B. Chrimes and A. L. Brown (London, 1961), p. 6 (author's translation).

attitude towards parliament is shown by a letter he wrote to the earl of Lincoln in November 1309 in which he instructed him to assemble a 'great parliament' at York in February 1310, paying particular attention to his wish to be present at parliament for no more than ten or twelve days.[65] The most revealing aspect to this communication is that it came only a matter of months after Edward's responses to the articles of April 1309 were published at the parliament held at Stamford, where he had explicitly promised that in all future parliaments receivers would be appointed and petitions would be expedited by the council. At least in the short term, it seems that Edward had no intention of honouring this commitment.

The evidence of the letter, together with the fact that the average duration of the first six parliaments of Edward's reign was just eleven and a half days, in fact suggests that what the king wanted was a more streamlined assembly free from the labour-intensive and time-consuming business of dealing with his subject's complaints. It is an attitude which fits into a general picture of a king who did not take the responsibilities of his office seriously.[66] His was a view which saw parliament only in terms of what the assembly could do for him, not what he could do for his kingdom.[67] Small wonder then that the dispatch of petitions formed an important part of the scheme which was set out in the New Ordinances of 1311 for future meetings of parliament.[68] In article 29 it was ordained that parliament should be held at least annually so that 'bills that are delivered in parliament be determined so far as law and reason require it'.[69] It was a reminder that parliament existed not just to serve the interests of the king, but to serve the needs of the wider community. Interestingly, the Ordainers identified

[65] This was a letter issued under the privy seal, printed in J. C. Conway-Davies, *The Baronial Opposition to Edward II* (Cambridge, 1918), pp. 548–9.

[66] The most recent summary is M. Prestwich, *Plantagenet England, 1225–1360* (Oxford, 2005), pp. 218–19.

[67] A point developed further in G. Dodd, 'Parliament and Political Legitimacy in the Reign of Edward II', in G. Dodd and A. Musson (eds.), *The Reign of Edward II: New Perspectives* (Woodbridge, 2006), esp. pp. 180–6.

[68] There is useful discussion of this in Edwards, '"Justice" in Early English Parliaments', pp. 285–90. It is noticeable that Richardson and Sayles completely failed to address the implications which Edwards proposed for article 29 of the New Ordinances (and which the present discussion builds upon). Their assertion, that a king always tried to ensure that parliament made adequate provision for petitionary business, is now clearly unsustainable (*English Parliament*, Ch. 26, p. 39).

[69] *English Historical Documents 1189–1327*, ed. H. Rothwell (London, 1975; repr. 2001), p. 536.

three main types of petition that parliament should receive: those in which defendants claimed that they could not answer without the king; those for which remedy could not be obtained without a 'common parliament' because they related to injustices committed by the king's officers; and those in which the justices were divided in their opinion. Edward's obstruction of parliamentary petitioning thus changed what should have been a relatively straightforward administrative function of government into a major issue of political contention, and one which no doubt contributed to an underlying sense that the king could not be relied upon to rule for the common good of his realm.

Whilst not in any way diminishing the underlying premise that Edward had little enthusiasm for holding 'judicial' parliaments, there is one mitigating factor that can be added to the equation. This is the point that hardly any of the early parliaments of Edward II's reign were not overshadowed by political dissent. The five assemblies which met between March 1308 and July 1309 were shaped above all by the barons' attempts to minimize the influence of Piers Gaveston and to impose a series of reforms (and limitations) on the king's government; the parliaments of February 1310 and August 1311 concentrated almost exclusively on working out the scope and practical application of the Ordinances; and the parliaments which met between August 1312 and September 1314 were held primarily in order to facilitate a political concord between the king and his baronial opponents following the murder of Gaveston in June 1312. This was a period when the political community had fractured and when parliament itself had become the main forum for the protracted struggle between the barons and king. Thus, even if Edward II had been more receptive to parliament's remedial function, it is doubtful how effective the institution would have been in discharging it. It was not just the king but the broader political community which was preoccupied with the 'grosses busoignes' of the realm and it is debatable how far members of the baronage and episcopate would have been prepared to get involved in the minutiae of individual petitions of complaint when the political stakes were so high. Periods of political crisis were not conducive to the smooth running of the petitionary system, a point underlined by the fact that the 'crisis' parliaments of 1297 also appear not to have dispatched petitions in any great numbers.

This puts a rather different complexion on the second half of Edward II's reign, when petitions were dealt with in large numbers. The most plausible explanation for the fact that parliament was now receiving and dispatching such a large quantity of private business is that a semblance

of political order and administrative normality had been restored to the workings of central government. The parliament of January 1315 was the first assembly when Thomas of Lancaster could realistically give practical expression to the principles espoused by the Ordinances of 1311.[70] In both this assembly and the assembly held at Lincoln in January 1316, petitions were accorded priority for the first time in the reign: not only were receivers appointed (and in 1316 triers as well), but both assemblies appear to have been reconvened to allow sufficient time for petitionary business to be properly dispatched.[71] In 1315 there is no evidence that committees of triers were appointed, but in this assembly, for the first time, large numbers of petitions were recorded as having been considered by the Great Council, a body which presumably comprised the greater part of the assembled lay and spiritual lords.[72] This deserves comment, for it is tempting to see this as a precursor to the addition of peers to the committees of triers in January 1316. As we have seen, there were sound practical reasons to increase the size of these committees and to have their membership include experienced administrators from amongst the peerage (reasons which explain why their presence endured), but the addition of bishops and barons also no doubt lent the committees an extra degree of political authority at a time when Thomas of Lancaster needed to justify his leadership in government. The collective involvement of the parliamentary peers in adjudicating petitions in 1315, and their (reduced) presence on the committees of triers in 1316, may therefore in part have been intended as a means of highlighting the representative nature of government and the fact that Lancaster was not using his position to subvert the proper implementation of justice.

For the remainder of Edward II's reign it can be seen that private petitions continued to be expedited in large numbers, but *only* in those parliaments which were not entirely dominated by political intrigue or which

[70] Lancaster had already become effective head of the government by the time of the York parliament of September 1314, but since this assembly saw a wholesale purge of administrative personnel there was no realistic opportunity for petitions to be handled during its proceedings: Maddicott, *Thomas of Lancaster*, pp. 164–5.

[71] On receivers and triers see Richardson and Sayles, *English Parliament*, Ch. 17, pp. 195–6. Almost certainly triers were appointed in 1315, though evidence for this is now lost. Evidence for the adjournment of the two parliaments, in both instances so that the royal justices could complete the adjudication of petitions, can be found in duchy of Lancaster records (cited, respectively, in *PROME*, parliament of January 1315, Introduction; and G. O. Sayles, *The King's Parliament of England* (London, 1975), p. 98).

[72] See Appendix 1, pp. 328–9.

were not specifically intended by the king to concentrate on other matters. Into the former category we can place the parliament of July 1321 (when baronial opposition against the Despensers reached a climax) and into the latter category can go the assemblies of January 1320, November 1322, October 1324, June 1325, and November 1325, all of which met at times when the king wished the political community urgently to consider English military fortunes against the Scots or French. Edward suppressed petitionary business when it did not suit his needs, but the scale of petitioning in the parliaments of October 1320, May 1322, and February 1324 suggests that he did recognize that petitioning had a place in parliament and ought to be accommodated at timely intervals when the political or military situation allowed. This much is suggested by the gushing report made by Thomas Cobham, bishop of Worcester, to Cardinal Vitale Dufour about Edward's active participation in the petitionary business of the parliament of October 1320: 'All those wishing to speak with reasonableness he listened to patiently, assigning prelates and lords for the hearing and implementation of petitions, and in many instances supplying ingeniously of his own discernment what he felt to be lacking.'[73] The unpublished chronicle of Nicholas Trivet similarly reported that Edward 'showed prudence in answering the petitions of the poor, and clemency as much as severity in judicial matters, to the amazement of many who were there'.[74] That Edward, in his later years, began to take a proactive interest in the grievances of his subjects seems to be verified, ironically enough, by a general complaint submitted in the parliament of 1324 that in times past the poor people of the realm had been able to obtain writs by submitting petitions directly into chancery, but now they were told they must speak directly to the king before such actions were allowed.[75] This must count as one of the few instances in the late medieval period when the king appears to have unburdened his ministers by taking on, perhaps needlessly, additional administrative responsibilities.[76]

[73] *Register of Thomas de Cobham, Bishop of Worcester, 1317–27*, ed. E. H. Pearce, Worcestershire Historical Society (1930), p. 98.

[74] BL, Cotton Mss., Nero D.X, f.110v. (cited in *PROME*, parliament of October 1320, Introduction).

[75] SC 8/108/5398. But equally, the author of the Vita suggested that in 1321 the king was unwilling to hear individual grievances in parliament as he ought to: *Vita Edwardi Secundi,* ed. N. Denholm-Young (London, 1957), p. 258.

[76] There is also more circumstantial evidence for the king's more active involvement in petitionary business. This includes a writ sent to the keeper of the privy seal in January 1327 which enclosed a petition (from the archbishop of Canterbury) on which the king

If we extend our survey of petitions backwards to include the final decade of Edward I's reign, we can see that exactly the same forces that determined the pattern of petitioning under Edward II were influencing the extent of petitioning in the parliaments of his father: in the late 1290s petitioning featured hardly at all because the membership of parliament was preoccupied with the most protracted political crisis to afflict Edward I's kingship. Once Edward I regained his authority, petitioning was allowed to flourish but *only* when this suited the king's political or military agenda: the record of petitioning in the final eleven parliaments of Edward I's reign is fairly consistent, but there are gaps which indicate that parliament had probably been intended to meet for other purposes besides the dispatch of private petitions. We can speculate, for example, that in May 1299 and October 1302 discussion of Anglo-French negotiations took precedence, and in May 1306 taxation was given priority. The assembly of October 1299, though it was described as a parliament, was little more than an ordinary meeting of the king's council (only a small number of individuals were summoned to attend). The extent of petitionary business handled by parliament appears to have been influenced by an agenda once again determined almost entirely by priorities fixed by the Crown. In fact, the impression is strengthened by Figure 2 which shows how little influence the parliamentary representatives had on the process. Between 1297 and 1307 there were almost as many 'judicial' parliaments to which no representatives were returned (e.g. March 1299, July 1302, September 1305), as there were parliaments in which representatives were present but petitionary business was virtually absent (e.g. September 1297, May 1298, May 1299, and May 1306). This has been explained in terms of the irregularity of the MPs' attendance of parliament, which is thought to have prevented them from easily taking on the role as the transmitters of local grievances.[77] But it is just as likely to have reflected the practicalities of the petitioning process and the fact that a large number of petitioners preferred to present their case in person rather than entrust it to a third party.[78] In either case, it is interesting to note the disjunction between the importance which the early MPs

was said to have written his advice after each of the requests which had been made: *Calendar of Chancery Warrants*, p. 573.

[77] J. R. Maddicott, 'Parliament and the Constituencies, 1272–1377', in Davies and Denton (eds.), *The English Parliament*, p. 62; Harding, *Medieval Law*, p. 176.

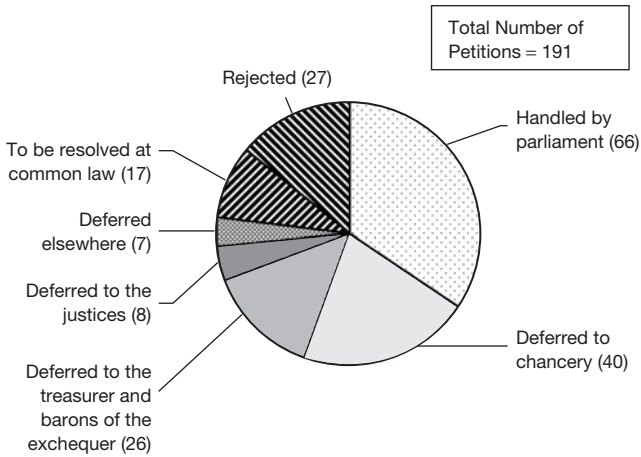
[78] For discussion of this issue, see Ch. 9, pp. 309–10.

evidently attached to their role in the parliamentary petitioning and the fact that their presence, in reality, seems to have counted for very little. In 1309, the knights and burgesses presented themselves to the king as the champions of petitioners, as the key intercessors between the king and his subjects. In practice, one suspects this was exaggeration, borne out of a desire to accentuate the value of their own presence in parliament.

3.3 RESPONDING TO THE PETITIONS

How receptive was the Crown to the requests and complaints submitted in parliament? How were petitions handled at parliament, and specifically how many were dealt with within parliament itself? These questions take us to the very heart of the effectiveness of parliamentary petitioning. They can be answered by focusing on the petitions identified by Sir Francis Palgrave as pertaining to the parliament of February 1324. These petitions were transcribed in the early nineteenth century from an original file found preserved in the Tower of London; although the contents of the file are now scattered amongst the present series 'Ancient Petitions' it is possible to re-establish their identity by referring to the volumes of transcriptions which are kept in TNA.[79] A survey of the responses given to the petitions presented in 1324 reveals that petitions were channelled along half a dozen distinct routes (see Figure 3). The petitions classified as being 'handled by parliament' are those cases that do not appear to have been deferred for consideration outside the assembly, but were dealt with within a parliamentary context, by the king himself, the king and his council, the council by itself, or the committees of triers. For the present purposes these specifically parliamentary bodies are grouped together—a more detailed consideration of the types of cases each handled, and particularly of the work undertaken by the committees of triers, is provided in Chapter 4. The categories where petitions have been identified as being 'deferred' rest on an assumption—to be discussed in due course—that these cases were dealt with in a context that was one step removed from parliament, though they were still considered *initially*

[79] TNA/PRO 31/7/98 and 99.



3. Responses to Petitions Presented in the Parliament of 1324

in the institution (usually by the triers).[80] The remaining classifications—'rejections' and cases referred to the common law—are perhaps better described as 'outcomes' rather than routes, because in neither case did the petition progress beyond the reply that it was given in parliament.

It might be useful to examine these last two categories first to establish why some petitions failed to make headway. Just twenty-seven cases out of a total of 191 (i.e. 14%) received replies that constituted nothing less than an outright refusal by the Crown to take the case forward. The reasons given for these rejections were varied. Indeed, it is significant that reasons were given at all, for it suggests that all had been passed by the receivers and had received proper consideration by the king and/or his ministers in parliament. In some cases, the failure of a petition rested on a point of procedure. This was the fate to befall the request of the people inhabiting the lands of Dafydd ap Gruffydd who asked for the king's 'good lordship' (i.e. protection of their rights) in return for the payment of 600 marks over six years: because the land had passed into the king's hands as a result of the death of its owner (John de Grey) the petitioners were instructed to wait until they had been delivered to de Grey's successor before resubmitting their

[80] A distinction should therefore be drawn between this process and the earlier custom, outlined at the start of the chapter, whereby petitions were separated from a parliamentary context altogether, without receiving initial consideration there.

request.[81] Joan de Burghfield's request to have her dower from the manor of Burghfield in Berkshire 'because she never committed any crime against the king, and has nothing on which to live' was rejected on the grounds that the manor was in royal hands because of her husband's forfeiture (presumably a reference to her husband's involvement in Lancaster's rebellion).[82] Henry Merton, taverner of Westminster, asked for the king's assistance in an unfortunate case where Robert de Swalweclyf had failed to pay a recognizance which Merton had made to have Swalweclyf delivered from prison—the king's response: 'nothing . . . because there is no injury to the willing man'.[83] Other petitions were dismissed more perfunctorily: to John Stevene's request to be pardoned of 'offences of which the petitioner is charged', the reply was 'the king is not disposed to pardon the issues';[84] and, in a case which showed how important it was for the supplicant to fully elucidate the nature of his request, the request of William de Orlanston, to have a pardon, was answered 'the petition does not specify of what he wishes to be pardoned'.[85] In general, it can be said that no petition failed to make headway when there was an obvious case to answer. Those petitions which failed to move the Crown did so because they generally raised issues or difficulties which the Crown was not under any obvious obligation to resolve: they tended to be requests calling directly on royal favour and in this instance the king had every right to choose not to exercise this favour. Even the response to Joan de Burgh's petition for her dower, though undoubtedly harsh, conformed to the accepted conventions determining the rights of individuals related to those convicted of treasonous activity.[86]

The Crown's referral of petitions to common-law process was of an ilk similar to an outright rejection, though there was at least the hope for supplicants that their grievance might still be resolved in a non-parliamentary context. The rejection of such petitions, on the grounds that they could gain a perfectly effective resolution through the common law, highlights the contemporary understanding that parliament should act as the provider of justice *only* in cases that could not be adequately dealt with in the king's ordinary common-law courts. The intention in making parliament available to litigants was not that it should replace or override common-law procedure but that it should offer a supplementary

[81] SC 8/108/5359. [82] SC 8/95/4719. [83] SC 8/154/7684.
[84] SC 8/138/6896. [85] SC 8/133/6622.
[86] See J. G. Bellamy, *The Law of Treason in England in the Later Middle Ages* (Cambridge, 1970), p. 21.

form of jurisdiction in cases for which no obvious common-law solution presented itself. In some instances, the Crown appears simply to have taken the view that there was no reason why a grievance should not be handled in a lower court. This was the case in a petition of John de Percy who complained that Roger de Bedd, the king's bailiff, had taken a horse from him on questionable authority—an accusation for which there was a very well-established common-law procedure for de Percy to follow if he sued a writ of trespass.[87] The temptation for some individuals to avoid the expense and time involved in pursuing litigation at common law, by appealing direct to parliament, probably accounted for a number of petitions of this type: it must have been a ploy which the Crown was very much alert to. In other cases, the Crown apparently referred petitioners to the common law because of a reluctance to interfere in due legal process. The petition of the abbot of Peterborough demonstrates the Crown's stance very well, for its reply to the abbot's complaint—that he was not receiving rent from lands granted to the earl of Pembroke and his wife, after their forfeiture from Robert de Holand—was that if the lands were held by the earl from anyone other than the king the abbot should sue at common law.[88] If they were held from the Crown, only then was his petition to receive the king's attention. Similarly, to the request of Ralph de Turvill, to have Turvill Wood in Normanton (Leics.) returned to him after its unlawful seizure from his father by Edmund, earl of Leicester, the response was that he should sue at common law because the lands and tenements were now in the hands of Henry of Lancaster.[89] Such responses were a handy and perfectly legitimate way for the king and his ministers to avoid embroiling themselves during a parliamentary session in highly complex and technical legal suits. They also reveal the extent to which petitions in parliament must have been considered in close reference to common-law procedure, the king and council presumably paying close attention to the advice of the senior judges present in parliament on whether a petition was better handled in a more regular court.

Taken together, those petitions which were either rejected or deferred to the common law comprised 23% (forty-four cases) of the total number of petitions that were presented in 1324. This was a failure rate of approximately one in four. Of those petitions remaining, ninety-nine were referred on to further processes (for which see below), which left no fewer than fifty cases (26%) which were given unconditional support by

[87] SC 8/133/6638. [88] SC 8/2/78. [89] SC 8/144/7154.

the Crown. Not surprisingly, the majority of straightforward acceptances were cases that were handled in parliament (see Figure 3). Successful outcomes included the grant of a licence to the abbot and convent of Kirkstall to purchase £20 of land and the manor of Headingley;[90] the release of John de Stanford, canon of Alnwick, from Rochester castle, at the supplication of the abbot of Alnwick;[91] the appointment of a commission on the petition of the mayor and commonalty of Dover, to investigate the activities of men who were attempting to monopolize trade out of the port of Dover;[92] and the issue of a writ of chancery acquitting Margery Lewer of the murder of Peter Boscombe, of which she had been falsely accused.[93] It is worth taking particular note of the fact that the successful petitions of 1324 also included cases which directly challenged the actions of the king and/or his ministers. This is shown, for example, by the petition of the abbot and convent of St Peter, Gloucester, who made complaint against the actions of the escheator who had seized one of their manors on a false pretext: the Crown upheld the complaint and ordered that the king's hand be removed from the land.[94] An even more revealing case was that of John de Stoteville and John de Carleton, parsons of Eckington, who complained that the king had taken the chapel of Beighton as a parish church and granted it to Bartholomew de Cotingham, even though it was a dependency of the church of Eckington.[95] In this instance, the endorsement noted that the council had upheld the complaint by ordering that the grant should be rescinded; but we know that the king was involved in the process, and presumably agreed to its outcome, because the petition was marked *coram rege*. The case provides a good illustration of the extent to which the Crown operated within a broadly agreed set of legal conventions, and of its willingness to concede that its actions could sometimes overstep these guidelines—and this in a period when the Crown is considered to have ridden roughshod over the individual rights of the king's subjects.

Figure 3 shows that a large number of petitions were deferred outside parliament for action, primarily to the chancery and exchequer. We should not necessarily understand this to mean that the petitions were considered, as they might have been in the early years of Edward I's

[90] SC 8/120/5963.
[91] SC 8/88/4367. The release is recorded in *CCR 1323–1327*, p. 106.
[92] SC 8/108/5363. For the commission, see *CPR 1321–1324*, pp. 375–6.
[93] SC 8/122/6098. For the order to release Margery Lewer, see *CCR 1323–1327*, p. 203.
[94] SC 8/113/5601. [95] SC 8/138/6894.

reign, quite literally, in isolation from parliament, for it is more than likely that some were considered when parliament was in session when the personnel of chancery and exchequer were still heavily involved in the running of the assembly. Instead, the deferral of petitions to chancery and the exchequer (and elsewhere)[96]implies that these administrative departments were intended to handle such cases independently of the principal 'parliamentary' bodies (i.e. the king, his council, and the committees of triers) from whom the cases had been initially transferred. This could evidently happen during parliament as much as it could when parliament had ended. Thus, when it was ordered for a petition to be dealt with '*in* chancery' or '*in* the exchequer' we should see this essentially as shorthand to indicate that the case was now to become the specific responsibility of the chancellor or the treasurer and barons who were expected to utilize the resources of their respective departments (i.e. both personnel and records) to have the petition fully expedited. The significance of this 'off-loading' of cases to the main secretarial and financial offices of central government lies in the nature and level of authority invested in the chancellor, treasurer, barons, and other royal ministers to have the petitions brought to a conclusion. In light of later developments in English central administration, particularly the emergence of what has been termed in the modern era as 'equity', the deferral of cases from parliament raises important questions about the extent of executive authority *already* enjoyed by the king's ministers in the early fourteenth century.

At least as far as chancery is concerned (and we shall concentrate on chancery for what remains of this discussion), petitions deferred from a parliamentary context—excluding those sent simply to initiate a writ—were generally of two kinds. First, there were petitions that required a very straightforward confirmation of the claim made by the supplicant in their request. In these cases, it is reasonably clear that chancery was being called upon primarily because it held the records of grants, inquisitions, inquests, commissions, and so on necessary to clarify the position of the supplicant. A typical example is the petition of Paulyn de Hauvill who requested the restitution of his inheritance in the manor of Weston: the endorsement ordained that the rolls of chancery should be examined and judgement given once Hauvill's rights to the manor had been established.[97] Clearly, this was a response which demanded little more than competent clerical administration on

[96] See Appendix 1, p. 333. [97] SC 8/117/5820.

the part of chancery personnel. It is the second category of petition that holds the greater significance because these cases were deferred to chancery on the assumption that the chancellor would take much greater initiative in having the complaint resolved. In most cases this involved chancery acting either as a commission of enquiry (where 'faithful men in chancery' were assigned to investigate the matters raised by a petition)[98] or a special tribunal (where petitioners were instructed to present their case or evidence in chancery before final judgement was passed).[99] In many cases, the chancellor was instructed to report back to the king on what had been found, so that it becomes clear that the main purpose of sending these petitions to chancery was to enable it to do the investigative legwork to better inform the king. In other instances, however, the petition was entrusted to the chancellor for his final judgement. A typical example is the petition from the merchants William de Walton and Robert Burre who requested the Crown's intervention to have debts owed by John II, duke of Brabant, repaid to them.[100] The petition was endorsed: 'He is to sue in chancery, and the chancellor is to do what seems to him is reasonably to be done'. Responses to other petitions included the instructions: 'Let the matter be pursued in chancery'; 'Let them pursue this in the chancery'; and 'Those who are aggrieved should sue before the chancellor'.[101] These cases related, respectively, to a complaint that the king's ministers had taken land away from the petitioners in the forest of Blackmoor and had afforested it against the tenor of a grant they had previously enjoyed; a request for a licence of enfoeffment together with permission to have reversions of other parts of the petitioner's estates; and a request to have the sheriff of Yorkshire punished for appointing men of insufficient means to local juries.

One thing that becomes clear when investigating the cases referred to chancery is that already, in the early fourteenth century, the chancellor's scope for independent action was extremely broad. In fact, it is quite clear from the very earliest ordinances relating to the handling of petitions in Edward I's parliaments that the chancellor, together with other key royal ministers, was entrusted with a considerable degree of autonomy in having petitions expedited.[102] This is an important point to make because a concentration on the later development of the chancellor's

[98] For example, SC 8/127/6350; 36/1787.
[99] For example, SC 8/127/6345; 95/4727; 95/4729.
[100] SC 8/150/7479.
[101] SC 8/107/5343; 108/5362; 152/7592.
[102] See above pp. 50–2.

equitable jurisdiction, with its understandable focus on the chancery bill (which did not appear until the late fourteenth century), can too readily give the impression that the chancellor was little more than a senior bureaucrat before this time.[103] On the contrary, the evidence of parliamentary petitions is that from very early on the chancellor was exercising a large degree of discretionary power and that he was doing this quite independently of either the king or the council.[104] We should not be too surprised by this: the vast amount of business which English central government was having to cope with by the end of the thirteenth century could not have been handled had the king not furnished his key ministers with the authority to address problems and requests using their own personal judgement. The chancellor, both as 'president' of the council (in the king's absence) and head of the Crown's principal writing office, as well as custodian of the great seal, naturally assumed a leading role in this respect and was foremost amongst the king's ministers in dealing with petitions which could not be given an immediate answer in parliament and/or which the king did not consider required his own personal attention. We should not envisage that the chancellor was removed from this process, for he would have been at the very heart of the system of judging petitions in parliament and may well have been instrumental himself in having cases deferred to chancery once it became obvious that further process or investigation was required before a resolution could be found.

[103] Discussion of the growth of chancery 'equity' can be found in *Select Cases in Chancery A.D. 1364–1471*, ed. W. P. Baildon, Selden Society, 10 (1896), pp. xv–xlv; M. E. Avery, 'The History of the Equitable Jurisdiction of Chancery before 1460', *BIHR* 42 (1969), 129–44; J. B. Post, 'Equitable Resorts before 1450', in E. W. Ives and A. H. Manchester (eds.), *Law, Litigants and the Legal Profession* (London, 1983), pp. 68–79; T. S. Haskett, 'The Medieval English Court of Chancery', *Law and History Review* 14 (1996), 245–313. Note Robert C. Palmer's assertion that 'the development of chancery adjudication had its roots in the consequences of the Black Death', in *English Law in the Age of the Black Death, 1348–1381: A Transformation of Governance and Law* (Chapel Hill and London, 1993), p. 108.

[104] For the scope of the chancellor's (significant) powers in the early fourteenth century, see J. F. Baldwin, *The King's Council in England During the Middle Ages* (Oxford, 1913), pp. 246–8; B. Wilkinson, *The Chancery of Edward III* (Manchester, 1929), pp. 46–53. A more recent investigation into the scope and use of the royal pardon has demonstrated the extent of prerogative power which the chancellor enjoyed: H. Lacey, 'The Politics of Mercy: The Use of the Royal Pardon in Fourteenth-Century England', University of York, PhD thesis, 2005, pp. 27–8. Another significant area of activity where the chancellor exercised prerogative powers was in issuing special commissions of oyer and terminer, for which see Ch. 7, p. 202.

Overall, then, the evidence points to a very efficient and remarkably sophisticated petitionary system. Undoubtedly one of the main reasons for this was because parliament had at its disposal the full resources of government. This meant, in effect, that there was considerable choice as to how a petition could be handled. Within parliament there were committees of triers and the king and/or his council; but if petitions required more specific input or further investigation the case could simply be deferred elsewhere, to a separate department or office holder. Frequently the chancellor was called upon in this regard; but the king had the choice of all his senior administrators and office holders and royal judges to offload cases that did not need the attention of the king and council in parliament. The key to the success of this system was not its structure, but the amount of discretion enjoyed by the king's ministers to 'do justice' on the cases that came before them. By virtue of their office these ministers were exercising nothing less than prerogative power on behalf of the king, a fact that made for a very flexible system of administration and government. The coordination of government processes which a meeting of parliament offered the Crown also had obvious advantages to the petitioner, for it meant that he did not have to worry about the most appropriate forum in which to have his complaint addressed because this was automatically decided for him as it passed through the various stages of consideration within parliament. The success rate of petitions presented in parliament is surprisingly impressive. One can certainly point to petitions in parliament (other than 1324) which did not gain redress; or to cases where the petitioner claimed to have petitioned in vain in one parliament after another for many years;[105] or petitions where the resolution offered by the Crown appears either not to have been acted upon or was ineffective.[106] But these examples should not form the basis of our overall appraisal of the petitioning experience. Judging by the evidence of the petitions presented in 1324 the Crown generally took its responsibilities very seriously in providing redress, where this was deserved.

The chapter began by qualifying, and explaining, why the period 1290–1327 constituted the 'heyday' of private petitioning in the late medieval period. Fundamentally the label still applies; but the foregoing discussion has highlighted that the place of private petitions

[105] For example, SC 8/7/345 (1324–5); 8/361 (1325); 18/860 (1327).
[106] For example, SC 8/1/1 (1290); 76/3788 (1295); 32/1564 (1332).

in parliament was—even in this period—by no means secure. Under Edward I and Edward II there was never a constant flow of manageable numbers of petitions into parliament: very often either the assembly did not receive any petitions at all or it was inundated with them. So, whilst this was without doubt a period when petitioning in parliament was at its peak, this remained fundamentally true only when parliament met in a political environment conducive to the time and personnel which the handling of petitions demanded. This situation reflected the fact that by the end of the thirteenth century, parliament's remit had expanded to such an extent that it now struggled to discharge adequately the various roles assigned to it. The fickle character of parliament under Edward I and Edward II showed that the smooth running of a 'high court' of the land was fundamentally incompatible with an institution that also played a vital role in the political life of the kingdom. At the best of times, parliamentary sessions became a matter of juggling the various resources available to meet all the demands which each session created—political, financial, and remedial; at the worst of times, when the political consensus had broken down in parliament, petitioning ceased to operate altogether.

This placed the English system of 'high court' justice at a significant disadvantage in comparison to the French system which, from an early stage (and to put it crudely) had separated 'politics' and 'justice'. This allowed the *Parlement* of Paris the opportunity to devote its energies almost entirely to fulfilling a judicial remit. In this sense, appellate justice was far more institutionalized in France, from an earlier age, than it was in England where people were forced to rely on a system that was not only ad hoc, but also acutely vulnerable to deferment or suspension. The description sometimes given to the English parliament as an assembly that displayed all the hallmarks of an 'occasion' thus seems particularly apt in summing up the precariousness and inconsistency of parliament's function as a court of last resort. As we have seen, there were periods when petitioning was indeed an 'occasional', rather than a consistent, part of parliamentary activity. This indicated that private petitions had yet to become fully integrated into the basic fabric of parliamentary life. Ironically, this occurred only when parliament had ceased attracting petitioners en masse, from the late fourteenth century onwards, and when the broader parliamentary community began to take a more active role in dispatching petitionary business. In the late thirteenth and early fourteenth centuries, the involvement of only a small proportion of the total membership of parliament in expediting private

petitions—the king, his councillors, and judges—was an important factor which made the process so vulnerable to being sidelined.

It is perfectly true that the presence of the king in the English parliament was what made parliament's jurisdiction so powerful and therefore so attractive to potential supplicants, but it was the king's presence that was also the root cause of the assembly's erratic record in discharging petitionary business in the period considered by this chapter. The presence of the king virtually ensured that the more routine aspects of the parliamentary agenda would be pushed aside to make room for the affairs of state and, not infrequently, political opposition, when these became matters of concern for the king or the wider political community. This was in the nature of the fact that private petitions were ultimately expressions of self-interest by people who hoped to mobilize government for their own individual benefit. As such, they could never command the same attention or urgency as decisions that were needed on matters that affected the general government and well being of the realm. Herein lay the crux of the incompatibility of parliament's functions, for a system that attempted to combine both a private and a public utility was always going to favour the latter when time and resources were at a premium—which they always were when the English parliament met. In France, the king had ceased to attend *Parlement* on a regular basis by the end of the thirteenth century.[107] This not only freed the institution of the public/private tension which dogged the English assembly; it also meant that the *Parlement* could meet more regularly and for longer periods without impinging on the king's schedule.[108] It was this, perhaps more so than the presence or absence of representatives, that was responsible for setting the English and French institutions on their different paths of development in the late medieval period.

[107] Shennan, *Parlement of Paris*, p. 24 [108] Ibid., pp. 22, 25.

4

Decline and Consolidation: Private Petitions in the Reign of Edward III

The preceding chapters have focused on a period when the private petition was a very visible part of parliament's activity. The prominence of petitions on the surviving parliament rolls of the late thirteenth and early fourteenth centuries, and the availability of the parliament rolls in published form since the eighteenth century, has provided modern scholars with a very solid empirical foundation on which to make judgements about the importance (or otherwise) of petitioning in the parliaments of Edward I and Edward II. Early in Edward III's reign, however, private petitions disappeared from view, as enrolment came to be reserved exclusively for the 'public' business that parliament transacted. From this point onwards, scholars wishing to measure the flow of private business into parliament have been dependent on an archive that presents a number of serious methodological problems. Whilst it would be inaccurate to suggest that as a result of this, private petitions in the post-enrolment era have been entirely dismissed (some scholars have gone further towards this than others),[1] their relegation from the rolls and the attendant problems associated with the series of 'Ancient Petitions' has undoubtedly led to a much less confident assessment of their place in the parliaments of the later years of the fourteenth century.[2] The survival of private petitioning into Edward III's reign has been duly recognized; but historians have generally

[1] See for example A. L. Brown, 'Parliament, c. 1377–1422', in R. G. Davies and J. H. Denton (eds.), *The English Parliament in the Middle Ages* (Manchester, 1981), p. 122.

[2] See G. L. Harriss, 'The Formation of Parliament, 1272–1377' and J. R. Maddicott, 'Parliament and the Constituencies, 1272–1377', in Davies and Denton (eds.), *The English Parliament*, p. 50 and pp. 86–7. Perhaps the fullest treatment (ten pages) given to private petitions in a post-enrolment fourteenth-century context is J. G. Edwards, *The Second Century of the English Parliament* (Oxford, 1979), pp. 45–55, but he approaches the subject primarily from a procedural point of view.

been keener to focus on other developments, and particularly on the emergence of the Commons into the political arena, when considering the principal areas of parliamentary activity in this time.[3]

The aim of this chapter is, in a sense, to restore the profile of private petitioning in the later fourteenth century. To some degree the process has already started: elsewhere, the case for the continued presence of private petitions in parliament after 1330 has been fully elucidated.[4] But much remains obscure. One of the consequences of a body of scholarship that has never extended much beyond a cursory acknowledgement that private petitions existed in this period is that some basic questions have yet to be addressed. Two of these questions form the basis of the chapter. The first focuses on the role and significance of the triers whose task it was in parliament to expedite as many petitions handed to them by the receivers as possible. Under Edward II we have many petitions but few triers; under Edward III we have an extensive record of who was appointed as a trier, but no readily available petitions. For this reason the triers have received very little attention in historiography and remarkably still no analysis supersedes the views of Richardson and Sayles who asserted in 1932 that the role of the triers after Edward II's reign was primarily 'ceremonial' in nature.[5] The second question relates to the volume of private business which parliament handled, for while it may now be clear that private petitions continued to turn up in parliament throughout the late medieval period it is equally plain that their numbers greatly diminished as the fourteenth century progressed. The second part of the chapter considers the importance of the Crown in determining the flow of petitions into parliament and then turns to address broader developments in the government and legal structure of England that could have affected the scale of private business conducted in parliament.

[3] For example, see G. L. Harriss, *King, Parliament and Public Finance in Medieval England to 1369* (Oxford, 1975); idem, 'The Commons' Petition of 1340', *EHR* 78 (1963), 625–54; W. M. Ormrod, 'Agenda for Legislation, 1322–c.1340', *EHR* 105 (1990), 1–33. This approach to the history of parliament in the fourteenth century is exemplified by the outline provided in W. M. Ormrod, *Political Life in Medieval England, 1300–1450* (Basingstoke, 1995), pp. 30–7.

[4] G. Dodd, 'The Hidden Presence: Parliament and the Private Petition in the Fourteenth Century', in A. Musson (ed.), *Expectations of the Law in the Middle Ages* (Woodbridge, 2001), pp. 135–49.

[5] H. G. Richardson and G. O. Sayles, *The English Parliament in the Middle Ages* (London, 1981), Ch. 22, p. 382.

4.1 THE TRIERS

4.1.1 The Committees of Triers

The triers (otherwise known as auditors) were the individuals charged with passing judgment on private petitions which did not require the king's grace. By the start of Edward III's reign it was customary for one committee to be appointed to handle petitions from England, and another committee to handle petitions from Gascony, Ireland, Wales, Scotland, and the Channel Islands. The English committee was always larger than the Gascon committee, which reflected the fact that it received and handled the bulk of petitionary business in parliament.[6] Both committees comprised three distinct elements: churchmen (archbishops, bishops, and abbots); nobility (dukes, earls, and barons); and judges (usually the justices and chief justices of the king's bench and common pleas).[7] On occasion, in the middle years of Edward III's reign, some household officials and senior royal knights were assigned to the committees as representatives of the king.[8] The principal officers of state—the chancellor, treasurer, steward, and chamberlain—were not usually appointed to the committees.[9] Instead, their role was to act as consultants if either of the committees required their advice or opinion.[10] Figure 4 shows the number of triers appointed to both committees between 1315 and 1399. It also indicates the numerical balance between the churchmen, nobility, and judges. The graph provides some interesting evidence for the development and

[6] The evidence of warranty notes (see Figures 2 and 8) suggests that parliament dealt with Gascon business only very sporadically. It was not until the 1320s and 1330s that Gascons appear to have made more consistent use of the English parliament, though the volume of cases appears to have been small compared to 'English' business. Greater numbers of warranty notes were recorded in the 1340s but it is not clear that all these petitions were presented in parliament, for which see below, p. 114, n. 94.

[7] For the judges see Richardson and Sayles, *English Parliament*, Ch. 22, pp. 382–5.

[8] For example, in 1352 Sir Thomas Bramber and Sir Henry Greystock were assigned to the 'English' committee 'in the event that anything concerned the king's chamber, in order to give information for the king and to the king when necessary' (*PROME*, parliament of 1352, item 3). Greystock was similarly appointed in 1354.

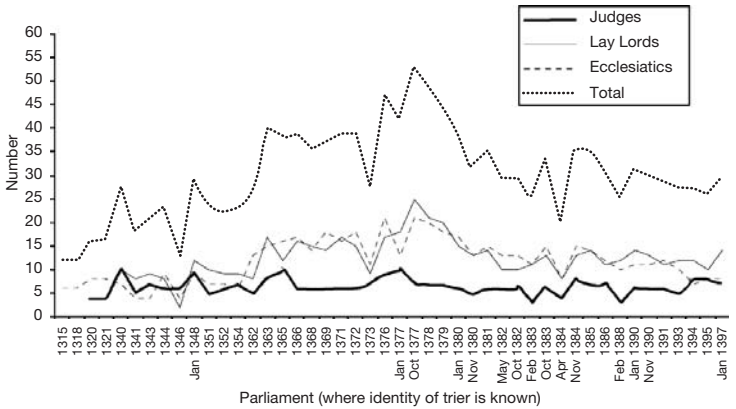
[9] One exception was the appointment of the chancellor and keeper of the privy seal to the 'one-off' committee of January 1348 appointed to deal with petitions from the clergy: *PROME*, parliament of January 1348, item 3.

[10] The list of 'English' triers was usually followed by a statement to the effect that they should consult with these officers and the king's serjeants when necessary.

character of the committees in the fourteenth century. Above all, it demonstrates that there was a noticeable expansion in the number of men appointed as triers in the third quarter of the fourteenth century. This raises an interesting conundrum, for the apparatus set up to deal with private petitions appears to have expanded at a time when the actual number of private petitions handled in parliament had contracted significantly.

Figure 4 shows that the focus of this expansion lay with the noble and ecclesiastical elements within the committees; the number of judges appointed as triers remained fairly constant throughout the period 1315–99. The graph also indicates that the expansion of the committees occurred in the middle decades of Edward III's reign, at some point between the late 1350s and the early 1360s. In 1354 ecclesiastics, nobles, and judges were sitting on the committees in more or less equal numbers, and as such conformed to a pattern which had existed since the reign of Edward II. However, in 1362 (the next parliament for which information on the triers is available), there was a notable increase in the number of clergy appointed and in the following parliament of 1363 the number of nobles sitting on the committees had almost doubled compared with the figure ten years previously. Not surprisingly, there was a corresponding increase in the overall size of the two committees: in 1354 the English committee comprised fourteen triers and the 'foreign' committee nine, whereas in 1363 the committees comprised twenty-two and eighteen triers, respectively. This was not because more men were being summoned to attend the Lords: in the six parliaments to meet in the 1360s, on average twenty-nine members of the Lords were appointed in each assembly as triers, which represented a third of the total (average) number of summonses issued in the same period.[11] In the 1350s, on average, only sixteen peers were appointed in the three parliaments for which we have information: this represented *a sixth* of the total (average) number of summons issued for the three assemblies. It is evident that appointments to the committees of triers changed from a position in which they apparently affected only a minority of peers to a point where as many as half (and possibly even more, if the high rate of absenteeism is taken into account) of the

[11] These figures are obtained by comparing the lists of names recorded on the parliament roll, when the receivers and triers were appointed at the start of parliament (for which see *PROME*), and the lists of peers who received a personal summons to parliament (for which see *RDP*, iv. *passim*).



4. Triers in Parliament, 1315–97

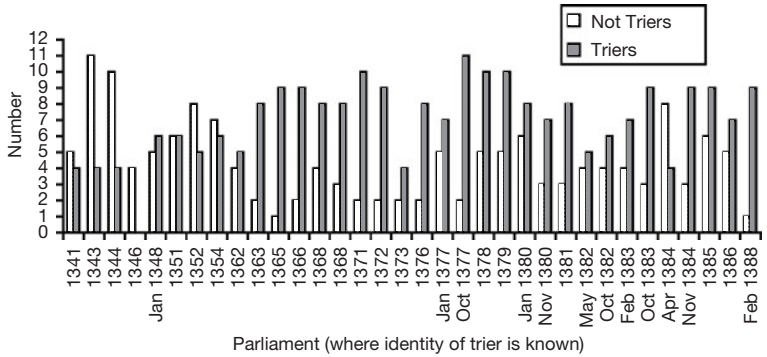
peerage who attended parliament sat on the committees to adjudicate on petitions.[12]

The more inclusive membership of the committees is further demonstrated in Figure 5, which shows the relationship between parliamentary attendance and service as a trier for the titled nobility. In the parliament of 1343, for example, just four earls were appointed as triers (two on each committee) whilst no fewer than eleven were omitted.[13] In the early 1350s the picture was much the same: in 1352, for instance, five earls were triers, whilst eight were not.[14] In the 1360s the situation changed dramatically. Now, it was unusual for earls *not* to serve as triers: in 1363 only two of the earls who were summoned to parliament were omitted from the lists and in 1365 only one—Aubrey de Vere, earl of Oxford—was not appointed as a trier. Some of these individuals were new men—members of the royal family who had recently come of age and were relatively inexperienced. These included two of the king's sons, Edmund Langley, earl of Cambridge, and John, duke of Lancaster, as well as the king's cousin, Humphrey de Bohun, earl of Hereford. More significant, perhaps, is how many of the older generation of nobility (e.g. Gilbert Umfraville, earl of Angus; William Montague, earl of Salisbury;

[12] J. S. Roskell, 'The Problem of the Attendance of the Lords in Medieval Parliaments', *BIHR* 29 (1956), 153–204. Roskell estimates that 'a body of peers regularly no stronger in numbers that thirty to forty odd' attended the parliaments of Henry IV (p. 181).

[13] *PROME*, parliament of 1343; *RDP*, iv. 546–8.

[14] *PROME*, parliament of 1352; *RDP*, iv. 590–3.



5. Earls and Dukes Appointed to the Committees of Triers, 1341–88

and Hugh Courtenay, earl of Devon) who had attended parliament for many years but had not then served as triers, now suddenly appeared on the committees in the early 1360s.[15]

It is difficult to pinpoint the precise reasons for this change. Possibly it reflected a growing desire amongst the nobility to delineate more clearly their status as peers of the realm. Sitting in judgement on cases brought before parliament by the king's subjects emphasized the special powers which noble status conveyed, powers that brought a nobleman into a much closer association with the king and his royal dignity. One factor that would undoubtedly have served to enhance the prestige of service on the committees was the regular appointment from the 1360s of two of the royal princes, John of Gaunt and Edmund Langley.[16] The parliament of 1362 was the first recorded instance when a prince of the

[15] Umfraville was summoned to the following parliaments but did not serve as a trier: 1341, 1343, 1344, January 1348, 1351, 1352, 1354, 1373, January 1377, 1378, 1379, January 1380 (the last parliaments he may not have attended through infirmity). He was appointed as a trier of petitions in 1363, 1365, 1366, 1368, 1369, 1371, 1376, October 1377. Montague was absent from the committees of triers in 1343, 1351, 1352, 1354. He was appointed as a trier in 1362, 1363, 1365, 1366, 1368, 1369, 1371, 1372, 1373, January 1377, October 1377, 1378, November 1380, 1381, May 1382, October 1382, February 1383, October 1383, April 1384, November 1384, 1385, 1386, February 1388, January 1390, November 1390, 1391, 1393, and 1395. Courtenay was appointed as a trier of petitions in 1341, 1343, and 1344. He was absent from the committees in January 1348, 1351, 1352, 1354, 1362, 1363. He then reappeared as a trier in 1365, 1366, 1368, 1369, and 1371.

[16] Between 1362 and 1397, when thirty-five parliaments sat, Gaunt acted as trier of petitions on no fewer than twenty-six occasions and Langley on twenty-three occasions.

royal blood was made a trier of petitions. The timing is suggestive, for it could indicate a sea change in the attitude of the Crown towards private business in parliament in light of the signing of the Treaty of Brétigny in 1360 (the identity of the triers in the parliament of 1361 is not known). No longer facing the same urgency to have parliament focus its attention on financial, military, and diplomatic considerations, perhaps Edward III now felt more willing to direct the resources and time of the assembly towards dispatching the more routine and mundane business of private petitions. On the other hand, we should not take these expanded lists of triers necessarily to mean that the parliamentary peerage were now spending a much greater proportion of their time at parliament adjudicating on petitionary business. It is significant that from 1378 a quorum was imposed on both committees of triers, so that at least six members of the peerage had to be present in order that they might function properly.[17] Clearly, the expanded lists of triers' names did not necessarily mean that the committees themselves met with a full complement of their membership. Indeed, the implication of the fixed quorum is that it was sometimes difficult to find even a proportion of those peers nominated as triers to serve on the committees, and we can therefore speculate that the lion's share of petitionary work was still undertaken by the central core of royal justices appointed to the committees and the ministers assigned to help them. At the very least, it suggests that the triers worked in groups smaller than is suggested by the full set of names given for each panel: the full list is likely to have been a pool of individuals from which subcommittees were drawn to consider specific cases.

To an extent, these impressions are confirmed by the insight provided by a St Albans chronicler (possibly Thomas Walsingham) into the work of the triers appointed in the parliament of 1399. On the parliament roll it is recorded that eight peers had been assigned to the committee handling petitions from England, Ireland, Wales, and Scotland.[18] They were to be assisted by chief justices Walter Clopton (king's bench) and William Thirning (common pleas), and the justice of common pleas, John Markham.[19] As usual, the committee was ordered to consult 'with the chancellor, treasurer, steward, and chamberlain, as well as the king's

[17] *PROME*, parliament of 1378, items 13 and 14. The quorum was fixed at six peers for each committee until March 1415 when it was dropped to four for the Gascon committee.

[18] *PROME*, parliament of 1399, item 8.

[19] SCCKB, vi, ed. G. O. Sayles, Selden Society, 82 (London, 1965), appendices.

serjeants when necessary'. But, as the chronicle reveals, only some of these individuals were actively involved in considering a private petition presented by Michael de la Pole.[20] This was a case that had been brought to the committee by Thomas Erpingham, the king's chamberlain, in which de la Pole requested to have the lands and lordships pertaining to the earldom of Suffolk (which had been forfeited in 1388) restored to him in fulfilment of a grant made by Richard II in 1398. According to the chronicler, the triers consisted of just four peers (the archbishop of Canterbury, the bishop of Winchester, the abbot of St Albans, and the earl of Northumberland) together with the two chief justices, the chancellor, and the keeper of the privy seal. In other words the committee was not quorate. Significantly, there were just as many justices and ministers acting on the petition as there were peers, though the triers' response, which amounted to a rejection—because de la Pole was not to be permitted to recover his lands—was delivered by the archbishop of Canterbury, Thomas Arundel. One of the interesting aspects to the case, pointed out in a recent discussion by Chris Given-Wilson, is the way in which the answer to the petition was directed not towards de la Pole, but to Thomas Erpingham, as though the request had been made with the full support of the king.[21] If this is true, it provides an interesting insight into the dynamics of decision-making within parliament, and of the way in which the king was evidently willing to defer to the views of his advisers before reaching a decision that may have fallen rather short of what he really wished for. In this case, it is possible that in rejecting de la Pole's request, both the king and the triers were swayed by a petition presented by the Commons in 1399 in which the latter sought the king's assurance that no lands forfeited in 1388 were to be restored to the original owners.[22]

Notwithstanding the evident disjuncture between the expansion of the lists of triers' names and the practical application of their work, the more inclusive committees may nevertheless have precipitated an important change in contemporary perceptions of where, or to whom, in parliament petitioners should direct their pleas for justice and resolution. For much of the fourteenth century, petitioners had addressed their petitions to the king *and council* for the simple reason that the king's councillors

[20] *Johannis de Trokelowe et Henrici de Blaneforde Chronica et Annales*, ed. H. T. Riley (Rolls Series, 1886), pp. 312–13.

[21] C. Given-Wilson, 'The Rolls of Parliament, 1399–1421', in L. Clark (ed.), *Parchment and People: Parliament in the Middle Ages* (Edinburgh, 2004), pp. 60–1.

[22] *PROME*, parliament of 1399, item 155.

were responsible for dispatching the majority of petitions expedited in parliament. This worked at two levels. Firstly, and most obviously, it was to the king and the council in parliament that petitions which the triers felt unable to dispatch on their own were sent—matters that required the attention of the king himself or the opinion of a wider cross section of the political elite than the triers themselves represented.[23] But the king's council and the committees of triers did not contain a mutually exclusive membership, and (this is the second level) at least in the first half of the fourteenth century the core membership of both the committees and the council appear to have been essentially the same. In the parliaments of 1351, 1352, and 1354, for example, there was a very close correlation between the men appointed to the committees of triers and the individuals who we know were advisers and councillors of Edward III. These included Islip of Canterbury, Bateman of Norwich, and Gynewell of Lincoln, from amongst the bishops; Warwick, Arundel, Stafford, Lancaster, Northampton, Huntingdon, Percy, and Neville, from amongst the nobility; and Stonor and Shareshull from amongst the justices.[24] In the 1360s the expansion of the committees of triers diminished this synonymity: the common denominator which now linked the triers was not membership of the council, but membership of the Lords. This may have been more a matter of perception than a fact of changed parliamentary procedure, but it is interesting to note that in the final decades of the fourteenth century the traditional address used by petitioners, which identified the council as the collective body responsible for dispatching petitionary business, gradually gave way to an address which identified the 'king and Lords of parliament' as the focus of petitioners' hopes and aspirations.[25] The first examples of this form of address appear in the early 1370s and by the end of this decade it had become commonplace.[26]

[23] J. F. Baldwin, *The King's Council in England during the Middle Ages* (Oxford, 1913), p. 325. See also discussion in Ch. 3, pp. 50–5.

[24] W. M. Ormrod, 'Edward III's Government of England c. 1346–1356', Oxford University, PhD thesis, 1984, p. 145. The close link between the council and committees is further suggested by the charge given to the triers of the parliament of March 1340 who were appointed 'to hear and try petitions . . . consulting with *others of the council* when necessary': *PROME*, parliament of March 1340, item 21.

[25] This development was noted by Baldwin, *The King's Council*, p. 389. There is further discussion of this in Ch. 6, pp. 163–5.

[26] The following petitions, which were exclusively or jointly addressed to the Lords in the late 1370s or early 1380s, have been identified in the first 80 files of SC 8: 18/886; 18/893; 18/895; 19/904; 19/905; 19/916; 19/918; 19/926; 19/932; 20/982; 21/1008; 21/1015; 31/1509; 37/1815; 45/2242; 70/2491; 79/3949.

Early in the fifteenth century, it had become the norm for petitions sent into the upper house to be addressed to the 'king and Lords'.

Membership on a committee of triers was neither compulsory nor, in some cases, can we assume it was necessarily solicited. Even in the 1360s when virtually all the senior nobility were included on the committees, there were still some individuals who had not been chosen. These included Thomas de Vere, earl of Oxford; Hugh Courtenay, earl of Devon; David Strathbogie, earl of Atholl; and Guichard d'Angle, earl of Huntingdon.[27] None of these men had distinguished political careers; none seemed particularly involved in royal government; and none had close links with the court.[28] One is tempted to conclude, therefore, that their omission from the committees indicated a lack of interest, a lack of motivation, and perhaps even a lack of administrative competence. Temperament may have been a reason for the exclusion of some of the younger members of the nobility under Richard II. The 'rash and unheeding'[29] nature of Thomas Mowbray, earl of Nottingham; the 'unruly' and 'raffish behaviour'[30] of John Holland, earl of Huntingdon; and the 'frivolous' and the 'more than ordinary incompetence'[31] of Robert de Vere, earl of Oxford, may have made these individuals particularly unsuitable for the considered judgements which would have been required of triers dealing with intractable legal cases.[32] It is noticeable that Henry Bolingbroke, earl of Derby, waited several parliaments before his first appointment as a trier, in February 1388, presumably

[27] Edward Courtenay, earl of Devon (grandson of Hugh) was also particularly adept at avoiding the responsibility, for he was appointed as a trier on only two occasions in forty years of receiving a personal summons to parliament. This may have been because he never actually attended parliament—letters of proxy on behalf of the earl survive for nine parliaments between 1401 and 1419: Roskell, 'The Problem of Attendance', p. 173.

[28] For Oxford and Devon, see W. M. Ormrod, *The Reign of Edward III: Crown and Political Society in England 1327–1377* (London, 1990), pp. 16, 108 n. 84. On Huntingdon, see C. Given-Wilson, *The English Nobility in the Late Middle Ages: The Fourteenth-Century Political Community* (London, 1987), p. 47.

[29] A. Goodman, *The Loyal Conspiracy: The Lords Appellant under Richard II* (London, 1971), p. 158.

[30] N. Saul, *Richard II* (London, 1997), pp. 243–4.

[31] A. Steel, *Richard II* (Cambridge, 1962), p. 112.

[32] Mowbray was appointed on four occasions as a trier (January 1390, November 1390, January 1397, and September 1397) but was not appointed on nine occasions (October 1383, April 1384, November 1384, 1385, 1386, February 1388, 1391, 1393, and 1394). Holland, created earl of Huntingdon in 1388, was appointed as a trier only in the parliament of September 1397: he was left off the committees in January 1390, November 1390, 1391, 1393, 1394, January 1397). De Vere was not appointed a trier in any of the four parliaments for which he received a summons: October 1383, November 1384, 1385, or 1386.

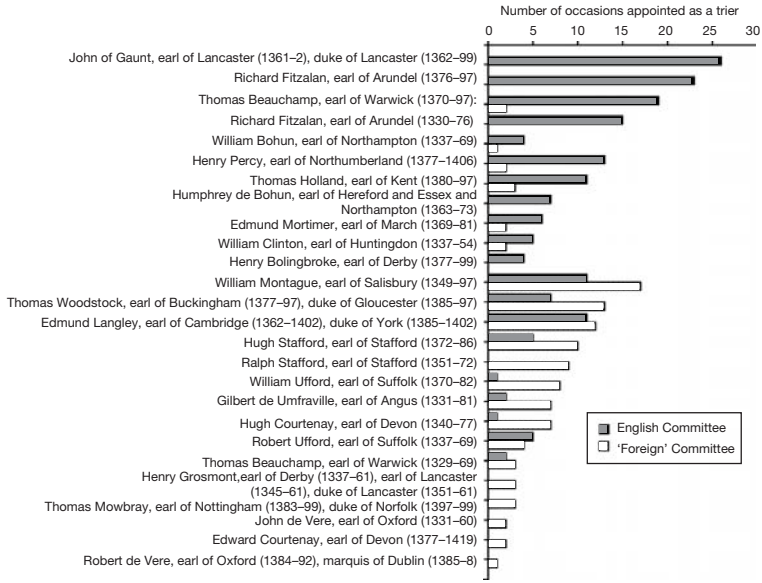
because he only came of age in 1387.[33] The increased prestige which appointment to the committees carried was thus counterbalanced by other more practical factors such as the willingness of the individual concerned to take on the responsibilities that serving as a trier carried.[34] As a general rule, only those peers who were actively involved in, or were interested by, the workings of central government became triers in the fourteenth century.[35]

Figure 6 indicates the committees to which individual nobles were appointed in the fourteenth century. It shows a rather mixed picture in terms of the degree to which nobles specialized in trying either English or foreign (from 1362, mainly Gascon) petitions. Some earls did serve more or less exclusively on one or other of the two committees: the Fitzalan earls of Arundel; the Bohun earls of Northampton; John of Gaunt; Henry Bolingbroke; Henry Percy, earl of Northumberland; and Thomas Beauchamp, earl of Warwick were all closely affiliated to the English committee. Ralph Stafford, earl of Stafford; William Ufford, earl of Suffolk; Thomas Mowbray, earl of Nottingham; and (when appointed) the earls of Devon and Oxford were usually appointed as triers of the 'foreign' petitions. Other noblemen spread their efforts rather more evenly: Thomas Woodstock, earl of Buckingham; Edmund Langley, earl of Cambridge; and William Montague, earl of Salisbury each gained significant experience serving on both the English and the foreign committees. The most senior magnate of the late fourteenth century, John of Gaunt, was appointed on a consistent basis to try English petitions. His seniority in the secular world was matched by the seniority of the archbishop of Canterbury in the spiritual world,

[33] Bolingbroke was first summoned to parliament in 1385: *RDP*, iv. 717–20.

[34] Whilst Richardson and Sayle's judgement that magnates did not take 'an active part in trying petitions' (*English Parliament*, Ch. 22, p. 385) may be true of the early fourteenth century, I am less inclined to see this as an accurate statement of the situation in the late fourteenth and fifteenth centuries. Against the examples cited by Richardson and Sayles from the first half of the fourteenth century, which suggests that the bulk of the work was done by justices, may be cited a remark made in the parliament roll of 1365 which read '[a]nd the prelates, dukes, earls and barons were occupied with much private business until the Thursday [30 January] before Candlemas'; *PROME*, parliament of 1365, item 7. The dates of this assembly are 20 January–17 February.

[35] A point emphasized by the profile of the barons who were appointed as triers. For example, those individuals who acted most frequently in the 1380s—John Neville, Richard le Scrope, and John Cobham—also held positions of importance in the administration of the Ricardian regime. See the following entries in *ODNB*: A. Tuck, 'Neville, John, fifth Baron Neville (*c*.1330–1388)'; B. Vale, 'Scrope, Richard, first Baron Scrope of Bolton (*c*.1327–1403)'; and R. Allen, 'Cobham, John, third Baron Cobham of Cobham (*c*.1320–1408)'.



6. Nobles Appointed as Triers

who also consistently served on the English committee panel. There may have been a tendency to place the political 'heavyweights' on the English committees, and noblemen of lesser political import on the foreign committees, but the presence of Edmund Langley and Thomas Woodstock on the latter demonstrates that there was also a concern to achieve a representative balance in the status of the lay personnel appointed as triers.

Figure 7 provides a similar survey of the bishops who were appointed as triers. Like the nobility, the frequency with which bishops served on the committees correlated closely to their broader record of service to the Crown. Those who acted as triers on a consistent basis tended to belong to the category of 'civil service' bishops whose careers owed much to a close association and involvement in royal government and bureaucracy. Many of these bishops, including Thomas Arundel, John Gynwell, John Harewell, William Bateman, and Simon Sudbury, had started out as king's clerks.[36] Some went on to fill some of the

[36] For details of the careers of three of these bishops, see the following entries in *ODNB*: J. Hughes, 'Arundel, Thomas (1353–1414)'; R. M. Haines, 'Bateman, William

most senior positions in government: Arundel, Wykeham, and Robert Braybrooke (another frequent trier) all became chancellors; Thomas Hatfield was appointed as keeper of the privy seal; John Gilbert was chancellor of Ireland and later treasurer of England; and John Harewell was chancellor of Guyenne.[37] Involvement in diplomacy was also a fairly common trait of the 'civil service' bishop: Gilbert, Bateman, Hatfield, Sudbury, and Wykeham had all, at some time, negotiated on behalf of the Crown, though this was not evidently enough of a factor to make these men specialize on the foreign committee. Generally speaking these were men of affairs and it was quite consistent with their background and interests that they should have chosen, or have been picked, to be involved in the petitionary business of parliament. In contrast, bishops with few connections to the Crown were usually left off the committees, very possibly because many did not actually attend parliament.[38] Very often these were bishops who chose to devote their energies to running the administration and affairs of their dioceses. These included John Grandisson (bishop of Exeter, 1327–69), John Trevenant (bishop of Hereford, 1389–1404), Thomas Lisle (bishop of Ely, 1345–61), John Swaffham (bishop of Bangor, 1376–98), Laurence Childe (bishop of St Asaph, 1382–9), and Alexander Neville, archbishop of York.[39] Other bishops, such as Thomas Brinton and Henry Despenser, served as triers at the start of their episcopates but evidently tired of the work and avoided reappointment in subsequent years.

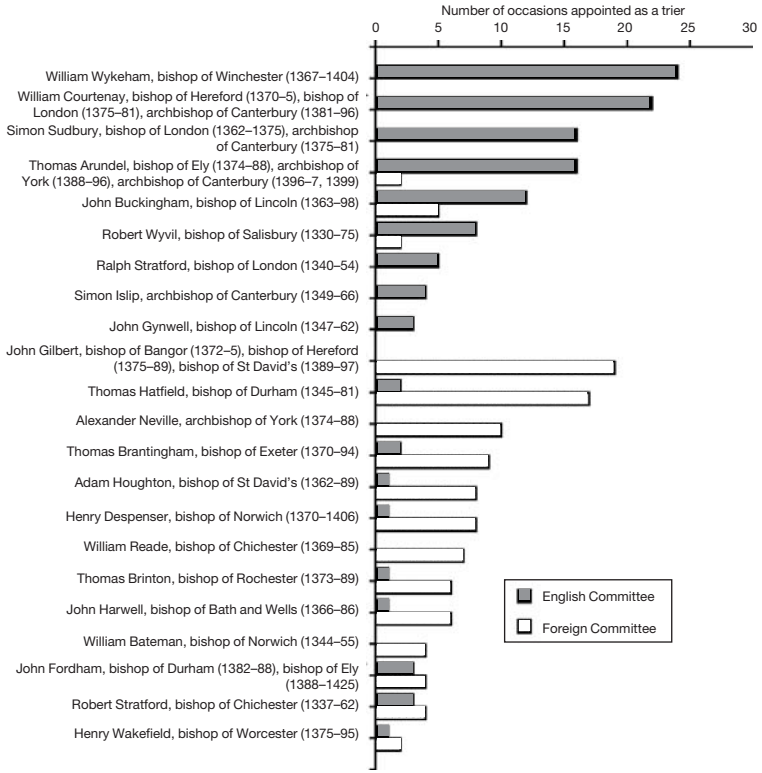
As with the nobility, the Crown took care to ensure that the committees were broadly balanced: when both archbishops attended, the committees had one each. Unlike the nobility, however, the degree to which a bishop was associated with one or other of the two committees

(*c*.1298–1355)'; and S. Walker, 'Sudbury, Simon (*c*.1316–1381)'. For Harewell and Gynwell, see A. B. Emden, *A Register of the University of Oxford to A.D. 1500*, 3 vols. (Oxford, 1957–9, repr 1989), ii. 842–3, 972–3.

[37] *ODNB*: P. Partner, 'Wykeham, William (*c*.1324–1404)'; R. G. Davies, 'Braybrooke, Robert (1336/7–1404)'; R. M. Haines, 'Hatfield, Thomas (*c*.1310–1381)'; and for Gilbert, see Emden, *Register of the University of Oxford*, ii. 765–6.

[38] The deplorable attendance record of some members of the episcopate is discussed by R. G. Davies, 'The Attendance of the Episcopate in English Parliaments, 1376–1461', *Proceedings of the American Philosophical Society* 129 (1979–81), 30–81.

[39] For Neville see R. G. Davies, 'Alexander Neville, Archbishop of York, 1374–1388', *Yorkshire Archaeological Journal* 47 (1975), 87–101. For Grandisson see A. Erskine, 'Grandison, John (1292–1369)', in *ODNB*; and for Trevenant see R. G. Davies, 'Trefnant, John (*d*. 1404)', in *ODNB*. For Lisle, see J. Aberth, *Criminal Churchmen in the Age of Edward III: The Case of Bishop Thomas de Lisle* (Pennsylvania, 1996).



7. Bishops Appointed as Triers

was more pronounced. The sees of Canterbury, Winchester, Ely, London, Salisbury, and Lincoln were either exclusively or predominantly associated with the committee trying English petitions. The sees of York, Durham, Bath and Wells, Exeter, Hereford, Norwich, Bangor, St David's, Chichester, and Rochester were primarily associated with the committee dealing with foreign (Gascon) petitions. This probably reflected the fact that the English committee was considered to be the more important, more demanding, and possibly the more prestigious of the two and it was thought only natural that the wealthiest and most powerful of the English sees should be associated with English petitions. The figures provided by the *Valor Ecclesiasticus* indicate that Winchester, Canterbury, Ely, and Lincoln occupied first, second, fourth, and sixth

place, respectively, in the league table of taxable income assessed in 1535.[40] The bishopric of London, though eighth in terms of its wealth, nevertheless was unrivalled in its position at the centre of England's political life.[41] The fact that no bishop of London or Winchester served on a foreign committee in the fourteenth century, and that on only four occasions were the bishops of Ely and Salisbury appointed to this committee, suggests that their identification with English petitions was very well established. Amongst the sees most closely associated with Gascon petitions were Hereford, Chichester, St David's, and Rochester, which were relatively poor.

4.1.2 The Work of the Triers

What can be said of the work of the triers? The best way to address this question for the period after 1330 is to consider the large number of petitions dating to 1348 which were printed by the eighteenth-century editors of the *Rotuli Parliamentorum*.[42] Recent analysis has suggested that the two separate groups of petitions that the editors assigned respectively to the January and March assemblies of this year should in fact be treated as a homogeneous whole.[43] This is probably true, in the sense that most of these petitions are likely to have been presented in the first parliament of 1348, but there are some noticeable differences between the two groups which suggest that there was still some organizational logic behind their separation into two distinct entities.[44] For the present purposes, the value of the petitions, and the focus of the discussion, lies with the first group, and the possibility it

[40] F. Heal, *Of Prelates and Princes: A Study of the Economic and Social Position of the Tudor Episcopate* (Cambridge, 1980), p. 54.

[41] J. Dahmus, *William Courtenay, Archbishop of Canterbury 1381–1396* (London, 1966), p. 16. In our period, two bishops of London—Simon Sudbury and William Courtenay—were later promoted to the archiepiscopacy of Canterbury.

[42] *Rot. Parl.*, ii. 175–99, 205–24.

[43] W. M. Ormrod, 'Introduction' to *PROME*, parliament of January 1348. These petitions have been calendared (in varying degrees of detail) in the Appendix together with references to other related sources. The *Rotuli Parliamentorum* is better suited to this discussion because it contains full transcriptions of all the petitions thought to have been presented in 1348. The petitions in group 1 are in iii. 175–99; the petitions in group 2 are in iii. 205–24.

[44] The first contains a significant number of petitions with annotations indicating they had been passed to the king and council for consideration, whereas the second group contains none. All the petitions in the second group have been given replies by the Crown, but a large number in the first group (primarily those with the annotations *coram rege*, *coram ipso rege*, etc.) were not answered. A significant number of the petitions

presents of distinguishing between those petitions which were handled and dispatched independently by the triers and those which were considered by the triers to lie outside their remit and which were therefore referred to the king and council. It is worth stressing that such an exercise is of use in identifying the workings and usages of the triers as they operated in the *first half* of the fourteenth century: the present analysis should not necessarily be applied to the work of the triers in the later fourteenth and fifteenth centuries when the expanded presence of the 'non-professional' elements on the committees almost certainly altered the scope of their jurisdiction. In the majority of the cases published in group one of the petitions in *Rotuli Parliamentorum* it is fairly easy to identify which petitions were passed on by the triers because in place of an answer, a clerk has made the annotation *coram rege*, *coram ipso rege*, or *coram rege et magno consilio*, indicating whether the petition was to be forwarded into the presence of the king, the king 'himself', or the king and his Great Council. It should be stressed that this is not an infallible methodology, but there is enough of a pattern to suggest that petitions handled by the triers tended to be given some form of reply, no matter how dismissive it was, whilst those which were passed on to the king and council had endorsements stating this fact but usually did not record a response.[45] It is also clear that by this time the older form of warranty note *per peticionem de Consilio*, which was issued in response to a petition dispatched by the triers of parliament, had been superseded by a new form of warranty note: *per peticionem parliamenti*. It was a change which signalled the development of a more distinctive and recognizable parliamentary identity.[46]

Of the petitions handled by the triers, one point both surprising and extremely significant emerges: very rarely did such petitions result

in the first group survive in the original whereas only a handful of SC 8 references can be found for those in the second group—a fact that points to the possibility that the two groups correlate with two original files or bundles, one which has survived and one which is now lost.

[45] There were a minority of cases which appear to have escaped this convention by having proper replies recorded in the place of these endorsements, but even here it seems to have been the practice for clerks to note the direct input of the king and council by starting the answers with phrases such as 'it seems to the council that' or 'it is assented by the council in parliament': *Rot. Parl.*, ii. 175–99, nos. 21, 83, 84, 196. Unless otherwise stated, all following references in this section refer to petitions on pp. 175–99 in *Rotuli Parliamentorum*.

[46] No. 48 in group 1; nos. 5, 11, 15, 18, 22, 34, 39, 46, 60, and 68 in group 2. None of these notes were recorded for petitions which were indicated to have been sent before the king and council.

in a final or definitive judgement. The vast majority of the petitions scrutinized by the triers in 1348 seem to have been simply referred elsewhere, usually to another branch of central administration. A large number of petitions were sent to chancery, or ordered commissions of enquiry that were to be returnable in chancery. A case in point was the petition of John Sutton about his right to the manor of Bradfield.[47] The endorsement noted that the petition was to be sent into chancery with the instruction that a commission of enquiry was to investigate Sutton's complaint before reporting its findings to the keeper of the privy seal and the king's serjeants who would see that justice was done.[48] Other petitions were endorsed with instructions to the effect that the matter was to be dealt with in the exchequer[49] or in the king's bench;[50] whilst others had responses which simply stated that the petitioner should sue before the king,[51] or that they should sue before the common law.[52] A variation of the latter was the response which specified what type of writ the petitioner required in order to obtain redress.[53] Another common reply was that the petitioner had not fully explained the circumstances of their grievance and he was therefore ordered to 'declare the matter more plainly'.[54] One petition was answered simply: 'he should show the charters',[55] whilst another specified that 'he is to state in whose hand the manor is';[56] and a petition requesting redress against Spanish pirates was given the reply: 'send the request to the king of Spain [Castile], to be dealt with by him'.[57] Anything approaching a final settlement to the case was, it seems, rather unusual for petitions handled by the triers. The primary function of the committees of triers in the mid-fourteenth century was not to offer definitive judgements as such, but to act as an administrative marshalling yard in which those cases which could be handled outside a parliamentary context by other branches of central

[47] No. 6. The original (with commission) is SC 8/12/595–6.

[48] For the commission see *CPR 1348–1350*, 69–70. Other petitions sent to chancery include nos. 14, 30, 31, 68, 69, 70. Note the significant number of petitions within the second group which resulted in an action taken by chancery. This could indicate that the cases were considered in the March/April parliament of 1348 when the chancellor was put in charge of handling private petitions: 205, nos. 2 and 5; 206, nos. 7 and 8; 207, nos. 10 and 11; 208, nos. 13 and 15; 209, no. 18; 210, nos. 21 and 22; 211, no. 23; 212, no. 27; 213, nos. 31 and 34; 215, no. 39; 218, nos. 50, 51, and 52; 219, no. 53; 222, no. 65.

[49] Nos. 37, 38, 39. [50] No. 17. [51] Nos. 12, 13, 35, 42, 52.
[52] Nos. 36, 39, 66. [53] Nos. 24, 49. [54] Nos. 15, 33, 40, 51.
[55] No. 34. [56] No. 53. [57] No. 12 (of group 2).

government were siphoned off and sent to these destinations. The dispatch of a petition by the triers did not mean the final settlement of the case, but rather identification of the most appropriate context in which the petition could receive judgement. It is easy to see why the chancellor, treasurer, and household officers were charged to assist the triers, and why the senior royal judges were permanently attached to the committees, for their advice would have been invaluable in determining the processes that 'expedited' petitions should follow in order to receive a full and final settlement. Presumably, one of the main functions fulfilled by the king's councillors on these committees was to ensure that all cases deemed to fall outside the remit of ordinary governmental process were forwarded into the presence of a full meeting of king and council.

The scope of the triers' jurisdiction is just as effectively revealed by considering the sorts of cases they felt unable or insufficient to expedite themselves.[58] There was a very clear sense in which these ought to relate to matters that pertained specifically to the king, or more generally to the interests of the Crown. This, indeed, was the principle which underlay the famous ordinance of 1349, which was issued by Edward III to make alternative provision for petitioners in light of the cancellation of parliament because of the Black Death. According to the ordinance, all petitioners were directed to take their grievances direct to the chancellor and keeper of the privy seal, who were then to send on to the king only those cases which could not be expedited 'without consulting the king'.[59] In 1348 large numbers of petitions were presented by communities who wished to secure tax relief in the face of poverty and war damage.[60] All these petitions were diverted to the king and council, presumably because their requests directly touched the inalienable right of the king to tax his subjects and because any modification to this entitlement was a matter that required the exercise of the king's grace. Though granting pardons did not as a matter of course require the involvement of the king or council, the petition of Robert Tilneye, asking to be released from the Tower of London, was presumably forwarded by the triers because of the seriousness of Tilneye's alleged wrongdoings (he had been accused of causing affray in Boston).[61] In other instances, a number of petitions passed on by the

[58] See also discussion of this issue in Appendix 1, pp. 329–30.
[59] *CCR 1346–1349*, p. 615. [60] Nos. 3, 4, 7, 8, 28, 29, 41, 45, 56–63.
[61] No. 50.

triers raised issues that were seen to be the direct result of actions taken by the king. These included the petition of Richard Wotton asking for the reverse of a collation made to John de Tamworth;[62] the petition of John Helewell seeking the annulment of a process to recover the latter's presentment to the church of Rowley;[63] and the petition of Hugh Rippes, which sought to have the petitioner's debt to the king taken into account in a sum which the king himself owed to the petitioner.[64] Petitions against the king's officers also featured amongst those deferred by the triers;[65] and there was the interesting case of John Leget who presented a complaint against the excesses and lawlessness of Sir Robert Mauley, which was presumably sent to the king because Mauley was a knight of the chamber.[66] There were also petitions concerning lands and manors in the Crown's possession;[67] and finally, it seems to have been standard practice for petitions from members of the peerage to be passed on to the king and council for consideration.[68]

For much of Edward III's reign, the triers were usually divided into a committee that dealt with English petitions and a committee that handled petitions from other lands, including Scotland, Wales, Ireland, Gascony, and the Channel Islands (with occasional variation and additions).[69] The subject of our case study—the parliament of January 1348—is rather unusual, however, because three committees were set up: one for English and Scottish petitions, one for petitions from the clergy, and one for petitions from Gascony, Wales, and Ireland. This extra division of labour was presumably designed to enable parliament to deal with the unusually large number of cases brought before it at this time. The special committee set up for petitions from the clergy is especially worthy of note, for it demonstrates how much of the petitionary business of parliament emanated from a clerical or Church source. If we include all the petitions assigned to the year 1348,

[62] No. 26. [63] No. 9. [64] No. 32. [65] Nos. 22, 83.

[66] No. 10. For Mauley, see C. Given-Wilson, *The Royal Household and the King's Affinity: Service, Politics and Finance in England 1360–1413* (London, 1986), p. 207.

[67] Nos. 19, 65, and 85,

[68] Nos. 18 (Hugh Courtenay, earl of Devon); 23 (Katherine Strathbogie, widow of David, eleventh earl of Atholl); 44 (Humphrey de Bohun, earl of Hereford and Essex); and 72 (Thomas Lisle, bishop of Ely).

[69] See my discussion of the omission of Scottish triers in the parliaments of the early 1350s, in 'Diplomacy, Sovereignty and Private Petitioning: Scotland and the English Parliament in the First Half of the Fourteenth Century', in M. Penman and A. King (eds.), *England and Scotland in the Fourteenth Century: New Perspectives* (Boydell and Brewer, forthcoming).

35 of these were from clergymen. From 1362 the organization of the committees changed: from now on the 'English' committee also handled petitions from Wales, Ireland, and Scotland, thus becoming a 'home countries' committee, and the other committee dealt with petitions from outside the British Isles (i.e. from Gascony and other foreign lands). It is tempting to see this realignment of the committees as a measure induced by the Treaty of Brétigny in 1360 and the expectation that the great swathes of land which the peace settlement had settled on Edward III would produce a volume of petitions comparable with the number dealt with by the 'home countries' committee.

4.2 THE CROWN AND PRIVATE PETITIONING, 1327–1377

Although the king's subjects had a basic right to justice, and the king a sacred duty to uphold the rule of law, the reality of political life in late medieval England could often fall well short of the concord which these twin principles espoused.[70] Petitioning, as we have seen, was encouraged by the Crown primarily to serve royal interests.[71] The ability of petitioners to gain redress or satisfaction for complaints or requests that they made in parliament therefore depended on the Crown's willingness to receive and consider them. There was little that petitioners could do if the king chose to hinder or shut out completely petitionary business if it was considered an impediment to carrying out other aspects of the royal agenda in parliament. Indeed, the fact that it was customary for large numbers of petitions to be expedited only after parliament had ended made it especially easy for the Crown to sideline such complaints without risking widespread public outcry. This, incidentally, was a weakness of the system upon which the author of the *Modus Tenendi*

[70] For discussion, see F. Kern, *Kingship and Law in the Middle Ages* (Oxford, 1939), pp. 75–9; E. Powell, *Kingship, Law, and Society: Criminal Justice in the Reign of Henry V* (Oxford, 1989), pp. 25–31. The provision of justice to all his people was the third of the three so-called 'recensions' which traditionally formed the coronation oath of English kings: H. G. Richardson, 'The English Coronation Oath', *Speculum* 24 (1949), 44–75. One of the very few references made specifically to the king's obligation to receive complaints from his subjects occurred in 1406, in the thirty-one articles, where it was stated that 'it is a most honest and necessary thing that any lieges of our said most sovereign lord the king who wish to sue to him should have their petitions heard': *PROME*, parliament of 1406, article 8 of the 31 articles.

[71] See Ch. 2, pp. 31–46.

Parliamentum placed particular emphasis.[72] In the previous chapter the occasions when the Crown was disinclined to allow parliament to be dominated by private petitioning have been inferred by the indirect evidence of warranty notes: in this section, a rather more focused examination of the Crown's attitude towards private petitioning is permitted because by the mid-fourteenth century the proceedings of parliament had begun to be recorded in a more systematic way in the parliament rolls. The evidence suggests that, like his predecessors, Edward III had an ambivalent attitude towards the petitionary function which parliament discharged, and that increasingly, as the demands of war placed more pressure on his regime (and specifically on parliamentary time) he saw the private petition as an inconvenient and unnecessary distraction.

The surest and most direct way for the Crown to free up parliamentary time was simply not to appoint committees of triers. This happened on as many as seven separate occasions during the reign of Edward III.[73] We should not assume, however, that in all these instances the Crown was deliberately suppressing private business. One such occasion was the parliament of March 1348 when petitioners were directed to hand their supplications to the chancellor because no receivers or triers had been appointed (a development which presaged the ordinance issued in January the following year when the chancellor and keeper of the privy seal were charged to receive all petitions submitted to the Crown).[74] In fact, it has recently been demonstrated that the parliament of March 1348 was effectively a 'second sitting' of the parliament which had ended on 12 February and which had theoretically already dispatched all the private business the king's subjects wished to bring to the attention of the Crown.[75] The absence of triers in March is therefore likely to have reflected a lack of demand by petitioners rather than the suppression of private petitions by the authorities. The role of the chancellor was presumably to mop up any 'stragglers' who had

[72] 'Parliament ought not to depart as long as any petition remains undiscussed, or at least to which no reply has been determined upon, and the king breaks his oath if he allows the contrary': *Parliamentary Texts of the Later Middle Ages*, ed. N. Pronay and J. Taylor (Oxford, 1980), p. 90 (cap. 24). The *Modus* was a treatise probably written at some point during the reign of Edward II.

[73] These were March 1332, October 1332, October 1339, January 1340, January 1348, 1355, and 1369.

[74] *PROME*, parliament of March 1348, item 4.

[75] Ormrod, 'Introduction' to *PROME*, parliament of March 1348.

not submitted supplications in the earlier assembly.[76] In similar vein, there was nothing necessarily sinister about the absence of triers in October 1339, January 1340, and July 1340. Almost certainly these omissions were a consequence of the king's absence in France, and of the fact that without a king physically present in parliament, parliament itself lost a great deal of its attraction as a court of last resort. Unless the matter was urgent, most petitioners probably preferred to delay submitting their complaints until the king was back in the country. The impact which the king's absence in parliament could have on the 'consumer demand' of petitioners is demonstrated particularly clearly by the parliament of 1346. The king was once again absent on the Continent (this was at the time of the Crécy campaign), but on this occasion committees of receivers and triers were appointed, presumably because it had been over two years since a previous parliament had met.[77] Nevertheless, despite this provision, there are few signs that petitioners flooded into parliament[78] and it was probably the enormous backlog of business generated by this assembly that induced Edward III to devote the parliament of January 1348 entirely to private business. The episode suggests that whilst the king was undoubtedly vital to the petitionary process, the triers were not. If the dispatch of private petitions had depended overwhelmingly on the labours of the triers one would have expected their appointment irrespective of the king's whereabouts. Their absence, or ineffectiveness, in these parliaments thus exposes—and confirms—the very limited nature of the power and authority which they exercised within parliament, at least in the mid-fourteenth century.

To a point, then, it can be argued that the petitionary climate in parliament was determined by factors not immediately attributable to conscious policy-making on the part of the king. How far this appraisal should be taken, however, is less easy to determine. The absence of private business in the parliaments of October 1339, January 1340, and July 1340—parliaments which met at a time of acute financial crisis—could have been viewed by Edward III in nothing but positive terms. This was a time when the Crown was fighting hard to extract

[76] It is possible that this arrangement was also made in the parliament of 1355 when receivers were appointed but triers were not.

[77] *PROME*, parliament of 1346, item 3.

[78] See Ormrod, 'Introduction', *PROME*, parliament of 1346. It should be noted that only three days were given in this parliament for petitioners to submit their private petitions.

taxation from the Commons: the absence of private petitions in these assemblies would surely have helped concentrate the minds of MPs on the financial agenda, especially when the king was not himself present in parliament to ensure that this happened.[79] Edward III's attitude towards private petitions becomes clearer in the parliament of March 1340, which he had convened (on his return from Flanders) so that he could directly oversee the Commons' grant of aid. The assembly lasted from 29 March to 10 May, but was adjourned midway through to allow for Holy Week at Easter. Before the adjournment it was specified that 'those who will pursue their petitions, which have not yet been properly answered shall be there on the [first day of the second session], and they will be heard there and duly answered'—an indication, perhaps, that few petitions had been dealt with in the first session.[80] Yet, when parliament reconvened, the king left the assembly apparently before much of this outstanding business had been seen to, for a special committee was set up to try all those petitions which had been annotated *coram rege*.[81]

Notwithstanding the example of January 1348, private petitions were very rarely accorded priority in parliament. The *Modus Tenendi Parliamentum* was clear that private business was the least important of the matters to which parliament should attend and this very much reflected the approach which the Crown took to parliamentary sessions.[82] In general terms, it is probably true to say that private petitions received attention only if they did not impede other parliamentary business, but that they were very quickly dropped if other more pressing matters intervened. Very early in Edward III's reign, this principle came into play when the parliaments of March 1332 and December 1332 postponed the hearing of petitions because of the need to make urgent decisions on important questions of foreign policy.[83] Similarly, in 1355

[79] E. B. Fryde, 'Parliament and the French War, 1336–1340', in E. B. Fryde and E. Miller (eds.), *Historical Studies of the English Parliament*, 2 vols. (Cambridge, 1970), i. 257–61; Harriss, *King, Parliament and Public Finance,* Ch. 12 and 13.

[80] *PROME*, parliament of March 1340, item 28. [81] Ibid., item 29.

[82] Item 18, on the order of the business of parliament, identifies matters relating to war and other affairs of the king or his family as the most important concern of parliament; then comes matters of common concern to the kingdom, especially defects in the law; and finally, private business: *Parliamentary Texts*, ed. Pronay and Taylor, p. 88 (cap. 18).

[83] The parliament of March 1332 had been summoned specifically to discuss the proposed Anglo-French crusade to the Holy Land. According to the writ of summons, the parliament had been called 'to deliberate on the recovery of the Holy Land, rather than on affairs touching the realm', *RDP*, iv. 409. At the end of the assembly the parliament roll notes that 'since the parliament was summoned for the aforesaid reasons,

the (recorded) absence of committees of triers was almost certainly a consequence of dramatic developments in the English military situation, and of the need to make the parliamentary session as short and productive as possible.[84] Finally, in 1373, the principle espoused in the *Modus* came to be articulated in a remarkably frank and open way when the chancellor, John Knyvet, opened parliament with the announcement that 'all manner of petitions and other private business [shall] remain pending' until discussion of the king's military and financial needs had taken place.[85]

To an extent the Crown's attitude toward petitionary business can be gauged by the content and tone of the opening speeches made to parliament, which set out the reasons why the assembly had been convened. They provide further evidence for a link between the state of the conflict with France and the Crown's willingness to accommodate petitionary business within a parliamentary agenda. We have seen earlier in the chapter how the committees of triers expanded significantly in the 1360s when hostilities between England and France had temporarily abated. This was also a period when the chancellor's opening speeches to parliament placed great emphasis on the king's desire to restore peace and order to his realm. The parliament of October 1363, for example, had apparently been called primarily so 'that the grievances, outrages and misfortunes done to great men as well as to the king's people . . . be removed and corrected for their ease and quiet';[86] in 1365, the chancellor, Simon Langham, bishop of Ely, assured parliament that

and petitions from the people were not received or answered at the same parliament, [it was agreed] that before long our lord the king would hold another parliament': *PROME*, parliament of March 1332, item 11. The parliament of December 1332 met to discuss the implications of David Balliol's coronation as king of the Scots. At the start of parliament it was announced that 'the reason why petitions were not received and answered in the same parliament was because the prelates and the other great men, and also the lawyers, who could try and answer them had not come to the said parliament; and also because Christmas was so close when no man would be able to attend. And thereupon it was agreed that petitions would be received at the next parliament': *PROME*, parliament of December 1332, item 1.

[84] The parliament of 1355 was squeezed into a seven-day period between Edward's return from Calais and his departure north to deal with Berwick, which had just fallen to the Scots: see Ormrod, 'Introduction', *PROME*, parliament of 1355.

[85] *PROME*, parliament of 1373, item 4. In the event, provision was made for the answers to the petitions to be given after parliament had ended (item 7). This may have been in response to a common petition which requested that 'the petitions of individual right, for which remedy cannot be sued in any other court than in parliament, shall now be accepted in this present parliament . . . without being further delayed' (item 14).

[86] *PROME*, parliament of 1363, item 2.

the king 'desires above all the quiet and tranquillity of the nobles, great men and commonalty of his land so that peace may be observed';[87] and similar stress on domestic peace was made in the opening statements given to the parliaments of 1366 and 1368.[88] In contrast, it is noticeable how little attention was paid to 'settling the realm' during the war years of the 1340s and 1350s. With the exception of the parliament of January 1348, and the assemblies of 1351 and 1352 (which met amid the social and political turmoil caused by the Black Death), the Crown paid only perfunctory attention to its obligation to resolve the grievances and misfortunes to befall the king's subjects.[89] Often a 'law and order' agenda was entirely missing from the reasons given by the Crown for summoning parliament in these decades.[90] Besides the opening speech, it would have been fairly obvious at the start of parliament where the Crown's priorities lay when it set the time limit for petitioners to hand in their supplications to the receivers. To some extent the sentiments expressed by the Crown in the 1360s were borne out by the generous provision made for petitioners to submit their complaints: 5 days was the briefest span of time allowed for complaints submission and in two parliaments (1365 and 1366) no time limit was recorded at all.

All these factors, then, suggest ways in which the Crown could manipulate the parliamentary schedule to prioritize the affairs of state to the exclusion of private business; but one factor above all these gave the Crown absolute power to regulate the amount of parliamentary time petitionary business took up. For all the expressions of goodwill, the expansion of the committees of triers and the lengthier periods given to petitioners to submit their supplications counted for nothing if the king simply did not wish to devote his energies to expediting private business. The true measure of the state of health of petitioning in parliament was not how many petitions were being submitted, but how many resulted in an outcome that would make a positive difference to the petitioner. In the reign of Edward III, there are indications that the success rate of private petitions diminished because fewer and fewer petitioners were managing to mobilize government on their behalf. To a point, this is demonstrated in Figure 8, which continues the survey of warranty notes *per peticionem de Consilio* (and the note *per peticionem*

[87] *PROME*, parliament of 1365, item 2.
[88] *PROME*, parliament of 1366, item 1; parliament of 1368, item 2.
[89] See, for example, the parliaments of July 1340 and 1346.
[90] For example, the parliaments of January 1340, March 1340, April 1341, 1344, 1353, and 1355.

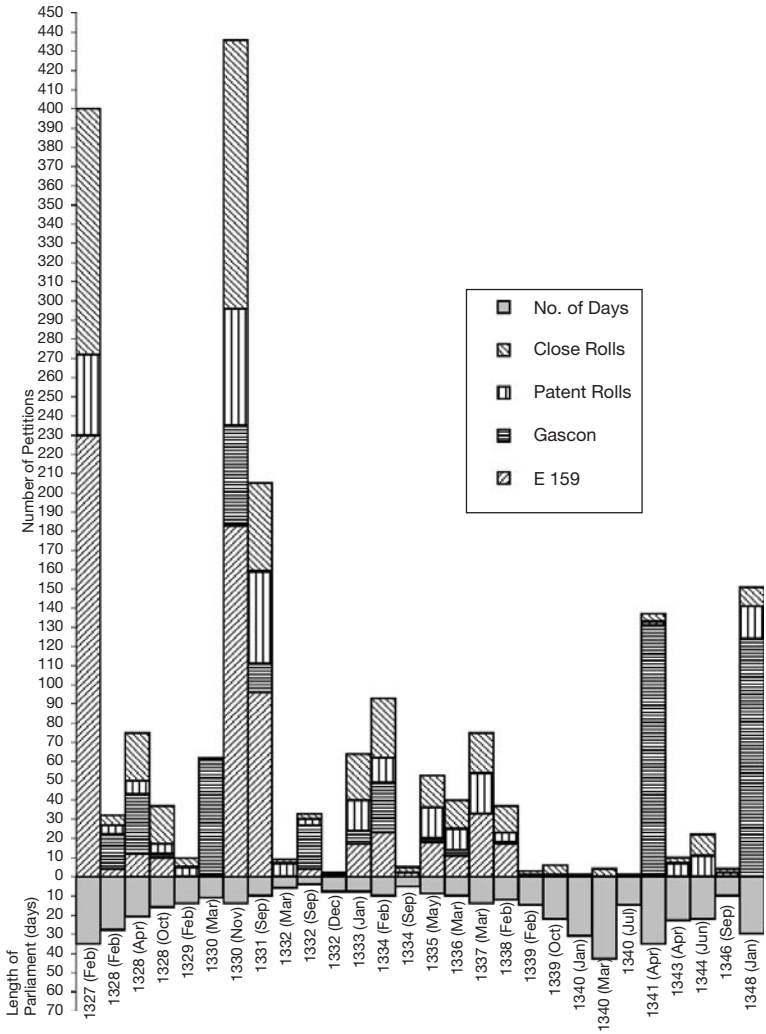
de Parliamento) for the first two decades of Edward III's reign.[91] The importance of the data lies in the overall reduction in the numbers of warranty notes between the 1330s and 1340s.[92] In the 1330s, allowing for the handful of parliaments which were not intended to receive petitions, most assemblies generated between thirty and ninety warranty notes, whereas in the 1340s the number ranges between just five and twenty. The parliament of January 1348 is of particular significance in this respect, for it met specifically in order to dispatch private petitions. Yet, a mere twenty-seven warranty notes relating to 'English' petitions have been identified as resulting from a possible 169 petitions. While this figure may well only account for petitions dispatched by the triers, it is noticeable, in overall terms, how little impact *any* of the petitions of 1348 made on the printed calendars of chancery rolls.[93] This would appear to confirm the impression that the Crown wished, as far as it could, to cut back on the amount of private business parliament was set up to dispatch, though evidently this cannot be said of Gascon petitions which appear to have been received and expedited in large numbers in this assembly.[94]

[91] The methodology used for this chart has been outlined in Ch. 3 for a chart covering the period 1290–1325: see pp. 61–6.

[92] The chart thus confirms the more impressionistic judgement on the decline of petitions given by Richardson and Sayles in *English Parliament*, Ch. 21, p. 3 (n. 6). The marked decrease of this warranty note was noticed by H. C. Maxwell-Lyte but he offered no explanation to account for it: *Historical Notes on the Use of the Great Seal of England* (London, 1926), p. 194. An index compiled in 1920–1, showing the incidence of warranty notes *per peticionem de Consilio* and *per peticionem de Parliamento* in the close and patent rolls of Edward III's reign, can be found in the obsolete index PRO OBS/1/1397.

[93] See *PROME*, parliament of January 1348, Appendix. This therefore extends the survey to include any petitions that had been acted on by a writ authorized by the king, council, or privy seal.

[94] The evidence which links the warranty note *per peticionem in consilio* with petitions presented in parliament should be treated with caution in relation to Gascon business. Across the period covered by both Figures 2 and 8—in particular the assembly of February 1305 and the parliaments which met in the 1320s and 1330s—a large number of warranty notes could be read in this way, because they are generally dated to periods when parliament was in session; but at other times there is, undeniably, an absence of synchronization. There is a great concentration of warranty notes in the last days of August 1329, for example, some six months after the end of the February parliament. The disconnection is most obvious, however, in the 1340s: there is a large cluster of Gascon warranty notes dating to late June 1340 (between the assemblies of March and July of that year); another set of notes clusters to early June 1342 (a year when no parliament was called); and there is a peak of warranty notes in October 1343, some four months after the end of the previous parliament. The only assemblies in this decade in which there could feasibly have been a large volume of Gascon business transacted—according to



8. Private Petitions in Parliament, 1327–48: The Evidence of Warranty Notes

the dating of the warranty notes—were those which met in April 1341 and January and March 1348. The concentration of warranty notes at other times suggests that Edward III had made special provision to handle the petitions of his Gascon subjects outside parliamentary time, perhaps in specially convened sessions of the council.

It should be emphasized that a warranty note was not the only measure of a successful petition, but the trend is fairly clear and it suggests that large numbers of petitioners (in addition to those whose cases were transferred outside parliament) simply had their requests or complaints passed over and ignored. If this seems a rather harsh indictment of Edward III's commitment to resolving his subject's personal or collective difficulties, it is vindicated by an extraordinarily revealing common petition of 1362 in which the Commons reminded the king that 'this parliament was summoned in order to redress various misfortunes and grievances done to the commonalty, and so that each person who felt himself aggrieved could put forward his bill, and lords and others were assigned to hear them'.[95] But, they continued: 'which lords thus assigned, if anything touches the king, cause the bills to be endorsed "before the king", and therefore nothing is done and the misfortunes and grievances are not redressed'. Far from representing the best chance a petitioner had of securing a decisive outcome to their petition, it would seem that referral to the king often spelled disaster for the individual supplicant. The parliament of 1362 was not in any way highly charged or politically tense. Nor did it have urgent matters to attend to in a short space of time. So it is difficult to explain this complaint other than to say that it reflected the king's rather neglectful attitude towards private business. So much, then, for the 1360s witnessing a royal campaign to reinvigorate parliament as a 'petition-friendly' institution. Unlike the common petitions, which the king often could not afford to ignore if he wished to gain a grant of taxation, private petitions had no such leverage and were therefore entirely dependent for their dispatch on the monarch's cooperation and goodwill.

4.3 CONTRACTION IN THE FOURTEENTH CENTURY

It remains, then, briefly to consider some of the broader trends that might have affected the extent of private petitioning in the later decades of the fourteenth century. Whereas in the previous section emphasis was placed on the unfavourable climate that could prevent, impede, or otherwise

[95] *PROME*, parliament of 1362, item 31.

put off a petitioner from submitting their complaint in parliament, this section considers developments to the structures of English government and the legal system that offered supplicants an alternative to parliament for having their grievances or requests addressed. Before this, however, it is worth emphasizing that many of these developments occurred against a backdrop of reinvigorated kingship and that much of the explanation for diminishing numbers of private petitions lies not in the structural changes that overtook fourteenth-century English government, but in the more stable political environment of Edward III's rule. Indeed, it is worth considering that the huge numbers of petitions submitted in parliament under Edward II, whilst they may indicate that petitioning was thriving and parliament was providing every opportunity for the king's subjects to have their problems addressed, also points to the failings of the existing legal structure and of government more generally. The great surges of petitions seen particularly in 1327 and 1330 (see Figure 8) reflected the extent to which the action (or inaction) of Edward II's government, and afterwards the regime of Isabella and Mortimer, had created huge numbers of disaffected individuals who were only too keen to 'get even' when a new political authority took over the reins of power. The reduction in the volume of petitioning under Edward III thus reflected (to a point) significant improvements to the state of law and order and to the cohesiveness and health of political society.[96] Much of this was down to the personality of the new king, whose determination to impose a legal system that could not be used to serve the ambitions of those with political power was exemplified by his open soliciting of complaints against royal officials in November 1330.[97] The previous section concluded by suggesting that Edward III's attitude towards petitioning in parliament was, at best, ambivalent. This need not necessarily be seen in a negative light, for Edward's attitude was borne out of the basic fact that parliament was no longer critical to maintaining adequate levels of control on the lawless elements in society. This was because the rule of law and royal authority had to a great extent been restored into the social and political fabric of the kingdom.

[96] See, especially, A. J. Verduyn, 'The Politics of Law and Order during the Early Years of Edward III', *EHR* 108 (1993), 842–67. General discussion of the relationship between law and politics is provided by A. Musson, *Public Order and Law Enforcement: The Local Administration of Criminal Justice, 1294–1350* (Woodbridge, 1996), pp. 234–42.

[97] Verduyn, 'Politics of Law and Order', p. 30. The trailbaston commissions of this year were directed in particular to deal with offences committed by royal ministers.

In their account of the parliaments of Edward III, Richardson and Sayles remarked on the appearance of the formula *non expedite in parliamento* in the responses which the Crown gave to some private petitions. 'There was', they suggested, 'evidently a growing strictness in admitting petitions.'[98] Richardson and Sayles were certainly correct to suggest that the circumstances in which individuals could seek redress at parliament were narrowing as the fourteenth century progressed; but it is questionable whether such a change can be inferred by this phrase alone. Petitions had always been rejected on the grounds that the concerns they raised were unsuitable for consideration in parliament. In October 1318, for example, almost a tenth of the petitions presented in parliament were categorized as *petitiones non expedite*.[99] The annotation *non expedite in parliamento*, which was first recorded in 1334, was simply a new way of expressing what had always happened to petitions which did not receive resolution in parliament. In itself, the phrase is of little significance. The same cannot be said, however, of the annotation 'sue a la commune lei', which began to appear on petitions on an increasingly regular basis from the 1320s onwards.[100] The annotation was used to signal the Crown's rejection of a private petition on the basis that the common-law was sufficient to provide a suitable remedy for the petitioner. Interestingly, as the fourteenth century progressed petitioners would increasingly insert into their petitions a statement to the effect that they had not been able to achieve a remedy at common-law, presumably in an attempt to head off or pre-empt this type of dismissal.[101] That the common-law was increasingly being referred to in this way, either as the basis for rejecting a petition or to uphold the suitability of a petition for parliamentary consideration, was an important indicator that changes in the legal system were beginning to have consequences for the nature and scope of petitioning in parliament.

To understand the significance of this it is worth remembering one of the underlying reasons why petitioning in parliament took off so spectacularly in the late thirteenth century. Petitioning in parliament rested on one very important principle: that the complaint or request which was brought to the institution could not be resolved elsewhere, and specifically through conventional legal processes available in the

[98] Richardson and Sayles, *English Parliament*, Ch. 21, p. 4.

[99] PROME, parliament of October 1318 (E 175/1/22).

[100] This trend is gained impressionistically by running a search for the annotation in the series SC 8.

[101] This strategy is discussed in Ch. 9, pp. 300–1.

king's common-law courts. Parliament was the highest court in the realm; in the same way that the taxation granted there was considered to be 'extraordinary', because it was granted in exceptional circumstances, so too the judicial or remedial business which it transacted was of a very particular and special nature because these cases could not be resolved through a common-law process. The popularity of parliament in the late thirteenth and early fourteenth centuries was therefore indicative of serious shortcomings in the provision of justice to the king's subjects through the regular law courts of the realm. One of the main problems lay in the rigidity of the common law and the fact that procedure by writ—which underlay all processes in the common law—was too inflexible to cover all the possible situations in which litigants might wish to seek resort.[102] This was not helped by the abandonment of the general eyre in 1294 and the failure of the Crown to install anything in its place which could relieve some of the pressures faced by the king's central courts.[103] This failure was probably due, in part, to the Crown's commitment to a legal system that was heavily dependent on the use of centralized agencies to provide justice and redress.[104] Indeed, historians have argued that it was precisely this concentration on a centralized legal system, at the expense of a strong and impartial system of local justice, which created the heightened levels of violence and illegality in the 1290s and the first decades of the fourteenth century.[105] The use of parliament as a 'safety net' for all cases not determinable at common law therefore fitted in with the Crown's ambitious, but ultimately flawed, policy of imposing royal justice from the centre into the localities.

In the course of the fourteenth century the English legal system underwent profound change which made it increasingly effective and more accessible.[106] Inevitably, this took much of the pressure away from parliament as levels of lawlessness were reduced and those who wished

[102] Baldwin, *King's Council*, p. 281; *SCCKB*, iv, p. lxviii; A. H. Hershey, 'Justice and Bureaucracy: The English Royal Writ and "1258"', *EHR* 113 (1998), 829–51.

[103] D. Crook, 'The Later Eyres', *EHR* 97 (1982), 241–68, pp. 241–3, 248.

[104] R. C. Palmer, *English Law in the Age of the Black Death, 1348–1381: A Transformation of Governance and Law* (Chapel Hill and London, 1993), p. 4.

[105] *SCCKB*, iv, pp. liii–lv; A. Harding, *The Law Courts of Medieval England* (London, 1973), Ch. 3; M. Prestwich, *War, Politics and Finance under Edward I* (Totowa, NJ, 1972), pp. 287–90; R. W. Kaeuper, *War, Justice and Public Order: England and France in the Later Middle Ages* (Oxford, 1988), pp. 170–81.

[106] For a general overview, see A. Musson and W. M. Ormrod, *The Evolution of English Justice* (Basingstoke, 1999), pp. 14–20, 45–52, 177–81; and A. Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester, 2001), pp. 141–9.

to pursue litigation could do so quite satisfactorily by pursuing a non-parliamentary resolution. Surveying the types of petition to come before parliament between the late thirteenth and late fourteenth centuries, there is a noticeable reduction in the later period of petitions which referred to relatively low-level criminal acts against which the supplicant claimed not to be able to obtain a remedy at common law. An effective, if rather crude, measure of this shift is to identify petitions which mention livestock, usually in relation to their theft from the supplicant: by far the greatest concentration of such cases lies in the period predating Edward III's reign.

Perhaps the most significant legal innovation of the fourteenth century, and certainly the one most commented on by historians, was the metamorphosis of the keepers of the peace into the justices of the peace, whereby the Crown invested local gentry with powers to hear and determine cases of felony.[107] However, this went hand in hand with a more general expansion in the scope of the common law. From 1323, for example, the court of king's bench was authorized to act as a court of first instance for all indictments, thus releasing it from many of the restrictions which had previously been imposed on it by the system of original writs (issued from chancery).[108] When king's bench was itinerant, as it often was in the mid-fourteenth century, legal process could be initiated by bill which made it a particularly effective instrument against the 'hot-spots' of lawlessness in the localities.[109] The work of the itinerant king's bench and local justices was complemented in the reign of Edward III by the increasingly prominent role of the justices of assize. Their power to act on behalf of litigants who had had their lands wrongfully seized became more and more extensive as the definition of novel disseisin adapted and expanded to encompass a much wider range of action.[110] Alongside the growth and development of the king's courts was also a significant expansion in the number of

[107] The classic work is B. H. Putnam, 'The Transformation of the Keepers of the Peace into Justices of the Peace, 1327–1380', *TRHS*, 4th ser., 12 (1929), 19–48. For modern synthesis and revision, see Musson and Ormrod, *Evolution of English Justice*, pp. 50–3.

[108] Harding, *Law Courts of Medieval England*, pp. 109–10; B. W. McLane, 'Changes in the Court of King's Bench, 1291–1340: The Preliminary View from Lincolnshire', in W. M. Ormrod (ed.), *England in the Fourteenth Century: Proceedings of the 1985 Harlaxton Symposium* (Woodbridge, 1986), esp. pp. 153–5.

[109] *SCCKB*, iv, p. lxviii; G. O. Sayles, *The King's Parliament of England* (London, 1975), pp. 110–11.

[110] D. W. Sutherland, *The Assize of Novel Disseisin* (Oxford, 1973), pp. 158–68; Ormord and Musson, *Evolution of English Justice*, pp. 122–5.

writs that were available to litigants. Palmer has identified the 1350s as a period which saw a particularly dramatic increase in new types of writ issuing from chancery,[111] but equally there is evidence that significant expansion occurred earlier in Edward III's reign during the 1330s and 1340s.[112] It was not just that the reach of the common law was extending; it has also been suggested that the fourteenth century saw an improvement in the *quality* of justice available to litigants, as the Crown became increasingly aware of the importance of clamping down on champerty and maintenance and in tackling some of the problems caused by packed or corrupt juries.[113] All in all, the wholesale overhaul of the legal structure and judicial practice under Edward III was making it increasingly difficult for petitioners to claim in their petitions that parliament was their only hope for resolution because no other legal recourse was available.

The expansion of common-law procedure thus alleviated some of the burden which parliament had been forced to shoulder; but there were other developments beyond the scope of the common law which had a similar effect. After all, only a proportion of the petitions presented in parliament concerned strictly legal (or illegal) matters; large numbers of other requests required the Crown to respond in other ways. In the mid-fourteenth century there are signs that the king's council began to take an increasing role in providing supplicants with the kind of arbitration and administrative coordination which had traditionally been the remit of parliament. One of the key stages in this process was the political crisis of 1340, in which the king had been forced to set up a regency or 'home' council at the behest of the Commons.[114] The latter had articulated their intentions for the council in a set of petitions which were omitted (perhaps deliberately) from the parliament roll, but which survived in the cartulary of Winchester Cathedral.[115] The Commons wished the council to have undisputed authority in the realm whilst the king was campaigning on the Continent, and

[111] Palmer, *English Law*, p. 109.

[112] *Early Registers of Writs*, ed. E. De Haas and G. D. G. Hall, Selden Society, 87 (1970), p. cxxii.

[113] A. Musson, 'Social Exclusivity or Justice for All? Access to Justice in Fourteenth-Century England', in R. Horrox and S. Rees Jones (eds.), *Pragmatic Utopias: Ideals and Communities, 1200–1630* (Cambridge, 2001), pp. 146–7.

[114] Ormrod, *Edward III*, pp. 11–15.

[115] For discussion of these petitions and their context, see G. L. Harriss, 'The Commons' Petitions of 1340', *EHR* 88 (1963), 625–54, and idem, *King, Parliament, and Public Finance*, pp. 258–67.

one of the key aspects of their programme was that 'the council was to act as a high court . . . to hear cases which were delayed in lower courts or in which justices were of different opinions'.[116] It has been suggested that the reason the Commons wished the council to assume such broad-ranging powers was because 'the intermittent parliament was a real inconvenience as a court of last resort, because its very intermissions tended to prolong those judicial delays which it was expected to remedy'.[117] Although this was a short-term measure, brought about by the particular political and military circumstances of 1340, it represented an important stage in the emergence of what has been termed by modern historians as the 'administrative council'; that is, the king's council operating independently of the king and fulfilling important judicial and executive functions.[118] It was in the 1340s that the council was provided with a chamber of it own, later to be known as the 'star chamber'; in 1346 the appearance of the writ *quibusdam certis de causis* marked a vital stage in the council's ability to function as an independent and effective department of government (the writ was made even more effective by the later addition of the clause *sub poena*);[119] and by the 1350s the council had secured use of the privy seal, thereby significantly increasing its administrative and judicial capacity.[120] By the second half of Edward III's reign the administrative council had established itself as a permanent feature of medieval government and its

[116] Ibid., p. 262.

[117] J. G. Edwards, ' "Justice" in Early English Parliaments', in Fryde and Miller (eds.), *Historical Studies*, i. 294.

[118] Ormrod, *Edward III*, pp. 74–7; A. L. Brown, *The Governance of Late Medieval England, 1272–1461* (London, 1989), p. 34. To what extent the 'administrative council' was a permanent feature of English government *before* the mid-fourteenth century, and therefore what volume of business it discharged on its own account, has not yet been the subject of detailed scrutiny. The most illumination on the subject is provided by the work of J. F. Baldwin and B. Wilkinson who agree that until Edward III's reign the work of chancery and the council was more or less indistinguishable, and that the main administrative role of the council (as opposed to its political or advisory role) was to troubleshoot problems which the king's ministers could not resolve on their own. In other words, the council was called intermittently when a collective decision was required on a particularly troublesome case: Baldwin, *King's Council*, pp. 241–2; B. Wilkinson, 'The Chancery', in J. F. Willard and W. A. Morris (eds.), *The English Government at Work 1327–1336*, 3 vols. (Cambridge, MA, 1940), i. 194–5.

[119] Baldwin, *King's Council*, pp. 288–9; W. M. Ormrod, 'The Origins of the Sub Pena Writ', *Historical Research* 61 (1988), 11–20.

[120] Palmer, *English Law*, p. 106. Note that in 1351 the Commons submitted the first of what would become a fairly regular complaint that the council's jurisdiction had become an infringement of the common law; *PROME*, parliament of 1351, item 16.

role as a tribunal to try cases unresolvable at common law was central to the functions which it discharged.[121]

The development of conciliar jurisdiction was closely linked to, and may even have precipitated, the emergence of what would later be called the equitable jurisdiction of chancery.[122] Historians have been at pains to stress that the chancery's ability to try cases independently of the common-law courts was neither a sudden development nor a new creation of the late fourteenth century.[123] There is evidence that as early as Edward I's reign, petitions addressed to the king and council were being sent to the chancellor with instructions that he should adjudicate the matter himself.[124] However, there is no doubt that it was in the middle decades of the fourteenth century that significant advances were made towards establishing chancery as a court of equity (i.e. a court in which judicial disputes could be resolved without recourse to the common law). This has been linked to the council's increasing role in dealing with petitions in the 1340s: as the leading member of the 'administrative council', it was perhaps inevitable that the Crown would increasingly look towards the chancellor to provide remedies in his own right.[125] The chancellor's predominance in both the council and the chancery meant that any distinction between the two bodies, at least from a jurisdictional point of view, was blurred.[126] In 1341 the Crown instructed anyone with complaints about loans to sue directly in chancery; in 1346 those with complaints against escheators, sheriffs, and other royal officials were invited to sue the chancellor and treasurer; and in January 1349, in what was an unprecedented expansion in the scope of cases which the chancellor was empowered to hear, sheriffs proclaimed that petitions on *any* aspect of the common law should be sued before

[121] For discussion of the council's role in discharging petitions in the early fifteenth century, see G. Dodd, 'Henry IV's Council, 1399–1405', in G. Dodd and D. Biggs (eds.), *Henry IV: The Establishment of the Regime, 1399–1406* (Woodbridge, 2003), pp. 95–115.

[122] See B. Wilkinson, *The Chancery under Edward III* (Manchester, 1929), pp. 48–53.

[123] The historiography on the subject is usefully summarized in T. S. Haskett, 'The Medieval English Court of Chancery', *Law and History Review* 14 (1996), 245–313, esp. pp. 246–80.

[124] Baldwin, *King's Council*, p. 241.

[125] M. E. Avery, 'The History of the Equitable Jurisdiction of Chancery before 1460', *BIHR* 42 (1969), 129–44, pp. 141–2; Harding, *Law Courts of Medieval England*, pp. 99–102.

[126] Ormrod, 'Origins of the *Sub Pena*', pp. 12–13. Ormrod has some useful discussion on the legal background of the chancellors who were appointed between 1340 and 1356—the crucial period of judicial development in chancery and the council.

the chancellor.[127] The chancellor was intended to act as parliament's temporary substitute by dispatching as much of the business as possible which would otherwise have come before the receivers and triers. This was not the first time the chancellor had acted in this capacity, for he was appointed in the place of triers in the parliament of March 1348 and may also have acted in this capacity in the parliament of 1355.[128]

Even in 'ordinary' meetings of parliament it is probably true to say that the chancellor did more than most to facilitate the handling of private petitions, if only because so many of these petitions had to pass through chancery before being dealt with elsewhere. Many, of course, were sent into chancery to receive final judgement there. If these incidents did not mark a wholesale transfer of petitionary business from parliament to chancery (which they almost certainly did not) they did at least demonstrate that from the perspective of the Crown there was no strong sense in which petitions sent into parliament ought only to be dealt with in parliament. It also demonstrates the importance of parliament and the private petition in creating the conditions in which chancery would emerge and eventually overtake parliament as the principal source of equitable jurisdiction in the land.

The fourteenth century thus saw important and far-reaching changes to the place of private petitioning in parliament. These can be summed up simply by stating that private petitioning under Edward III was no longer accorded the same priority in parliament as it had been under his predecessors. Two important qualifications should be added, however. Firstly, the specification by the author of the *Modus Tenendi Parliamentum* in *c*. 1321, that private business should be the least important of the matters to be considered by parliament, indicates that even before they ceased to be enrolled on the parliament roll in the early 1330s or banned from the parliaments which the king wished to concentrate on military or financial matters, contemporaries were fairly clear that there was much more to a session of parliament than the dispensation of justice. It was not that Edward I and Edward II 'liked' private petitions, whereas Edward III did not; it was that the volumes of petitions in the parliaments of the early fourteenth century were so great (albeit on an intermittent basis) because parliament fulfilled a vital role in making good some deep-rooted deficiencies in the legal

[127] Wilkinson, *Chancery under Edward III*, pp. 49–50.
[128] See above, pp. 109, 111–12.

and administrative structure of the kingdom. Secondly, Edward III's reign undoubtedly witnessed a contraction in the amount of private business which parliament handled (for reasons outlined earlier), but it should be stressed that private petitions were never under threat of extinction. This was because for all the opportunities presented to the king's subjects to pursue their cases via a non-parliamentary route, parliament still retained attributes which no other court or extra-judicial body could hope to replicate or replace. There were some petitions for which parliament was the only appropriate forum to offer remedial action. In the following chapter we shall turn to one particular type of petition to fall into this category: the so-called (and in some senses misnamed) 'common petition'.

5

'Common' Petitions in the Fourteenth Century

There are few aspects of medieval parliamentary procedure which have remained as untouched and unquestioned in post-war historiography as the common petition. The pioneering work of A. R. Myers and Doris Rayner, which was undertaken almost sixty years ago, has been the mainstay of modern understanding about the nature and function of the common petition in the late medieval parliament.[1] Although the contents of common petitions are frequently alluded to in modern scholarship on an individual basis, only a handful of specialized articles have been written on the mechanics and administrative rationale that lay behind common petition procedure since Myers and Rayner.[2] In the present study, it may seem an unnecessary diversion to turn our attention to the common petition when our primary focus is the private petition; but common petitions were inextricably linked to private petitions and they form an important part of the story of how private interests continued to be represented in parliament over the course of the late medieval period. If there has been a tendency in modern historiography to draw clear distinctions between common petitions and private petitions—that is to say, between those supplications which, on the one hand, ostensibly represented the interests of the kingdom and which often resulted in universally binding legislation and those, on the other hand, which had the more limited goal of securing redress for the individual supplicant—the aim of this chapter is to demonstrate that the late medieval petitionary system was very far from this clear-cut.

[1] A. R. Myers, 'Parliamentary Petitions in the Fifteenth Century', *EHR* 51 (1937), 385–404, 590–613; D. Rayner, 'The Forms and Machinery of the "Commune Petition" in the Fourteenth Century', *EHR* 56 (1941), 198–233, 549–70.

[2] The most recent discussion is offered by W. M. Ormrod, 'On—and Off—the Record: The Rolls of Parliament, 1337–1377', in L. Clark (ed.), *Parchment and People: Parliament in the Middle Ages* (Edinburgh, 2004), pp. 39–56.

Part of the problem lies in the definition of the term 'common petition', and the willingness to accept that the adjective 'common' was faithfully employed by contemporaries to describe petitions that really were presented in the interests of a broad medieval public. In fact, the term 'common petition' is remarkably difficult to pin down since in essence it was a term of convenience used to describe petitions that originated from a whole range of different contexts and which sought to promote a remarkably diverse (and often sectionalist) set of agendas. The only common thread which can be said to have linked all common petitions presented in the late medieval parliament is that each *purported* to seek changes which benefited the common interest. The term 'common' was thus employed primarily for rhetorical purposes: it was not necessarily a label that accurately described the content or application of the petition. It is this lack of a clear distinction between common and private petitions, and the fact that a common petition presented in parliament was often merely a private petition in disguise, which explains why common petitions must be fully integrated into a consideration of private petitioning in the late medieval period.

The other difficulty is that the nature and purpose of common petitions changed over time, often in response to particular political situations. This is a point that has never received explicit consideration, with the result that there are still questions over whether the term 'common' might also be used as a noun, to signify that these were the petitions of the parliamentary Commons. It is interesting, in this context, to observe that Harriss' description of the Commons' petitions of 1340 (i.e. Commons 's' apostrophe) has never really attracted comment from a body of modern scholarship that has implicitly accepted the classic definition of the common petition as laid out by Myers and Rayner, namely, that the term common 'does not necessarily stand for the knights and burgesses in parliament at all'; rather, it signifies that the petition was 'concerned with a common or public interest'.[3] It is still more curious that Harriss' use of the term 'common' as a possessive noun has raised no objection (or discussion) when, thirty years previously, Howard Gray was so roundly condemned by S. B. Chrimes and A. R. Myers for similarly referring to the 'commons' bills' of the early

[3] G. L. Harriss, 'The Commons' Petitions of 1340', *EHR* 78 (1963), 625–54. First quotation taken from Rayner, 'Forms and Machinery', p. 204. The second quotation is from Myers, 'Parliamentary Petitions', p. 606. This apparent inconsistency is noted by Ormrod, 'On—and Off—the Record', p. 46 n. 32.

fifteenth century.[4] In an attempt to resolve some of these issues, and also to provide an analysis which takes into account the evolution of common petitions across the critical period of the fourteenth century, this section has identified three key stages of development.[5] What follows is an attempt to reconstruct the history of the common petition, but in a way which illustrates how closely related and inseparable it is to its older and less prestigious form of parliamentary supplication, the private petition.

5.1 PHASE ONE: THE ANTECEDENTS—'COMMUNITY PETITIONS'

The forerunners of the more familiar common petitions of Edward III's reign were the occasional individual supplications found amongst the great body of private petitions presented in the name of the 'community of the realm' during the reign of Edward I. Historians have been at pains to emphasize that these early 'common petitions' had very little to do with the county and urban representatives present at parliament. At the very start of the fourteenth century the knights and burgesses had yet to find their collective voice in parliament and petitions from the 'community of the realm' therefore tended to be framed and presented to the Crown at the behest of the nobility.[6] Either the barons directly identified themselves as representatives of the 'community of the realm' or, as was increasingly the case by the end of the thirteenth century, they regarded themselves as the mouthpiece of, but distinct from, this community. In the parliament of February 1305 only three petitions which appeared to advance the interests of the whole kingdom were

[4] H. L. Gray, *The Influence of the Commons on Early Legislation* (Cambridge, MA, 1932), p. 61 states 'there will be no doubt that bills originating in the commons nearly always took form there and expressed the desire of the commons'. For criticism of this viewpoint see S. B. Chrimes, *English Constitutional Ideas in the Fifteenth Century* (Cambridge, 1936), pp. 236–49, esp. pp. 244–5; and Myers, 'Parliamentary Petitions', p. 606.

[5] Common petitions in the fifteenth century are treated separately in the final section of Ch. 6.

[6] Rayner, 'Forms and Machinery', pp. 549–50; H. G. Richardson and G. O. Sayles, *The English Parliament in the Middle Ages* (London, 1981), Ch. 21, p. 7; G. L. Haskins, 'Three Early Petitions of the Commonalty', *Speculum* 12 (1937), 314–18; M. V. Clarke, *Medieval Representation and Consent* (New York, 1964), pp. 232–3; M. Prestwich, 'Parliament and the Community of the Realm in Fourteenth-Century England', *Historical Studies* 14 (1981), 5–24, pp. 7–8.

presented to the Crown: two of these were noted by parliamentary clerks, when they came to write up the parliament roll, as having been presented by the 'community of England'.[7] None, however, appear to have been a supplication forwarded or drafted on the initiative of the representatives. One complained that exchequer officials were attempting to levy scutage from individuals who had already performed their military obligations to the king: this petition was from 'the earls, barons and others who owe service to the king'. Another made complaint against the Order of Cîteaux, which was said to have imposed a heavy and unreasonable tallage on each of its English abbeys: this petition was from the 'earls, barons and the community of the realm'. The third petition, from the 'poor men of England', requested a remedy against corrupt jurors and ecclesiastical ordinaries.

We cannot assume that no petitions emanated from the representatives at all, for the case of Henry Keighley, who sat for Lancashire in the parliament of 1301 and was later found to be responsible for a bill submitted in that assembly by 'the prelates and nobles . . . on behalf of the whole community', suggests that the addresses of these early community petitions could hide their true origins.[8] But the knights and burgesses were not yet ready to represent the interests of the kingdom and present them to the Crown in their own right, independently of endorsement by the barons. The point is illustrated by two separate petitions presented in 1302 and 1305 by merchants who claimed that their passage on the Thames between Oxford and London was being hindered by gorces (fishing weirs), locks, mills, and other impediments which had been placed in the river.[9] This was exactly the type of complaint that would be readily taken up and forwarded as a common petition from the mid-fourteenth century onwards;[10] but at this point, though the petitions could legitimately claim to raise an issue affecting a common interest, no mechanism appears to have been in place to have them presented by the representatives as complaints of the 'community of the realm'. They remained, essentially, private complaints.

[7] These are printed in *Memoranda de Parliamento,* ed. F. W. Maitland (London, 1893), nos. 203, 472, and 486.

[8] *Parliamentary Writs amd Writs of Military Summons*, ed. F. Palgrave, 2 vols. in 4 (Record Commission, 1827–34), i. 104. The petition (and background) is discussed by M. Prestwich, *Edward I* (London, 1988; repr. 1997), pp. 525–6.

[9] SC 8/10/474 and 477.

[10] For Edward III's reign see *PROME*, parliament of 1352, item 30 (20); parliament of 1363, item 17; parliament of 1369, item 21; parliament of 1371, item 18; parliament of 1372, item 24 (20).

In short time, however, the nature of 'community' petitions changed significantly.[11] By 1315 it is evident that petitions presented in the name of the community of the realm were no longer the exclusive remit of the barons and prelates in parliament. In 1315, petitions were presented by the community alone (the petitions were variously addressed as coming from the 'community of England', the 'community of the people', and the 'community of the land'). One example is of particular interest for the contrast it presents with the complaints of 1302 and 1305 about obstructions in the river Thames.[12] Like the earlier petitions, this complaint referred to a matter that had wide regional application—it complained about the extortionate price charged by ferrymen for crossing the Humber—yet, on this occasion in 1315, it was presented not by a particular interest group but by the 'community of the land'. The grievance was identified as pertaining to a more general interest. Whether this meant it genuinely had the full backing of MPs or was simply rhetoric employed by minority interests to capture the attention of the king and council is impossible to tell.[13] But the term 'community' now evidently carried sufficient political and rhetorical weight to be used on its own (without mention of the barons) as the sole sponsor of petitions that were of a generalized nature. That the barons and bishops were losing their role as representatives of the common interest is graphically illustrated by another petition of 1315, this time from the 'community of the people', which laid a series of charges against the 'great lords of the land' who were accused of abusing and subverting the course of justice.[14] If the phrase 'community of the people' signified the direct and active involvement of MPs, this represented one of the first instances when parliamentary representatives self-consciously adopted an agenda that ran in opposition to the interests of the lay and spiritual lords. Even if it did not, it is clear that there was an increasing expectation that MPs should now act as the true champions of the

[11] Harriss identifies the sixth petition of the 'Stamford Articles' presented in 1309 as the first example of a petition presented collectively by the knights and burgesses in the lower house: G. L. Harriss, *King, Parliament and Public Finance in Medieval England to 1369* (Oxford, 1975), p. 118.

[12] *PROME,* parliament of January 1315, item 12 (10) and 164 (133).

[13] See Richardson and Sayles, *The English Parliament*, Ch. 10, pp. 8–9; Prestwich, 'Parliament and the Community of the Realm', p. 8. For discussion of an early example of the misrepresentation of a petition see G. O. Sayles, *The King's Parliament of England* (London, 1975), p. 103.

[14] *PROME*, parliament of January 1315, item 10 (8). See W. M. Ormrod, 'Agenda for Legislation, 1322–c. 1340', *EHR* 105 (1990), 1–33, esp. p. 19, for context.

common people. This was reflected in the lines of the *Modus Tenendi Parliamentum*, which placed great importance on the role of MPs in parliament because, as its author asserted, they represented the kingdom whereas the Lords represented only themselves.[15]

There are several reasons to explain why the concept of the 'community of the realm' came to be associated exclusively with the parliamentary representatives and the petitions that they drafted.[16] Although these can be traced back well into the thirteenth century, when the knights and burgesses assumed an increasingly autonomous role as granters of taxation to the Crown,[17] the key period for the emergence of the common petition was the reign of Edward II. One of the most notable features of Edward II's reign was the dramatic increase in the number of parliaments attended by the county and urban representatives.[18] Between 1307 and 1327 thirty parliaments were summoned in Edward II's name, though three of these did not actually meet (February 1312, April 1314, and January 1318). Of the remaining twenty-seven, representatives attended no fewer than twenty-one parliaments. In sixteen of these, the knights, burgesses, and lower clergy were all present. The most striking thing is the fact that all the assemblies in which representatives were absent (with the exception of January 1320) were confined to the first three years of Edward II's reign. In other words, from 1311 parliamentary representatives could truly be said to have become established as a permanent presence within the English parliament. It is worth noting too that in only five out of the seventeen parliaments to meet after 1311 (excluding January 1327) was taxation granted, so the role expected of the knights and burgesses at parliament now clearly extended beyond the rather narrow representation of the kingdom's fiscal matters, which had been their principal *raison d'être* in parliament under Edward I.[19] Regular summonses to parliament inevitably soon created a sizeable

[15] *Parliamentary Texts of the Middle Ages*, ed. N. Pronay and J. Taylor (Oxford, 1980), pp. 89–90 (cap. xxiii). For discussion see Clarke, *Medieval Representation*, pp. 317–47.

[16] See Prestwich, 'Parliament and the Community of the Realm', *passim*; and W. A. Morris, 'Magnates and Community of the Realm in Parliament, 1264–1327', *Medievalia et Humanistica* 1 (1943), 5–24.

[17] See J. R. Maddicott, 'The Crusade Taxation of 1268–70 and the Development of Parliament', in P. R. Coss and S. D. Lloyd (eds.), *Thirteenth-Century England II* (Woodbridge, 1988), pp. 93–117.

[18] The following statistics have been worked out using the 'Introductions' to the parliaments of Edward II in *PROME* (see also Figure 2). I have also benefited from communication with J. R. Maddicott on the question of the emergence of the Commons in the reign of Edward II.

[19] Prestwich, *Edward I*, pp. 453–8.

body of experienced and knowledgeable MPs:[20] this was the essential prerequisite necessary to encourage the cooperation, communication, and self-belief to enable the representatives to embrace their collective role as principal lobbyists for the kingdom's welfare.[21]

The second half of Edward II's reign thus witnessed a development in petitionary procedure that was nothing short of revolutionary, for in these years the petition emerged as the primary means for raising matters of general import by the broader political community. The petition was both a symptom and, to an extent, the reason for the emergence of the parliamentary Commons as a distinct political entity within the late medieval parliament. MPs needed to work together and to develop a sense of collegiality in order to articulate broad-based concerns, but the very act of formulating these 'collective' grievances would have gone far towards strengthening and developing the cohesiveness and sense of identity that were to be central attributes of the Commons later in the fourteenth century. These early 'community' petitions provided MPs with the means to articulate widely held grievances; but they did not, at this stage, reflect changes to the organization of parliament or the fact that the Crown was providing them with special treatment. It has been suggested that prominence was given to these early community petitions by parliamentary clerks who presumably put them to one side and forwarded them direct for consideration before the king and council.[22] But it is not clear that the clerks took such an active role, for the annotation *pro communitate Regni*, which was assigned to these early 'community' petitions, could be read as simply an administrative designation that the clerks used to make the petition easier to find in their respective files. Such labelling was fairly common for all types of parliamentary petitions in the first decades of the fourteenth century.[23]

[20] J. G. Edwards, 'The Personnel of the Commons in Parliament under Edward I and Edward II', in A. G. Little and F. M. Powicke (eds.), *Essays in Medieval History Presented to Thomas Frederick Tout* (New York, 1925; repr. 1967), pp. 197–214 (see, especially, Table A).

[21] For a broader context to explain the greater prominence of the representatives in parliament under Edward II, see my discussion 'Parliament and Political Legitimacy in the Reign of Edward II', in G. Dodd and A. Musson (eds.), *The Reign of Edward II: New Perspectives* (Woodbridge, 2006), pp. 165–89.

[22] W. M. Ormrod, *Political Life in Medieval England, 1300–1450* (Basingstoke, 1995), p. 34. Note, however, the comment by Maude Clarke that there is 'no sign that they were given any separate treatment', *Medieval Representation*, p. 233. This view is also taken by Rayner, 'Forms and Machinery', p. 562.

[23] See, for example, the petitions of 1305 printed in Maitland's *Memoranda de Parliamento*. See also Maitland's comments on p. lxxiv of his 'Introduction'.

In practice, petitions of a general interest were probably treated much like every other private petition in that they were considered, in the first place, by the triers who then forwarded them on to the king and council if they deemed this to be necessary. This appears to have been the procedure followed by the petition of 1315, relating to the crossing of the Humber, which was examined by both the triers and the king and his council.[24] This made for a very haphazard system. It meant that the representatives had no overall control over what (or what was not) brought before the king and council in the name of the community of the realm which meant in turn that it was relatively easy for private petitioners to 'hijack' the term and use it to advance their own ends without the representatives having any knowledge that the petition had been presented.[25] The presentation of these early common petitions as individual pieces of parchment also mitigated against the formulation of a consolidated programme of reform. In the 1300s and 1310s the only concerted petitionary agenda put forward against the Crown was one controlled by the barons.[26] The representatives contributed to this programme, but only in a piecemeal way. They may have assumed the mantle as true representatives of the community of the realm, but until they submitted their supplications in a way which made them distinct from run-of-the-mill private petitions, MPs would struggle to break away from a dependency on the Lords to have their views accorded special treatment by the Crown.

5.2 PHASE TWO: THE COMMONS' PETITIONS

At some point between 1316 and 1322 the representatives took the momentous step of collating their common grievances and drawing them up as a single schedule or list of petitions which was presented direct to the king and council for consideration. The earliest schedules of common petitions survive for the parliaments of February 1324, October 1324, and November 1325.[27] Two further documents, which

[24] *PROME,* parliament of January 1315, item 12 (10) (in the roll of petitions considered by the Great Council) and 164 (133) (in the roll of petitions considered by the triers). Another petition of the community, which requested that protections should be granted in cases of felony, was handled in the same way: item 13 (11) and item 209 (171).

[25] Haskins, 'Early Petitions of the Commonalty', p. 317.

[26] Harriss, *King, Parliament and Public Finance*, p. 120.

[27] See SC 8/108/5398; C 49/5/25; SC 8/8/392. These petitions and their context have been examined by Ormrod, 'Agenda for Legislation', *passim.*

detail legislative proposals drawn up for discussion before the king's council in the summer of 1322, possibly arose from an earlier series of common petitions presented to the York parliament of May 1322.[28] The appearance of these schedules marked the next stage in the emergence of the representatives as a homogenous political entity. Much of the impetus behind this lay in the changing political climate of Edward II's reign, and the fact that by the early 1320s baronial opposition to the king had, finally, dissipated. It has been suggested that the compilation of consolidated lists of petitions grew out of an imperative for the representatives to assert their own voice in parliament after the barons had abandoned their cause in the 1310s and were finally crushed in the early 1320s.[29] The initiative shown by the representatives in this new process is clearly of central importance; but the cooperation of the Crown was equally critical, for the presentation of consolidated lists of petitions marked an important change in the administrative procedures adopted by the Crown in parliament. It was at this point that a twin-track system for handling petitions in parliament emerged as the new schedules of common petitions now avoided the route taken by private petitions through the receivers and triers, and were instead passed directly to the king and council by the clerk of parliament.[30]

The consequences of what, on the surface, was a relatively minor change in clerical practice were manifold. The very act of compiling schedules must have brought the representatives much closer together as a self-consciously political (and politicized) body. Organization within the lower house must have adapted to allow for the debates and discussion necessary to reach a consensus on wide-ranging issues. The MPs' view of their role and function at parliament may also have shifted, now that they had to work together to represent common grievances to the Crown. It was probably at this point that the representatives began to develop a much greater sense of their responsibilities to the realm, which included a more proactive and assertive approach to representing concerns of a common nature to the king. A more inclusive political community whose members began to understand that they had a role in determing the way in which England was to be governed was taking shape.[31] On a practical level, consolidated lists of collective grievances

[28] Ibid., pp. 3–7, 12, and appendices A and B.

[29] Harriss, *King, Parliament and Public Finance*, p. 113; Ormrod, 'Agenda for Legislation', pp. 18–19.

[30] See Dodd, 'Parliament and Political Legitimacy', pp. 180–2.

[31] See P. R. Coss, *The Origins of the English Gentry* (Cambridge, 2005), Ch. 7 and 8.

made it much easier for reform agendas to be carried over from one parliament to the next, thus alleviating (to an extent) the discontinuity caused by the turnover of personnel in the lower house. Even in these very early schedules of petitions there was a remarkable consistency to the representatives' programme of complaint. Amongst the issues which can be said to have particularly vexed MPs in the 1320s and early 1330s were purveyance; maintenance; reform of the staple; the actions of local royal officials; the jurisdiction of baronial courts; the keeping of prisons; standardization of weights and measures; and the collection (by the Crown) of ancient debts.[32] This sustained pressure was an important factor to explain why common petitions soon came to form the basis of new statutory legislation: as the same complaints cropped up in parliament after parliament the Crown could no longer ignore its obligation to address the issues and legislate accordingly. The parliament of January 1327 was the first occasion when the Crown fully acknowledged the possibility that common petitions could form the basis of new legislation, and if there are obvious political reasons to explain why this concession was made, the link nevertheless set a crucial precedent that further distanced the common petition from its antecedent, the private petition.

At this point, there probably was a very clear distinction between the two types of complaint. All the evidence points to the fact that these early schedules of common petitions really were petitions compiled by the Commons during a session of parliament. If a private petition formed the basis of a common petition (as was possible), this was only after it had been carefully considered by MPs and strictly reworded to make its com mon application as explicit as possible. The appearance of schedules of common petitions provided the representatives with a far greater degree of control over what was presented to the Crown in the name of the com munity. In essence, the schedules enabled the representatives to monop olize the use of the term 'community' or 'commune', for all petitions employing this diplomatic had now to pass before the Commons and be entered on their schedule if they were to be treated by the Crown as bona fide common petitions. This much was indicated in 1327 when the Commons, having presented their list of grievances to the Crown, then stipulated that 'if any other bill is put forward in the name of the commu nity, we will disavow it except if that bill is indented'.[33] There is no reason

[32] Ormrod, 'Agenda for Legislation', *passim*.
[33] *PROME*, parliament of 1327, item 39 (membrane 1).

to suppose that the Commons did not exercise total discretion in deciding what should be included on the schedule of petitions and it seems likely that the requests, once drafted, were simply given over to the clerk of parliament for conveyance to the king and council. This is suggested by the physical appearance of the early schedules, such as those which date to 1325 and 1327, which were written up without enough space being provided for the Crown's answers, which were written up separately either as an endorsement (1325) or on a separate membrane (1327).[34]

The net result of these developments was a situation in which the Commons retained a strong degree of control over the compilation and presentation of common petitions in parliament. Although we cannot discount the possibility that some common petitions originated from complaints brought up to parliament by private supplicants, it is doubtful that this occurred on a large scale. The common petitions of these early years are remarkably consistent in addressing matters that could genuinely be said to have pertained to a common interest, as though they had been exposed to a very vigorous process of vetting and monitoring within the lower house. As we have seen, the subjects raised in the surviving common petitions of the 1320s and 1330s (i.e. February 1324, October 1324, November 1325, January 1327, January 1333, and February 1334) addressed broad economic, social, and religious themes. The same impression is gained if we focus on complaints submitted in a single parliament. Take, for example, the common petitions of January 1327. There were three petitions which sought measures against alien merchants; there were petitions which sought tighter controls on a variety of different office holders, from the bailiffs of hundreds and sheriffs to royal councillors; there were petitions about legal processes, including complaints about the use of writs of trespass and the making of false appeals; and there were petitions relating to different aspects of landholding, including a petition which sought to protect the financial interests of keepers of wardships.[35] A glance at the common petitions presented in the other parliaments confirms that these supplications were fairly typical: in January 1333, for example, office holding was again a prominent theme, only complaint now focused separately on purveyors, escheators, tax assessors, and collectors of customs.[36] General

[34] See Rayner, 'Forms and Machinery', pp. 549–60.

[35] *PROME*, parliament of 1327 (membrane 1). On alien merchants see items 17, 25, and 26. On office holding see items 18, 29, 32, and 33. On law see items 19, 20, 22, and 37. On landholding see items 27, 28, 30, 34, and 35.

[36] *PROME*, parliament of January 1333, items 2, 4, 5, and 11.

commercial concerns again featured on the schedule, only in 1333 attention had shifted away from alien merchants and was now focused on the sale of wine and on cloth workers and alnagers.[37] Where common petitions contained detail of a more specific nature, such as complaints that mentioned particular individuals, these petitions could still claim with reasonable justification to represent the broad interests of a significant section of the population. In 1327, for example, complaint was made against Sir William of Cleydon, lieutenant of the justice of the forests south of the Trent, who had incorporated various towns and lands within the forest boundary contrary to what had been established under Edward I and Edward II.[38] In 1333, John Crabbe, a notorious pirate and murderer of merchants and mariners, was similarly the subject of a Commons' petition which asked the king to put a price on Crabbe's head.[39]

It could be said with some justification that the complaints and grievances on these early schedules probably came closest to the classic definition of the common petition, namely, a request inspired out of concern for the public good. In part, as we have seen, this was because the Commons retained complete 'ownership' over this new petitionary process; but in part, also, it was because they appear to have had a very clear idea of what purpose common petitions fulfilled. In January 1327 the representatives asked that all their petitions shall 'be put in writing; which writing should be sealed with [the king's] great seal and severally delivered to the knights of the counties and to the sheriff of each county in order to make proclamation throughout their bailiwicks . . . and that all the matters contained in the grants be considered as statutes and firm and established forever'.[40] The ultimate objective of the common petition was the general dissemination of the Crown's response to it across the kingdom as a whole, preferably in the form of a binding statute. This expectation, no matter how unrealistic it was from the Crown's point of view, [41] served to generate a clear standard by which the Commons themselves could judge a complaint to be either in the common interest or self-serving and too narrow in its application. This is not to say that common petitions which raised

[37] Ibid., items 8, 10, and 17.
[38] *PROME*, parliament of 1327, items 31 and 38 (membrane 1).
[39] *PROME*, parliament of January 1333, item 9.
[40] *PROME*, parliament of 1327, item 39 (membrane 1).
[41] Interestingly, the Crown's response to this petition accepted that some petitions would be enacted into statutes, but it added the proviso that other petitions would result in enrolments in chancery: *PROME*, parliament of 1327, item 41 (membrane 2).

matters of national importance could only have been the product of spontaneous collective discussion within the Commons: every petition, however broad ranging it was, must initially have had an individual sponsor who proposed the measure to MPs for their wider endorsement on the schedule. (We see this process at work in a later period, when the abduction of the daughter of Sir Thomas West became a cause célèbre amongst the Commons, who accordingly secured new legislation in October 1382 providing for extra sanctions against the perpetrators of abduction and rape.[42]) The standards were high, however, and the opportunities for narrow lobby groups to manipulate the Commons into backing measures of very narrow application seem to have been very limited.

The Commons' control of their own schedules of petitions held particular advantages at times of increased political tension, if they wished to lay before the king any unpleasant or awkward truths. Part of this advantage lay in the generalized nature of the common petition, and the fact that because there was no readily identifiable author the Crown found it less easy to intimidate or persecute potential dissenters as had happened in the case of Henry Keighley in the early 1300s.[43] So long as the Commons stuck together, MPs could propose measures that criticized the Crown relatively safe in the knowledge that the eventual supplication, presented collectively, would mask their individual identity. This was one of the great advantages which the common petition held over the private petition. It was one of the factors which allowed the Commons to take so much more of a prominent and, at times, controversial role in the political affairs of the kingdom than in the days when isolated private petitions constituted the principal means for the parliamentary community to represent itself to the king. The almost total lack of evidence showing the Crown attempting to isolate the authors of controversial common petitions suggests that there was a universally accepted principle that the Commons accepted

[42] West had initially presented his case as a private petition in the parliament of May 1382: SC 8/147/7347. The Commons articulated the problems raised by West in a common petition: *PROME*, parliament of October 1382, item 45. See discussion by J. B. Post, 'Sir Thomas West and the Statute of Rapes', *BIHR* 55 (1980), 24–30. One other example of private interests trying to sway the Commons' agenda dates to 1399 when the lawyer John Catesby drafted a series of demands which he hoped would form the basis of a common petition: J. B. Post, 'A Privately Drafted Common Petition of 1398–9', *Journal of the Society of Archivists* 6 (1978–81), 10–17.

[43] See above, n. 8. Edward I did not discover who had presented this petition until 1306, five years after it had been presented in parliament.

responsibility for all petitions presented in the name of the community of the realm.[44]

The latent capacity of the common petition to bring pressure to bear on more sensitive areas of royal governance was fully demonstrated in the crisis of 1340–1 when Edward III was forced to make a series of humiliating concessions in return for securing a much needed grant of direct taxation.[45] The crisis had arisen in the first instance by parliament's failure to provide sufficient funds for Edward to prosecute the war against France. Politically, Edward had backed himself into a corner: on the one hand, he had committed himself to a military and diplomatic strategy that placed a huge financial burden on the kingdom; on the other hand, he depended on the goodwill and cooperation of the members of parliament to obtain these funds. It was the king's desperate need for taxation which allowed the political community to bargain their supply of money for the Crown's redress of grievances. The significance of this crisis, for our purposes, lies in the fact that the two sets of common petitions which elucidated the main points of the Commons' agenda, and which were presented respectively in the parliaments of March 1340 and April 1341, were almost certainly drawn up and presented to the Crown independent of interference by royal agents. There is no official record of the petitions presented in March 1340 and we only know of their existence because the schedule was preserved in the Cartulary of Winchester Cathedral.[46] The petitions of 1341 *were* recorded on the parliament roll but their appearance, as a list of petitions followed by a separate list of corresponding responses, suggests that they were directly copied out from an original schedule of petitions drawn up by the Commons.[47] Almost certainly, one of the factors that made the crisis of 1340–1 so difficult for Edward III was the procedural disadvantage that these kinds of consolidated and self-contained schedules of common petitions had for the Crown. Such lists could be presented by the Commons at a time

[44] The one notable exception is the celebrated case of Thomas Haxey in January 1397, though strictly speaking his criticism of Richard II's household was not expressed in a conventional common petition but was recorded in discussion between the Lords and Commons. See G. Dodd, 'Richard II and the Transformation of Parliament', in G. Dodd (ed.), *The Reign of Richard II* (Stroud, 2000), pp. 78–80.

[45] The most detailed considerations of this crisis are found in Harriss, *King, Parliament and Public Finance*, Chs. 10–13 and N. M. Fryde, 'Edward III's Removal of his Ministers and Judges, 1340–41', *BIHR* 48 (1975), 149–61. See also the Introductions to each of the parliaments of this period in *PROME*.

[46] Harriss, 'Commons' Petitions of 1340'. The petitions are printed in Harriss, *King, Parliament and Public Finance*, pp. 518–20.

[47] *PROME*, parliament of 1341, items 9–17 (petitions), 36–41 (answers).

of their choosing, and their content kept from the Crown until they had been handed over. It was a process that allowed the Commons to retain the initiative in parliament, which in turn enabled them to withhold taxation, if they wished to, until all their demands had been met. This was the underlying source of the Commons' strength in 1340–1.

These points are important because in 1343, when parliament next met after 1341, the procedure to process common petitions underwent an important, if subtle, change. It was from 1343 that common petitions began to be enrolled as a 'neat' record of the negotiations between the Crown and political community, with the Crown's response to each petition noted underneath the petition itself.[48] Different theories have been made to explain the change, including the suggestion that it was the product of a new self-awareness by the Commons, who wished to have a more formal record of the concessions made by the Crown in reply to their requests.[49] It may also have been symptomatic of an increased perception of parliament's role as a court of record and of the personal initiative of the clerks within it. Most compelling, however, is the idea that the change in procedure was linked to Edward III's drive to reimpose royal authority over parliamentary processes. After the crisis of 1340–1 Edward III successfully shifted the ordering of parliamentary business so that precedence was given to the Commons' obligation to grant taxation over the Crown's responsibility to address the community's grievances.[50] The formal enrolment of common petitions thus came at a point when the answers to common petitions were not given until the very end of a parliamentary session. One suspects that the two factors were linked. By making formal enrolment the final stage in the petitionary process, the Crown was now no longer faced with the imperative to provide responses to the Commons' grievances in order to open the way to negotiation over taxation. *Verbal* answers to the Commons' petitions were given at the end of parliament but the official record of what had transpired could be, and often was, left until after parliament had ended before being written up as a fair copy in the parliament roll.[51]

[48] For the most recent description of this process see Ormrod, 'On—and Off—the Record', p. 46 ff. In June 1344, the older practice was adopted, but thereafter, with the exception of some assemblies in the 1370s, common petitions usually survive in their 'neat' enrolled form.

[49] See ibid., pp. 40–2.

[50] Harriss, *King, Parliament and Public Finance*, pp. 356–61.

[51] For a discussion of the timing of writing up of the parliament roll see C. Given-Wilson, 'The Rolls of Parliament, 1399–1421', in Clark (ed.), *Parchment and People*, esp. pp. 58–9.

There were other advantages to the formal enrolment of common petitions. In essence, the formal enrolment of common petitions reduced the Commons' schedule to an intermediary stage with the result that it was no longer the Commons but the Crown that had the final say as to what was addressed in parliament as a petition of the community. It is doubtful whether this resulted in wholesale vetting of common petitions by the clerks or that the final roll of common petitions contained a substantial amount of business which the Commons knew nothing about until it appeared on the roll. But the administrative process had shifted sufficiently to make the Commons fearful that 'rogue' petitions presented ostensibly by the community could now make it onto the final enrolment without their knowledge or assent. In March 1348, they sought assurance from the king that 'the answers previously granted [to petitions presented in January 1348] should not be changed by any bill delivered in this parliament in the name of the commons or by anyone else, since if any such bill is delivered in parliament for doing the contrary, the commons will not acknowledge it'.[52] At least the principle seems to have been well established that all petitions presented in the name of the community ought first to be approved or 'avowed' by MPs. But this hardly detracted from the underlying point that it was now the Crown rather than Commons which determined the final make-up of the petitions presented and recorded in parliament as 'common' grievances.

5.3 PHASE THREE: ENROLLED COMMON PETITIONS

Despite the changes made in the 1340s, the common petitions presented in the middle decades of Edward III's reign essentially retained the universal quality that had distinguished them in the 1320s and 1330s. It is difficult to identify a common petition presented at this time that clearly aimed to promote the narrow interests of regional lobby groups. The underlying criterion for having a common petition brought before the king and council—that it should concern common interests—appears to have remained intact. We should not conclude from this, however, that common petitions were devised for purely

[52] *PROME*, parliament of 1348, item 30 (petition 24).

altruistic motives, for the definition of what constituted the 'common interest' lay with the parliamentary representatives and they could not be relied upon to advance any request to the Crown unless it was in their interests to do so. This point applies as much to the discussion in the previous section, on the schedules of Commons' petitions, as it does to the enrolled common petitions of Edward III's middle years, but it is a point which gains particularly sharp focus in the light of the campaign by MPs to extend and revise the labour legislation of the mid-fourteenth century.[53] In the aftermath of the Black Death, the Commons joined with the Crown in a repressive campaign to limit as far as possible the economic advantages enjoyed by the peasantry by imposing harsh and repressive regulations on the price and movement of labour.[54] The petitions which the Commons submitted on this subject responded to the narrow economic interests of the landowning and labour-employing classes of late medieval England: they could hardly be said to have had the interests of the broad medieval public at heart.[55] Thus, the term 'common', to describe these petitions, was relative. They were common petitions only insofar as they promoted the common interests of the political elite gathered in parliament; for large sections of the population who did not have access to parliament, such petitions almost certainly would have been regarded, for all intents and purposes, as private petitions—petitions which promoted the interests of a narrow clique rather than those of the people in general.[56]

[53] The literature on the labour legislation is extensive, but for more recent discussion see W. M. Ormrod, 'The Politics of Pestilence: Government in England after the Black Death', in W. M. Ormrod and P. Lindley (eds.), *The Black Death in England* (Stamford, 1996), esp. pp. 155–9 and C. Given-Wilson, 'The Problem of Labour in the Context of English Government, *c*. 1350–1450', in J. Bothwell, P. J. P. Goldberg, and W. M. Ormrod (eds.), *The Problem of Labour in Fourteenth-Century England* (Woodbridge, 2000), esp. pp. 85–90.

[54] See Harriss, *King, Parliament and Public Finance*, pp. 333–4.

[55] *PROME*, parliament of 1352, item 11 (1), item 13 (3); parliament of 1362, item 29 (21); parliament of 1368, item 15; parliament of 1372, item 30 (16); parliament 1373, item 26 (14), item 27 (15); parliament of 1376, item 61 (10), item 117 (68); parliament of January 1377, item 29 (13); parliament of October 1377, item 54 (13), item 55 (14); parliament of 1378, items 60 and 62.

[56] Note Harriss' view that there was a discernible change in the representative quality of the Commons' agenda, from one that genuinely sought to defend the interests of the rural poor in the first half of the fourteenth century, to one much more geared to the propertied classes in the second half of the fourteenth century: *King, Parliament and Public Finance*, pp. 333–4. The alienation of the general population from parliament, as a result of the failure of the petitionary system to instigate proper reform, is explored in greater detail in G. Dodd, 'A Parliament full of Rats? *Piers Plowman* and the Good Parliament of 1376', *Historical Research* 79 (2006), 21–49.

In essence, the true definition of a common petition was a supplication which MPs (or the Crown) *considered* to represent the public interest. Universal applicability or the number of individuals affected by a problem or, indeed, the deserving nature of a request was not each in themselves enough to see a common petition generated. The vital factor was support in the lower house. This point is amply demonstrated by a petition presented in the parliament of January 1352 by foreign cloth workers residing in England.[57] In the supplication the petitioners complained about the hindrances they had encountered from the guild of tailors in London and elsewhere, and they requested confirmation of the terms of the statute of 1337 which had established their rights in this respect.[58] The Crown's response to the petition is striking. The endorsement read: 'because this petition touches the common profit of all the realm of England and of the lands specified in it, it is accorded by our lord the king, the prelates, earls and barons and others in this full parliament' that the petition will be granted. It was further specified that proclamation would be made throughout the realm affirming that foreign workers enjoyed the protection of the king in England.[59] On the face of it, this petition had all the hallmarks of a common petition, and indeed from the point of view of the Crown this was how it was viewed; but the Commons played no part in the petition. The request was not made as a common petition (it remained a private petition); MPs were not involved in the decision to ratify it; and the outcome was expressed not in a statute but as a letter patent. One suspects that any attempt made to have this petition presented amongst the common petitions had been decisively blocked by interest groups representing the guild of tailors amongst the body of MPs returned to parliament.[60]

For much of Edward III's reign then, common petitions retained a general quality, even if some requests disguised a rather narrower, sectionalist agenda. At the end of the reign, however, there are signs of a significant change in the form and purpose of the common petition. The common petitions in parliaments from the mid-1370s began to incorporate requests which promoted matters that were more blatantly specific and localized in nature than had been the case previously. In

[57] SC 8/110/5463. [58] *Stats. of Realm*, i. 281 (item v).
[59] See *CPR 1350–1354*, p. 232.
[60] For discussion of the statute see G. Unwin, *Finance and Trade under Edward III* (London, 1918), p. 187.

the parliament of 1373, a common petition from the 'commonalties' of a collection of Midland counties requesting the establishment of the staple at Lynn was put forward; another petition was presented from the masters of ships throughout England, requesting payment for the period when their ships had been seconded by the Crown; another asked for confirmation of Bristol's charter; and a fourth petition made complaint against sheriffs who had demanded money for people's bail even though it had been paid, adding that this problem had particular application to the county of Cumberland.[61] In the Good Parliament of 1376 the floodgates opened and amongst the scores of common petitions promoting local issues were requests from the commons of the county of Cornwall; the commonalty of the county of Cumberland; the king's poor lieges of Kent; the commonalty of the city of Bath; the poor burgesses of Southwark; the people of Newcastle; the poor people of the hundred of Guestling in Sussex; the poor commons of Yarmouth; and the liege people of Teviotdale.[62] The change in the form of common petitions was as abrupt as it was marked. Only a decade before, in the parliament of 1363, not one of the twenty-two common petitions presented in the assembly had openly promoted localized concerns: at this point, the common petition was still understood to have a general application.[63] Thus, in the 1360s, petitions from the citizens of Lincoln; the commonalties of the counties of Somerset and Wiltshire; the prelates, magnates, and people of Kent; the commonalty of Nottinghamshire; and even a request from the people of the cities and boroughs of all of England—all petitions that were of the type soon to appear regularly on the parliament roll as common petitions—remained as private petitions, handled and dispatched by the usual methods put in place for private business in parliament.[64]

[61] *PROME*, parliament of 1373, items 20 (8), 28 and 29 (16 & 17), 31 (19), and 33 (21).

[62] *PROME*, parliament of 1376, items 131, 132, 135, 141, 148, 149, 172, 176, and 177.

[63] The same themes addressed by the common petitions of January 1327 and 1333 (see above, pp. 136–7) can similarly be applied to the petitions presented in 1363. For instance, the economic-related petitions included requests about the currency; the export of corn; the forestalling of victuals and the price of victuals; the regulation of the wine trade and price of wine; and confirmation of legislation on the wool trade: *PROME*, parliament of 1363, items 8–37.

[64] SC 8/210/10 453 (1365); and 293/14 647 (1365). The petitions from, respectively, Kent, Nottinghamshire, and 'cities and boroughs' are not extant, but evidence of their existence can be found, respectively, in *CPR 1361–1364*, p. 451 (1363); *CPR 1361–1364*, p. 293 (1362); and *Rot. Parl.*, ii. 274, no. 2 (1362). All these petitions are

It seems clear that the goalposts had shifted dramatically with the result that many petitions which would previously have been classified as private petitions were now being drawn up and presented to the Crown as common petitions. What accounts for this change? The explanation may lie, at least initially, in the controversial proceedings of the parliament of February 1371 and the remarkably shabby treatment meted out to the petitions presented in this assembly. The parliament of 1371 is well known for the way in which the Crown shelved its consideration of common petitions until after parliament had ended and the representatives had returned home—the delayed answers to these petitions were finally given in the meeting of a Great Council held at Winchester in April 1371.[65] Little attention, however, has been given to the treatment of private petitions in this assembly and the virtual certainty that private business was almost totally eradicated from the parliamentary agenda, and this despite the fact that receivers and triers had been appointed to handle private petitions at the start of proceedings. There are neither extant petitions nor (more revealingly) the telltale imprint of petitions on the chancery rolls (in the form of letters warranted *per peticionem de Parliamento*) to suggest that private petitioners were successful in gaining redress for their petitions.[66] It is possible that a similar situation prevailed in the previous parliament of 1369 for which, again, there is a complete absence of direct and indirect evidence for petitionary business.[67] For our purposes, the importance of 1371 lies in the reaction of the Commons to what was now clearly a very inhospitable environment for petitioners. They petitioned (in 1371):

> that all their bills included here, and all others put before our lord the king, those that are for several people, towns or counties as well as those that are for the aforesaid commons concerning their grievances in this present parliament, shall be delivered to some of the lords in the same parliament, to be heard and duly executed; since in their cases it seems to them that justice may better be done to them in parliament than elsewhere.[68]

dated and described in the appendices provided in *PROME*, parliaments of 1362, 1363, and 1365.

[65] V. H. Galbraith, 'Articles Laid before the Parliament of 1371', *EHR* 34 (1919), 579–82; W. M. Ormrod, 'An Experiment in Taxation: The English Parish Subsidy of 1371', *Speculum* 63 (1988), 58–82.

[66] *PROME*, parliament of 1371, appendix. Only one such warranty note has been discovered, for a petition presented by John de Montacute (no. 2).

[67] *PROME*, parliament of 1369, appendix.

[68] *PROME*, parliament of 1371, item 16.

This request grouped together petitions of a local nature (albeit relating to 'collectivities') with petitions from the Commons. In effect, it was an appeal to the Crown that if petitionary business was to be curtailed, then at least those private petitions which promoted regional interests should be incorporated with, and considered alongside, the traditional common petitions that promoted the more general interests of the realm. Thus, it was at this point that the contemporary understanding of what a common petition was seems to have changed, so that it now incorporated a whole new category of private complaint which, though not affecting the realm as a whole, affected a sufficient number of people to warrant (in the eyes of MPs) special consideration in parliament.

The implication for private petitions was no less profound: the Commons had effectively defined a two-tier system of private business in parliament and those private petitions which did not concern 'several people, towns or counties' now belonged to the lowest of these two levels. In this, the final clause of the petition presented by the Commons in 1371 is highly significant, for in arguing that the petitions of groups, towns, and counties should be addressed (as common petitions) in parliament, because this was the most appropriate place for these issues to be aired and judged, the implication was that private petitions which did not fit these categories might be adequately addressed outside parliament. In effect, the Commons were signalling their willingness to abandon the traditional form of private petition which forwarded the interests of individuals in order to preserve the place in parliament of the more important private petitions which forwarded the interests of communities. This did not herald the end of the old type of 'singular' petition; but it did now place a special premium on the ability of private petitioners to have their complaints incorporated amongst the common petitions. By doing so, private petitioners were virtually ensured of having their requests brought before the king and council for consideration. This meant that the petition stood a much better chance of receiving a definitive and authoritative answer than if it remained, as a private petition, in the hands of the triers. The other important benefit was that it would be enrolled on the parliament roll. Enrolment virtually guaranteed that a petition received an answer; it also meant that the answer was given in public; and it ensured that the complaint and its response became a matter of public record (these were all, incidentally, reasons why sometimes the Crown sought to suppress some complaints from the roll).

Perhaps these were the conditions which explain why, in the parliament of 1372, attention was suddenly focused on the role

of lawyers in parliament and the allegation that as knights of the shire they were more intent on attending to private matters in parliament than to the 'public' affairs of the realm. All at once, the skills of articulation and persuasion, as well as knowledge of legal and administrative matters—all attributes which lawyers are likely to have possessed—gained added value as constituencies contemplated the diminished chances of having their grievances properly addressed *unless* the Commons were persuaded that their case was worth taking up and sponsoring as a common petition.[69] The ordinance of 1372, which forbade the election of lawyers as knights of the shire, was inserted at the end of the roll recording common petitions: but there can be no doubt that this was a measure initiated by the Crown, to serve the interests of the Crown.[70] For one thing, as a result of the ordinance, eleven knights of the shire were denied their parliamentary expenses because they had been identified as the offending parties.[71] MPs are very unlikely to have initiated this sanction themselves.

For the Crown, the assimilation of a new category of (private) complaint with more traditional 'national' concerns must have been a most unwelcome development, for it threatened the Crown's priority to have most parliamentary time spent addressing the official 'charge' given at the start of each assembly and which usually related to the king's need for taxation. If common petitions were now redefined to include large numbers of local concerns it stands to reason that more of the Commons' time would be spent debating and negotiating which of these local concerns they were prepared to avow, instead of focusing on the financial agenda put forward by the Crown. In fact, it may not have been just the

[69] Historiography on lawyers in parliament has tended to place emphasis on the individual motives of the lawyers for attendance, and less on the reasons why constituencies increasingly turned to men of law to represent their interests at parliament: see, most recently, S. J. Payling, 'The Rise of Lawyers in the Lower House, 1395–1536', in Clark (ed.), *Parchment and People*, pp. 103–35, esp. pp. 111–20.

[70] A consensus which sees this as a measure put forward by the Commons has built up: K. L. Wood-Legh, 'Sheriffs, Lawyers and Belted Knights in the Parliaments of Edward III', *EHR* 47 (1932), 398–413, p. 374 n. 1; Rayner, 'Forms and Machinery', p. 193; J. R. Maddicott, 'Parliament and the Constituencies, 1272–1377', in R. G. Davies and J. H. Denton (eds.), *The English Parliament in the Middle Ages* (Manchester, 1981), p. 76; A. L. Brown, *The Governance of Late Medieval England, 1272–1461* (London, 1989), p. 193.

[71] These were Robert Tresilyan (Berks.); Thomas Houton (Berks.); John Frompton (Dors.); William Burgh (Leics.); John Wroth (Middx.); Nicholas Green (Rut.); Robert Kendale (Shrop.); John Beyvyn (Soms.); William Houghton (Hants.); John Catesby (Warw.); and John Preston (Westm.).

time spent by the Commons on petitions that now worried the Crown: the more inclusive criteria for common petitions meant there was the distinct possibility that the king and council would be considering and dispatching petitions that had previously been handled by the committees of triers. Interestingly, the ordinance applied only to knights of the shire, which suggests that the Crown placed far less value on the participation of the burgesses in discussing matters of national importance. Perhaps this articulated an unspoken prejudice that merchants and townsmen were incapable or unqualified to represent anything other than their immediate urban or commercial interests within parliament.

The Crown's attempt to keep lawyers out of parliament, and local issues off the parliament roll, signally failed. In 1373, and then spectacularly in the Good Parliament of 1376, common petitions from urban, commercial, or county communities formed a significant minority of the issues MPs forwarded to the king and council. Thereafter they were a regular and important type of complaint amongst the common petitions.[72] The Good Parliament represented a watershed in this regard.[73] In total, 126 separate petitions were enrolled as common petitions in the parliament roll.[74] Almost certainly the vast majority of these were 'avowed' private petitions—cases which the Commons had endorsed in the name of the whole community. In fact, a note at the end of the roll, where it was stated that the Commons had put forward 'a great roll or a great schedule, and another bill annexed to the same roll, containing around forty-one articles' suggests very strongly that these articles comprised the sum total of the requests which the MPs themselves had formulated, and that the remainder—a total of eighty-five cases—had been 'adopted' on behalf of private interests.[75] We gain a valuable insight into the driving force behind the process of avowal with the citation of one of the articles which

[72] See my discussion of the January parliament of 1390 where 'localised' common petitions appear to have been written up separately from 'national' common petitions on the parliament roll: G. Dodd, 'Crown, Magnates and Gentry: The English Parliament, 1369–1421', University of York, DPhil thesis, 1998, pp. 126–7.

[73] The following builds on discussion in *PROME*, parliament of 1376, Introduction; and Ormrod, 'On—and Off—the Record', pp. 52–3.

[74] For this calculation see my discussion in Dodd, 'Parliament Full of Rats', pp. 33 n. 50.

[75] *PROME*, parliament of 1376, item 112. The first forty-three petitions on the roll may represent the original Commons' schedule. Almost all the cases within this range related to broad or general concerns, and at item 44 there is a noticeable break in the continuity of the list of petitions. Until this point petitions were introduced with the words 'Also, the Commons pray', but item 44—a much longer petition against the pope

had been included on the original schedule (but which had been subsequently omitted from the roll). Here, the Commons requested that due justice should be done to 'all these articles contained in the said roll, schedule and bill, which are on file with other bills of this parliament'.[76] This suggests that it was a direct request by the Commons, rather than intercession by parliamentary clerks, which caused so many 'private' matters to appear amongst the common petitions.[77]

That said, it is possible that the clerks played an important role in reconfiguring the 'private' complaints so that they conformed more readily to the idiom of the common petition. This did not entail disguising the colloquial origins of such cases; 'avowed' common petitions generally retained the original addresses which specified the local identity of the petitioners. Rather, it was a case of adding or deleting explanatory detail to the petition, presumably in order to strengthen and/or refine the case now presented, in enrolled form, to the Crown. For example, extra lines were added to the enrolled (common) petition of the community of Chester to explain that it was the vagueness of the terms of their charter which allowed justices of assize to insist that the inhabitants of the city attend court sessions outside the city limits.[78] The extra clause no doubt helped clarify the context of the complaint, but it also directed the Crown more explicitly to the solution desired by the petitioners, who were duly instructed to show their charters in chancery where justice was to be provided. In contrast, the final flourish of the original petition presented by the town of Newcastle was omitted when the request came to be written up as a common petition.[79] This was a statement to the effect that the mayor and commonalty of the city would be in danger of being bought and sold like oxen in the

containing a number of different clauses—uses the original opening address: 'To our lord the king and his council'.

[76] Ibid.

[77] A number of original petitions are endorsed 'This bill is considered amongst the common petitions': SC 8/655 (1376); 18/884 (1377); 101/5050 (1377); 102/5055 (1377), 5060 (1378); 107/5303 (1378). I would interpret this as an *administrative* note rather than the expression of a judgement. In other words, the endorsement is not saying that the petition *should* be considered amongst the common petitions; rather that this is where the answer to the petition can be found. Therefore it is the Commons, rather than the parliamentary clerks, who have made the initial decision to espouse the petition as a common grievance.

[78] *PROME*, parliament of 1376, item 145. The original petition is SC 8/14/654.

[79] *PROME*, parliament of 1376, item 149. The original petition is SC 8/65/3203.

market if they did not receive justice in their feud with the hospital of St John of Jerusalem. Perhaps the remark was judged to be too flippant for a complaint now solemnly presented in the name of the whole community of the realm. Finally, a petition presented by the king's liegemen of Devon shows more clearly how a complaint that had originated in a specific region as a result of specific local conditions could be turned into a grievance that had a much more general application.[80] The original petition made complaint against men in the retinue of Sir Robert Ashton who were said to have seized food without payment to victual the expedition to Brittany by Duke John IV de Montfort in April 1375. It asked for a writ to be sent to Thomas Melbourne and other purveyors ordering that payment be made. The enrolled version of the complaint dropped this detail and added a more broad-ranging stipulation which aimed to ensure that purveyance in general did not result in financial loss for those whose goods had been taken.

The avalanche of 'private' complaint presented to the Crown as common petitions in 1376 shows that the Crown's control of petitionary procedure was by no means absolute. The transfer of Commons complaints onto the parliament roll—a document compiled and overseen by royal servants—appears to have provided an opportunity for some vetting to take place, but any significant intervention risked serious political alienation. In all probability the Crown had only a limited say on what was left on—or off—the roll. The fact that 'private' issues continued to be presented as common petitions shows the extent to which MPs embraced the new and more inclusive definition of what a common petition should be. The reason for this appears to be very straightforward: a large proportion of the 'private' petitions which now became common petitions directly promoted the interests of the parliamentary classes. This is amply demonstrated by the willingness of the Commons in the last quarter of the fourteenth century to present common petitions that asked for the reduction of fee farms owed by the sheriffs of specific counties.[81] These were requests that related to, at most, a handful of prominent gentry from specific regions in the kingdom and yet, because they concerned the interests of so many knights of the shire in parliament (as past or prospective sheriffs), the petitions seem to have been readily interpreted as requests that touched the common interest.

[80] *PROME*, parliament of 1376, item 180. The original petition is SC8/14/655.
[81] Dodd, 'Crown, Magnates and Gentry', pp. 182–3.

The point is underlined by the fact that most of the rest of these localized common petitions were presented in the name of borough or county constituencies, the inference being that the MPs themselves were responsible for submitting them in parliament. In the Good Parliament of 1376 no fewer than twenty-eight counties were represented either individually or corporately in common petitions and seventeen cities or boroughs similarly had complaints addressed in this way. The point is further strengthened by the absence of localized common petitions from communities not directly represented as parliamentary constituencies. There were very few common petitions from religious communities, for example, and even fewer from low status groups in society. The palatinates of Durham and Cheshire and also communities based in the English dominions of Wales and Ireland also tended not to have supplications expressed as common petitions, presumably because they did not have MPs available in parliament to lobby for the broader support of the lower house. Interestingly, one of the very few 'corporate' private petitions to remain private in 1376 was a supplication from the people of the marshland of Norfolk who complained that their villages had been flooded as a result of obstructions placed in rivers.[82] The people of the marshland of Norfolk had no representatives in parliament to champion their cause and this was possibly why their complaint remained 'private'—though they still managed to secure a commission of enquiry.[83] Thus, by the last quarter of the fourteenth century, the content of a petition was no longer the single most important factor to determine whether it could be presented as a common petition; now, the support and endorsement of the knights and burgesses could be just as important.

The importance of MPs to the new procedure is further indicated by the fact that many requests could only realistically have been compiled at parliament as a result of MPs interacting with each other and forging common programmes of complaint. It was at this time that the phenomenon of community 'alliances' first emerged when petitions presented in the name of several communities experiencing shared difficulties began to be put before the Crown. In 1376, for example, a petition was presented in the name of the commonalties of Suffolk, Essex, Cambridgeshire, Huntingdonshire, Lincolnshire,

[82] SC 8/149/7447. The dating of this petition is problematic. The commission that resulted from the request was issued in 1379, but the petition itself was identified by Palgrave as belonging to a group of fifty-three cases whose provenance to the Good Parliament appears to be particularly strong: TNA/PRO 31/7 105.

[83] *CPR 1377–1381*, p. 363.

Northamptonshire, Bedfordshire, Buckinghamshire, and Leicestershire; and another was drafted by the citizens and burgesses of Nottingham, Derby, Northampton, Bedford, and Chichester.[84] These coalitions were generally not a feature of county or borough petitions presented earlier in the fourteenth century and they might be seen therefore as a product of the new facility offered by common petitions to air specifically local concerns.[85] Perhaps these joint petitions heralded a period in parliamentary development in which MPs were becoming far more adept at communicating and cooperating with each other in order to generate the most impressive looking 'local' common petition possible.

The integration of local issues amongst national concerns had a number of other important consequences that can be outlined briefly. Firstly, we may imagine that the personal qualities and abilities of MPs in parliament now mattered more than ever to those constituencies that wished to have their petition presented as a common petition in parliament. The possibility of having the endorsement of the Commons must surely have placed a greater premium on an MP's powers of persuasion and his networking abilities within the Commons.[86] In a majority of cases, one presumes that gaining the support of the Commons for a local issue was a matter of demonstrating the deserving nature of the request; but in some cases, the possibilities that now opened up for having local issues presented to the Crown with the full backing of the Commons evidently now made the lower house the focus of fierce rivalry between competing lobby groups. Take, for example, the running dispute between the mayor and aldermen of London and the city's fishmongers: in October 1382, the Crown had come down in favour of the mayor and aldermen, and enacted a series of ordinances that restricted the trading privileges of the fishmongers.[87] In October 1383, however, the fishmongers struck back by recruiting the support of MPs who presented two common petitions, asking respectively for

[84] *PROME*, parliament of 1376, items 15 and 144.

[85] This is discussed in Ch. 8 pp. 261.

[86] Though evidently this did not arrest the decline of belted knights in parliament: J. S. Roskell, L. Clark, and Carole Rawcliffe, *The House of Commons, 1386–1421,* 4 vols. (Stroud, 1992), i, appendix B1. It would not be until the fifteenth century that the number of lawyers in parliament increased significantly; Payling, 'Rise of Lawyers', pp. 108–111.

[87] In this parliament the case of the mayor and aldermen was enrolled as a 'bill' following the common petitions: *PROME*, parliament of October 1382, items 55–65; *Stats. of Realm*, ii. 28 (item 6).

the full restoration of the fishmongers' liberties and the revocation of the statute made in 1382.[88] Then, in 1399, the city authorities regained the upper hand: in this parliament, the Commons presented a petition asking that the original statute of October 1382, against the fishmongers, should be reinstated and the Crown (mindful, perhaps, of its need for London's support) duly obliged.[89] The same 'hijacking' of the common agenda by narrow, sectional interests was seen in the 1390s when, in January 1390, the Commons petitioned on behalf of the shoemakers and cordwainers of the realm, against the tanners of leather, only to reverse its stance in 1395 and 1402 when they backed the tanners of leather against the shoemakers and cordwainers.[90] These cases demonstrate how the 'semi-privatisation' of the common petition process could directly influence the nature and scope of statutory legislation which now, in some instances, was addressing quite narrow and contested areas of concern. Perhaps this is why it became relatively common in the late fourteenth century for the Commons to request the annulment of legislation that had only recently been made, because support for some statutes depended very heavily on the partisanship of the MPs that had been returned to a previous parliament.[91]

These cases notwithstanding, the second consequence of having more localized issues incorporated amongst the common petitions was that the link between common petitions and statutory legislation was weakening. It is a commonplace of parliamentary history to measure how receptive the Crown was to the concerns of the Commons by comparing the ratio of statutes enacted to common petitions presented: but after the 1370s not every common petition can be assumed to have been presented in order to secure remedial legislation. A common petition presented in November 1380 on behalf of the inhabitants of Lincolnshire, for example, asked for a commission from chancery to survey the boundary between the parts of Holland and Kesteven; a petition of October 1383, on behalf of the burgesses and people of Scarborough, similarly requested a commission 'by patent' empowering the earl of Northumberland to raise soldiers to man ships for the defence of the town; and a series of common petitions presented in 1385 made quite specific requests

[88] *PROME*, parliament of October 1383, items 37 and 46; *Stats. of Realm*, ii. 34 (item 11).

[89] *PROME*, parliament of 1399, item 149; *Stats. of Realm*, ii. 118 (item 17).

[90] *PROME*, parliament of January 1390, item 48; parliament of 1395, item 10; parliament of 1402, item 34; *Stats of Realm*, ii. 65 (item 17), 142 (item 35).

[91] Dodd, 'Crown, Magnates and Gentry', pp. 221–3.

for the reduction of the fee farms sheriffs were having to pay from individually specified counties.[92] By the same token, not all common petitions were *responded* to by the Crown with a new statute: a common petition presented in October 1383 on behalf of the town of Guildford, for example, resulted in the exemplification of their charter; a common petition for the city of London was presented in April 1384 to confirm the king's recent agreement to the re-election of aldermen to office; and a petition for the towns of Rye and Winchelsea in November 1384, drawing the king's attention to the towns' vulnerability to French attack, resulted in the appointment of commissions to levy funds for local defence and to survey the state of fortification.[93] None of these 'positive' results for the petitioners made any mark on the statute roll.

And finally, now that the lower house was emerging as a second and more favoured point for the forwarding of private petitions to the king and council (compared to the more traditional route through the receivers and triers) it was only a short time before petitioners en masse began to see the Commons as their best chance of securing a favourable and decisive judgement for their individual supplications. In consequence, the diplomatic of petitions began to change to take into account the emerging role of the Commons as intermediaries between the petitioner and the Crown; thus, it is from the late 1370s that the earliest examples of private petitions addressed to the Commons, rather than to the king and council or king and Lords, survive.[94] These petitions, however, represent an altogether different category of complaint compared to the localized common petitions discussed in this section, for they were rarely incorporated into the lists of common petitions (though some were enrolled separately on the parliament roll) and they remained, in quite an open and blatant manner, private in nature. Just why petitioners should seek the intercession of the Commons to have their individual complaints or requests brought to the attention of the king and lords, and why the practice of enrolling private business on the parliament roll gained a new lease of life are questions addressed in the next chapter.

[92] *PROME*, parliament of November 1380 (item 41); parliament of October 1383 (item 47); parliament of 1385 (items 19, 20, and 21).

[93] From an entry in the patent rolls dating to 1423 we know that Guildford's charter was confirmed by a letter patent on 10 March 1384: *CPR 1422–1429*, p. 158. For the London aldermen, see *CPR 1381–1385*, p. 386, and for Rye and Winchelsea see *CPR 1381–1385*, pp. 518 and 519.

[94] See SC 8/111/5514 (*c*.1378–9). Rayner also identified a petition printed in *Rotuli Parliamentorum* as one of the earliest examples of a supplication to the Commons ('Forms and Machinery', p. 213).

It should be clear, then, that the inconsistency in the way historians have referred to common petitions—or Commons' petitions—reflects different stages in the development of this type of complaint across the fourteenth century. The common petition started out as an expression of collective concern by MPs at parliament on issues that genuinely concerned the broad interests of the realm. However, by the end of the fourteenth century common petitions encapsulated a much larger range of complaint that included issues that would previously have been presented as private grievances. This development was, in many respects, the consequence of the hugely unequal positions occupied by private and common petitions respectively within the late medieval parliamentary system. Whereas private petitions were acutely vulnerable at times when the attention of the political community was focused on matters of national or international concern, common petitions tended to thrive in this environment. When the Crown wished the political community to focus its attention on financial or political considerations it had little incentive to devote parliamentary time to private business; but it had to take a very different stance in relation to the 'public' business raised by the Commons because it relied on the Commons for financial aid and, to an extent, political validation. Given that parliament met at times of heightened political or military crisis for much of the second half of the fourteenth century, it was perhaps inevitable that some types of complaint previously defined as 'private' would transfer into the more secure and assured 'public' arena of the common petition. The difficulty was that the new lines of demarcation between common and private petitions were now blurred. Whereas earlier in the fourteenth century private and common petitions had existed as relatively self-contained and distinct categories of complaint, from the 1370s there was considerable overlap, so that often what determined whether a petition was presented as a common petition in parliament depended not on an established set of ground rules but on the resourcefulness and connections of the petitioner.

6

Private Petitions in the Fifteenth Century

The 1370s saw the first major change to the procedures put in place more than half a century previously for handling private petitions. For the first time it was possible for some private petitioners to bypass the receivers and have their grievances or requests presented at the behest of the Commons, as petitions which were of sufficient import to warrant inclusion on the parliament roll as common petitions. This was a significant development; but compared to the changes to occur in the following fifty years this was merely tampering with a long-established administrative system. In the 1370s the vast majority of individual private petitioners continued to follow the route taken by petitioners in the reigns of Edward I and Edward II, placing their interests in the hands of the king and/or his delegates in the upper house. The diplomatic employed by the petitioners of this decade reflected the continued pre-eminence of the Lords in fulfilling parliament's jurisdictional role: as in the early fourteenth century, supplications were routinely addressed to the king and/or his council. Between this point and the end of Henry V's reign, however, changes were made to the systems for handling private petitions which not only revolutionized parliamentary procedure, but also affected important and far-reaching changes to the extent of involvement which the wider parliamentary community had in dispatching petitionary business.

Two developments stand out in particular. The first was a growing custom for parliamentary clerks to enrol private petitions. These enrolments usually followed the main enrolled business of parliament, which recorded the principal points of discussion and the decisions subsequently reached, but they normally preceded the enrolments made of the common petitions. The enrolment of private petitions meant there was now a third method of recordkeeping employed by the clerks in parliament, for enrolled private petitions coexisted with private petitions enrolled as common petitions (see previous chapter) as well

as private petitions that followed the more traditional route into the chancery files, once they had been expedited. It should be stressed from the outset that the nature and purpose of these later enrolled private petitions was very different to the enrolments made of petitions in the late thirteenth and early fourteenth centuries. In the fifteenth century, enrolment occurred on a highly selective basis and was a much smaller scale operation. The other significant development was the increasing tendency for petitioners to address their petitions to the Commons rather than to the king and council or Lords.[1] In the course of the reigns of Richard II and Henry IV this new practice increased dramatically, so that by the time of Henry VI's reign more petitions were addressed to MPs in the lower house than were addressed to elements in the upper house. These twin developments—the (re)emergence of enrolled private petitions and the phenomenon of private petitions addressed to the Commons—were, in the first instance, changes to petitionary procedure. But the changes in procedure were symptomatic of more fundamental changes to the nature of parliament and the respective roles played by its members. What follows, then, is an account of these developments which considers their impact in the broader context of relations between the king, Lords, and Commons, on the one hand, and the individual private petitioner on the other.

6.1 ENROLLED PRIVATE PETITIONS

The forerunners of the enrolled private petitions of the fifteenth century were complex or high-profile legal cases, usually recorded in elaborate detail, which appeared more and more frequently in the last quarter of the fourteenth century. Something of the rationale behind such enrolments can be gleaned by the petition of Sir John Maltravers presented in the parliament of 1352. Maltravers had been convicted in 1330 of traitorously plotting the death of the earl of Kent; he was petitioning in 1352 to have his estates restored in accordance with a pardon that had been issued four years previously in 1348.[2]

[1] A. R. Myers, 'Parliamentary Petitions in the Fifteenth Century', *EHR* 52 (1937), 385–404, 590–613, pp. 399–401.

[2] See M. V. Clarke, *Fourteenth Century Studies* (Oxford, 1937), pp. 130–1; J. G. Edwards, *The Second Century of the English Parliament* (Oxford, 1979), pp. 57–8; Caroline Shenton, 'Maltravers, John, first Lord Maltravers (*c*.1290–1364)', *ODNB*.

The enrolment was inserted into the parliament roll after the schedule of common petitions, but before the clerical *gravamina*. The key passage, for our purposes, came when the clerk of parliament, after repeating the content of Maltravers' petition noted, 'which petition having been read, it was answered and endorsed by the lords and other great men of the parliament that it seemed to the council that the charter [of pardon] ought to be renewed and *entered in the roll of parliament as of record*, if it pleases the king'.[3] Enrolment served first and foremost to preserve a record of the actions or decisions that had been taken as a result of a petition presented in parliament. We may assume, in this case, that the administrative norm for handling private petitions, whereby the petition was placed into a file and its response recorded (more often than not) in a letter patent or close, was considered insufficient for a case of this nature. Here, the impetus for enrolment appears to have come from the members of the council, anxious perhaps, that a formal record be kept of such a high-profile case. But in later years, the impetus is more likely to have come from petitioners who wished to have a 'public' record of the resolution to their grievances. The growth of the practice of enrolment across the later decades of the fourteenth century, and its establishment as an important and significant part of parliamentary procedure in the fifteenth century, reflected a growing prestige attached to the parliament roll as a definitive record of the highest court in the land. In time, enrolment on the parliament roll may even have come to be seen as an alternative, rather than a supplement, to enrolment on the patent or close rolls.[4] It also reflected the changing character of parliament in which important cases brought before the institution now began to involve a much greater proportion of the political community as arbiters in such cases.[5] Where hearings took place before the larger body of parliament's membership, enrolment on the official parliament roll was a natural thing to do.

[3] *PROME*, parliament of 1352, items 54–6. See also *PROME*, parliament of January 1348, item 65 and Appendix no. 1.

[4] See the case (outlined by H. C. Maxwell-Lyte, *Historical Notes on the Use of the Great Seal of England* (London, 1926), p. 365) of Jacquette of Luxemburg, wife of the duke of Bedford, whose petition of 1433 to be made a denizen was granted (and entered on the parliament roll) and yet the draft letter patent she attached to the petition was not enrolled.

[5] For the role of parliament in providing a forum for arbitration, see C. Rawcliffe, 'Parliament and the Settlement of Disputes by Arbitration in the late Middle Ages', *Parliamentary History* 9 (1990), 316–42.

There is no reason why the Crown should not have encouraged enrolment: enrolment created a full record of parliamentary processes that were often highly complex and intractable. In cases where disputing parties had come to terms, there were obvious advantages to recording the process that had resulted in the final settlement. Moreover, it was not uncommon for the Crown to invest a large amount of time searching through government records to find evidence to resolve such cases: enrolment ensured that the results of these searches were preserved and were easily accessible for future reference. And often, particularly in the fourteenth century, enrolled petitions were presented by, or related to, individuals who enjoyed significant political or social status: these cases lent themselves very well to recording on a public record. The parliamentary clerks responsible for writing up the parliament roll had no reason to resent the extra work that the enrolment of private petitions entailed for they stood to gain financially by the lucrative fees they could charge petitioners for providing this service.[6]

Some of these themes emerge more clearly during the reign of Richard II when the enrolment of the proceedings relating to selected private petitions became a more regular part of the business recorded on the parliament roll. Take, for example, the enrolled petition presented by William Montague, earl of Salisbury, in October 1377. This was the first of a string of petitions that the earl submitted in parliament to press his claim for the honour of Denbigh and other estates in North Wales.[7] These estates had been granted to his father in 1331 following Roger Mortimer's forfeiture the previous year, but had returned to Mortimer's cousin and heir, Roger Mortimer, the second earl of March, after the reversal of the initial judgement in 1354.[8] The Crown faced a serious conundrum because two noble families appeared to possess equally

[6] See the discussion of the mid-fifteenth-century enrolment of petitions by G. R. Elton, 'The Rolls of Parliament, 1449–1547', *The Historical Journal* 22 (1979), 1–29, pp. 5, 7. For a general consideration and details of the fees charged for enrolment see Maxwell-Lyte, *Historical Notes* pp. 340–2, 365. Note the comment made by A. F. Pollard that 'the clerk [of parliament] was under no obligation to enrol private petitions unless he was paid by the petitioner, and the amount depended upon the length of the petition': 'The Clerical Organization of Parliament', *EHR* 57 (1942), 31–58, p. 46.

[7] *PROME*, parliament of October 1377, item 28.

[8] For a description of this case, see J. Bothwell, 'Edward III, the English Peerage, and the 1337 Earls: Estate Redistribution in Fourteenth-Century England', in J. Bothwell (ed.), *The Age of Edward III* (Woodbridge, 2001), pp. 49–50; A. Dunn, *The Politics of Magnate Power in England and Wales 1389–1413* (Oxford, 2003), pp. 130–8.

compelling claims to the same land. The case highlights a number of points. Firstly, as a result of Salisbury's initial petition in 1377, Sir John Cavendish, chief justice, was charged with bringing before parliament all the 'records and processes' held by king's bench which pertained to the case. The instruction provides a good illustration of the position held by parliament as the superior court of the realm, and indeed unusually in this instance, as the principal court of appeal, since Salisbury's primary aim was to secure parliamentary support in having the decision taken in king's bench in 1354 overturned in his favour: the king's bench records were to be inspected and if necessary overruled by the members of parliament. On a practical level, the instructions also showed how the royal secretariat could be called upon to fulfil a fact-finding role during parliamentary time, accumulating the evidence necessary to have a case successfully expedited. Secondly, the clerk of parliament noted that the earl of Salisbury 'spoke in parliament' and requested the presence of Edmund Mortimer third earl of March at the next assembly 'to hear the record and process, and to hear and receive whatsoever would then be decided in this matter'. This provides explanation for the first point: the reason the king's senior judge was charged to collect all the evidence relating to Salisbury's petition during parliamentary time is because the case was intended to be heard and settled specifically within a parliamentary context. Salisbury's petition looked to parliament to act as a tribunal in which the earl and his adversary were to give evidence before the assembled peers, who were then expected to reach a final judgement on the matter. Indeed, one of the reasons the case was so protracted was because neither party appeared at parliament together and so there was never the opportunity to have the case settled by parliamentary resolution.[9] No thought seems to have been given to the possibility of deferring

[9] As a result of Salisbury's petition of October 1377, a writ of *scire facias* was issued for delivery to March by Sir Brian Cornwall, sheriff of Shropshire, to compel the earl's attendance of parliament in 1378. In the parliament of 1378 Cornwall reported that the writ was undelivered because the person it specified did not have lands in his bailiwick. March attended the following parliament, in 1379, and excused his obduracy on the dubious grounds that the original writ had wrongly described his father as earl of March. Possibly because Salisbury was himself absent in this assembly, the case was adjourned; but then March himself left for Ireland to serve as lieutenant there and Salisbury's further efforts were stalled by a grant of protection given to March by the king: *PROME*, parliament of 1378, items 31–3; parliament of 1379, items 19–25; parliament of January 1380, items 19–21. Following the death of March in 1381, his estates were distributed amongst some of Richard II's favourites and, from 1383, they were committed to the custody of a magnate consortium: see N. Saul, *Richard II* (New Haven and London), pp. 111–12.

the case for resolution outside parliament. Finally, it is worth noting that Salisbury's petition was enrolled on the parliament roll of October 1377 even though no settlement was achieved. Perhaps this reflected a concern to have at least the initial findings recorded of a case that had used up so much of parliament's valuable time.

Many of the enrolled petitions of Richard II's reign were presented by high-status petitioners, more often than not by men and women who were tenants-in-chief of the Crown. These included petitions from Lady Alice Neville of Essex, asking for the imprisonment of Sir John Howard for his involvement in the abduction of her daughter;[10] from the executors of Edward III's will, requesting that their receiver might be allowed to make payments without hindrance from Richard II's councillors;[11] and from John, earl of Pembroke, and William la Zouche, who were in dispute with Robert Clecham over the terms agreed for the enfeoffment of the estates of Sir William Cauntelow, whose heirs Pembroke and Zouche were.[12] In this last case, which was heard during the parliament of January 1380, the proceedings were physically removed from parliament to the house of the Friars Preachers in London where chief justices John Knyvet, John Cavendish, and Robert Bealknap were charged to examine 'all matters touching the bill', before then notifying parliament of all that they had found. The emphasis placed upon the definitive and unimpeachable nature of the subsequent enrolment is indicated by the care with which the parliamentary clerk noted that Bealknap 'gave with his own hands the memorandum and the examination written out and made in the form cited here [in the parliament roll], word for word, nothing therein having been altered'. Other early enrolled petitions, if they did not come from the peerage, at least related to matters that could be said to have had some political or legal importance. These included the supplication of Sir William Windsor in 1378, which sought the reversal of the judgements made against his wife (and Edward III's mistress), Alice Perrers;[13] and a

[10] *PROME*, parliament of 1378, item 34.

[11] *PROME*, parliament of 1379, item 26. For background to this case, see C. Given-Wilson, 'Richard II and his Grandfather's Will', *EHR* 93 (1978), 320–37, esp. pp. 322–4.

[12] *PROME*, parliament of January 1380, item 24.

[13] *PROME*, parliament of 1378, items 36–7. See J. Bothwell, 'The Management of Position: Alice Perrers, Edward III, and the Creation of a Landed Estate, 1362–1377', *Journal of Medieval History* 24 (1998), 31–51, p. 48. Perrers received a pardon, 'with the assent of the magnates of the realm', a few weeks after parliament ended: *CPR 1377–1381*, p. 412.

petition of 1381 against the civic officials and burgesses of Cambridge complaining about their conduct during the Peasants' Revolt.[14] One of the few examples of an early enrolled petition presented by a relatively humble supplicant—William Fitzhugh, goldsmith of London—was almost certainly enrolled not at the behest of Fitzhugh but as a result of pressure brought to bear by his adversaries, the 'great and rich goldsmiths' of London, who had been proved to be entirely innocent of the accusations Fitzhugh had brought against them in his petition.[15] These were all petitioners who had both the resources and the incentive to have the outcome to their cases publicized and set out in the public record. The preponderance of high-status petitioners among the early enrolled petitions may have reflected their greater inclination, as senior members of the political community, to publicize the outcome to the problems brought before parliament. In time, enrolment may even have come to be regarded as a measure of the status held by the petitioner.

It was from early in Henry IV's reign that the first signs suggesting that enrolment was coming to be seen as a much more routine and regular aspect to parliamentary procedure appear. In the parliament of January 1404 thirteen private petitions were enrolled on the parliament roll.[16] The first four petitions, including the supplication of Henry Percy, were interspersed amongst the other enrolled business of the assembly, but the remaining supplications were recorded consecutively in a way that was to represent the standard form for enrolment in future parliaments. This involved a brief introductory paragraph explaining who had delivered the petition into parliament; the exposition of the petition itself; another short statement to the effect that once the petition had been read it was given the following response; and finally, a summary of the response itself. The long and sometimes needlessly repetitive expositions of the processes attached to many of the enrolled petitions of Richard II's reign were now replaced by briefer, standardized accounts that covered the key points necessary to understand the nature of the petition and the response given to it.

[14] The best account of the rising in Cambridge is provided by *The Victoria History of the County of Cambridgeshire*, ii. 398–402, and iii. 8–12.

[15] For this specific case see T. F. Reddaway, *The Early History of the Goldsmiths' Company 1327–1509* (London, 1975), pp. 40–2. For general background, see P. Nightingale, 'Capitalists, Crafts and Constitutional Change in Late Fourteenth-Century London', *P&P* 124 (1989), 3–35. Fitzhugh's petition fell on deaf ears: he was challenged to find pledges for the charges he had levelled against his fellow goldsmiths, but since he could find none he was incarcerated in the Tower.

[16] *PROME*, parliament of January 1404, items 22, 36, 39, 40, 45–54.

The petitions enrolled in January 1404 covered a range of different issues, but the reasons for their enrolment can be applied in general terms to a large number of the enrolments made in the fifteenth century. For example, the enrolment of the petitions presented, respectively, by the Prince of Wales, Queen Joan, and Edward of Langley, duke of York, can be seen primarily to reflect their status and importance and possibly also because the contents of these supplications were considered by the members of parliament to be a matter of 'public' interest.[17] Some of the other petitions of January 1404 were enrolled almost certainly because the petitioners wished to provide insurance for the eventual implementation of the Crown's response, especially where it depended on the cooperation of officers from other branches of royal government. This was probably one of the most common reasons for enrolment. Thus, enrolment would almost certainly have given Benedict Wilman assurance that the reply to his petition, which ordered the king's justices to 'arrange for further action to be taken in the matter', would be acted on and that, if it was not, he had good grounds for complaint.[18] The same could be said for John Beaufort, earl of Somerset, who was promised that the treasurer would make prompt payment of sums needed to finance the garrison of Calais.[19] Other petitioners appear to have made use of the roll because this was the most appropriate place to record the results of arbitration or the terms of an agreement. In January 1404, the rival petitions of the cutlers and goldsmiths of London were set out on the roll followed by a verdict which favoured the goldsmiths (they were presumably responsible for the enrolment);[20] and the roll also included the settlement of the terms of the dowry to be enjoyed by Joan Stafford, countess of Kent, following her petition asking that she should have 'a secure estate'.[21] Finally, the enrolment of a petition presented by John Burley, great-nephew of Richard II's tutor and favourite, Simon Burley, which sought the reversal of the latter's judgement of forfeiture, demonstrates a tendency for petitions relating to parliamentary decisions or processes to find a place on the record.[22]

One notable aspect to these enrolled petitions is the frequency with which the parliamentary clerks identified the 'Lords' as the body of

[17] *PROME*, parliament of January 1404, items 22, 45, 48. The petition from the Prince of Wales, asking to be restored to the lands of the duchy of Cornwall, was presented at the behest of the Commons.

[18] Ibid., item 39. [19] Ibid., item 49. [20] Ibid., items 51–2.

[21] Ibid., item 50. [22] Ibid., item 54.

men who were responsible, with the king, for seeing that resolutions were provided to supplicants. The petition of the countess of Kent is a good example: a settlement was reached on the countess' dowry once 'this petition had been read and heard before the king and the lords in parliament [and] agreement . . . made between the said countess and the present earl of Kent'. Similarly, to the petition of John Burley, the clerk of parliament recorded that 'It has been assented and agreed by the king and the lords in parliament' that the judgement against Simon Burley should be annulled. The new emphasis on the Lords signalled an important change in the structural organization of the medieval parliament because traditionally it was the king and *council*, within the Lords, that was identified as the body before which petitions were adjudicated.[23] It was a change recognized by the petitioners themselves who began to substitute the older form of address in their supplications, which specified the 'king and council', for a new type of address which identified the 'king and lords of parliament' as the recipients of their requests.[24] Exactly what the term 'Lords' meant in these contexts is a difficult question to answer. Whilst it is possible that it simply referred to those lords actively trying petitions as members of the committees of triers, it is more likely to have been employed on a more inclusive basis. In most cases, the 'Lords' was actually referred to in fuller terms, as the 'Lords Spiritual and Temporal', which implied a more general meeting of the whole body of the upper house. Indeed, when we consider that a large proportion of the enrolled petitions of the late fourteenth and fifteenth centuries which involved the Lords related to high-profile and often intractable legal disputes—cases which the triers would not typically have dispatched on their own—the case for regarding the term as embodying the peerage in its entirety is extremely strong. On balance, the change in terminology probably indicated that the Lords had now replaced the council as the main forum in which petitions were brought before the king (and, if necessary, where petitioners themselves were called to make their pleas in person). The committees of triers presumably continued to function in their capacity as specialized committees, preparing cases for a wider parliamentary audience and dispatching those cases that offered more straightforward resolution. In time, it is likely that the majority of private petitions presented in parliament were considered by the full body of the upper house at one stage or another, to either receive extended consideration

[23] See Ch. 4, pp. 96–7. [24] See discussion in Ch. 4, pp. 97–8.

or merely formal assent (the case having already been considered by the king or Commons).[25]

The new prominence of the Lords in the petitionary process, the fact that the full body of the upper house now appears to have become regularly involved in trying some of the petitions brought to parliament by individuals, signified important and far-reaching changes to the operation of parliament and the role of the peers within it. Almost certainly, the impetus for this change lay in the political context of the 1370s and the peculiar constitutional and jurisdictional problems generated by the absence of an effective and authoritative king at the head of the body politic. The wider implications of minority rule for the governance of the realm were seen in the organization of strictly representative minority councils;[26] but the principle of collective government which these councils embodied could provide an important clue to explain why the council itself came to be superseded by the Lords as the forum for trying important cases brought by petition. The rationale behind the minority councils was that political legitimacy would be bestowed upon its decisions because of its inherently representative and consensual qualities. By the same token, the channelling of particularly contentious or significant private petitions into the Lords could be seen as a consequence of the need to spread responsibility for judgements on cases that ordinarily would have come before the king and his councillors. But the Lords' developing sense of their place at the head of the judicial structure may also have had a part to play, and was certainly crucial in making the developments of the late fourteenth century a permanent feature of parliament's *modus operandi*. The advent of impeachment in

[25] Because of the ambiguity of the term 'Lords' it is virtually impossible to assign a chronology to this development. In the Tudor period bills were usually considered by the committees of triers before being sent to the Lords for assent: see M. A. R. Graves, *The House of Lords in the Parliaments of Edward VI and Mary* (Cambridge, 1981), pp. 162–3. G. R. Elton described the process in slightly different terms: 'it seems that the committees formally known as triers in the medieval parliament, became in effect the committee of the Lords, made up of archbishops, earls and leading judges' *The Parliament of England 1559–1581* (Cambridge, 1986), p. 108. It is quite plausible that the practice was up and running for much of the fifteenth century, particularly once two-way petitionary traffic between the upper and lower houses had become established in the early decades of the fifteenth century (see discussion below, pp. 177–8 and n. 64). The relationship between the committees of triers and the Lords has not been considered in detail in modern scholarship, though note H. L. Gray, *The Influence of the Commons on Early Legislation: A Study of the Fourteenth and Fifteenth Centuries* (Cambridge, 1932), pp. 341–2.

[26] The best description of the continual councils is in A. Tuck, *Richard II and the English Nobility* (London, 1973), pp. 38–48.

the 1370s, and the numerous state trials that resulted in this decade and the 1380s, demonstrated that the Lords had come to regard their judicial functions as absolutely intrinsic to their identity as parliamentary peers.[27] It was a role that came to be vigorously and confidently upheld in early 1404 when the Lords claimed the right to hear the petition of the earl of Northumberland by asserting that 'judgment belonged to them alone; and when the same petition had been read and heard before the king and the said lords, the same lords, as peers of parliament, to whom such judgments belong of right, deliberated on this as was appropriate'.[28] The protestation was made in the specific context of a peer facing possible charges of treason; but, in general terms, it demonstrated the extent to which the Lords had positively come to embrace their position in parliament as supreme judges in cases that they felt required more than the legal expertise and knowledge that a royal judge could offer. Justice in parliament was therefore no longer a matter of dispatching as many petitions as quickly and as efficiently as possible; it had now become a means by which the Lords were able to define more sharply and delineate more clearly the special jurisprudential status that they enjoyed.

6.2 PRIVATE PETITIONS ADDRESSED TO THE COMMONS

Private petitions addressed to the Commons, rather than to the king and council or king and Lords, first appeared in the 1370s. The earliest examples date to the parliament of 1378, and were addressed either to the knights of the shire alone or to the knights, citizens, and burgesses as a whole.[29] Throughout Richard II's reign, there was a very gradual increase in the petitions which used this new form of address, but

[27] See the series of articles on impeachment and state trials published by T. F. T. Plucknett in *TRHS* in 1942, 1950, 1951, and 1952; A. Rogers, 'Parliamentary Appeals of Treason in the Reign of Richard II', *American Journal of Legal History* 8 (1964), 95–124; J. S. Roskell, *The Impeachment of Michael de la Pole, Earl of Suffolk in 1386* (Manchester, 1984).

[28] *PROME*, parliament of January 1404, item 12.

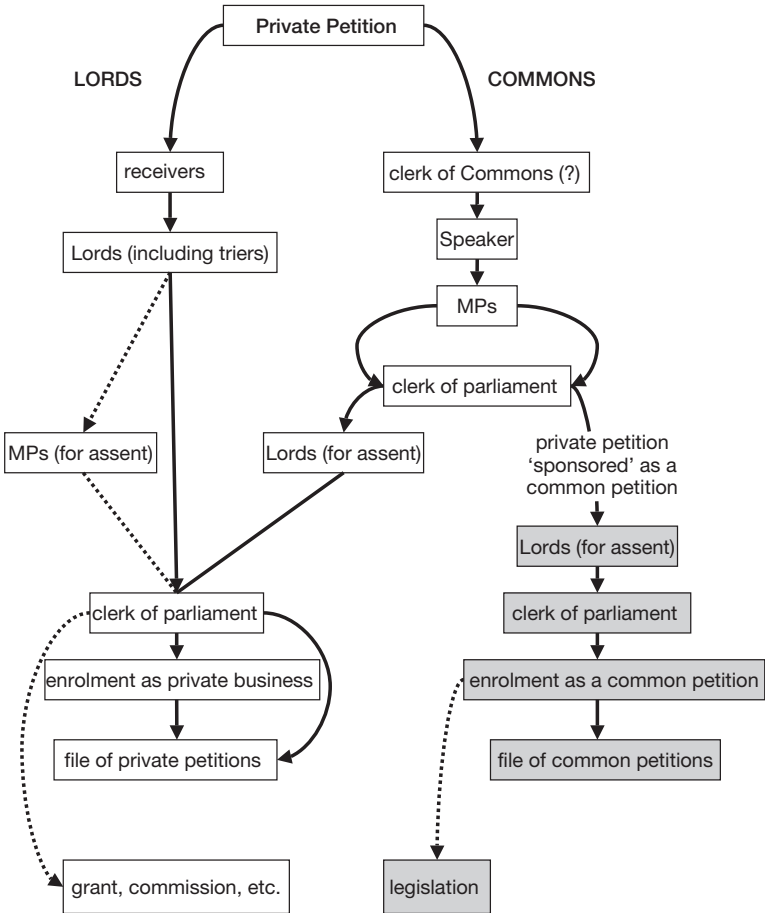
[29] Myers, 'Parliamentary Petitions', pp. 398–9. See also transcripts of petitions in TNA/PRO 31/7 106. Items 87–154 date to the parliament of 1378 and include two petitions which supplement the example given by Myers: SC 8/18/896, 111/5514. A petition addressed to the 'king, lords and commons of parliament' has been tentatively dated to *c*.1370 (SC 8/198/9867).

it was not until the early fifteenth century that it became common, and not until Henry VI's reign that it became usual for petitions to be directed towards the parliamentary representatives.[30] Over time petitions addressed to the Commons were to outnumber petitions addressed to the king and Lords. This meant, in effect, that more petitions came to pass through the lower house before being sent for assent in the upper house than were passing through the hands of the receivers for initial referral to the committees of triers. The important change in petitionary diplomatic, which the new form of address signified, was thus symptomatic of a more fundamental shift in the participation of the Commons in private business. This, in turn, fundamentally changed the structure of the petitionary system within parliament itself, for the assembly now offered the possibility of two routes for private supplicants to gain redress: the traditional one via the receivers and triers/Lords and a new one via the clerk of the Commons and MPs. For this, and for other references to fifteenth-century petitioning procedure, readers may wish to consult Figure 9, which sets out in diagrammatic form the routes through parliament along which private petitions could travel.

When exactly the balance of responsibility changed, so that the Commons were processing more petitions than the Lords (or elements therein), is difficult to tell, but it may have happened as early as the 1420s. This is suggested by the profile of the petitions presented in the parliament of 1427, for which an almost complete set of transcriptions exists in the series PRO 31/7.[31] Of the forty-one petitions transcribed by Palgrave and attributed by him to this assembly, thirty-five were addressed to the Commons and just six were addressed either to the king alone or to the king and the Lords of parliament. Such a disproportionate involvement of the Commons in the petitionary business of parliament may have been rather unusual at this point, for in the parliaments of 1426 and 1433 a larger number of petitions which were addressed to the upper

[30] Myers, 'Parliamentary Petitions', p. 400 attempts to quantify petitions addressed to the Commons by counting such examples recorded on the parliament rolls. This provides a good impression of the growth of the practice, but is of little value otherwise because only a proportion of private petitions presented in parliament were enrolled.

[31] These transcriptions can be assumed to contain the vast bulk of the petitions handled in the assembly because the number of supplications transcribed correlates very closely to the figure noted by Illingworth when he surveyed the contemporaneous 'bundle' of petitions dating to 1427 in the early nineteenth century: TNA/PRO 31/19.



9. Routes Taken by Private Petitions in the Fifteenth Century

house survive; but the trend is unmistakable. It is fairly safe to assume that by the 1440s, at the very latest, the convention was for petitioners to seek the intercession of the Commons rather than to act through the receivers and triers. This is suggested by the fact that whereas in the 1420s and 1430s the number of enrolled private petitions addressed to the king routinely outstripped the number of enrolled petitions addressed to the Commons, in the 1440s and onwards the opposite

was the case. In some assemblies, such as 1442, 1445, and 1447, no petitions addressed to the king were enrolled at all.[32]

The new-found prominence of the Commons as the first point of contact for petitioners coming to parliament would almost certainly have reduced to a mere trickle the number of petitions initially handed into the Lords. The workload of the receivers would therefore have diminished,[33] as would the labours of the triers, for those petitions which had initially been dealt with by the Commons appear to have been forwarded to the Lords as a whole for adjudication rather than to the specific committees of triers. This is the implication of the common inscriptions added to such petitions: *soit baille as seigneurs*.[34] Thus, the *raison d'être* of the receivers and triers changed significantly. Receivers and triers continued to be appointed in parliament throughout the fifteenth century and provision was still made to allow enough time for petitioners to hand their supplications to the receivers if they wished to do so,[35] but increasingly their responsibilities narrowed so that in time they appear to have acted on only a small proportion of the petitionary business submitted in parliament.

Why should petitioners have sought to secure the sponsorship of the Commons for their individual supplications? A. R. Myers has suggested that it was symptomatic of the increasing difficulty experienced by petitioners in securing redress by following the traditional route via the receivers and triers.[36] There may be some truth to this. Had the old system, which relied heavily on the expertise of the triers, in combination with the authority and prestige of the council, been easily accessible to private petitioners it is doubtful whether any petitioner would have

[32] *PROME*, parliament of 1442, items 11–17; parliament of 1445, items 20–2; parliament of 1447, items 11–16.

[33] A. F. Pollard, 'Receivers of Petitions and Clerks of Parliament', *EHR* 57 (1942), 202–26, pp. 216–19. For the (redundancy of the) receivers in the sixteenth century, see Graves, *House of Lords*, pp. 137–8.

[34] This inscription first appeared in the 1390s. For discussion, see A. R. Myers, 'Observations on the Procedure of the Commons in Dealing with Bills in the Lancastrian Period', *University of Toronto Law Journal* 3 (1939), 51–73, pp. 64–5.

[35] Between 1413 and 1433 between four and ten days were allotted at the start of parliament for petitioners to hand their supplications into the receivers (an average of between six and seven days). Since there were no recorded complaints that this time frame was too short one presumes it was sufficient. There were no time restraints placed on the petitions handed into the Commons, though the later into parliament they were submitted the more chance there was that time would run out and they would not be addressed.

[36] Myers, 'Parliamentary Petitions', p. 398.

freely chosen the more circuitous route via the Commons to have their supplication brought before the upper house. The occasional complaints made by MPs, to the effect that the Crown was not paying enough consideration to the grievances of private supplicants, lend themselves very well to the notion that the system was not working to everybody's satisfaction.[37] But there may have been other factors. The period when petitions addressed to the Commons began to increase markedly between the 1410s and 1430s was also a period when parliament could be said to have lacked real or decisive leadership in the upper house. Henry V attended only six out of the eleven parliaments which met in his reign and Henry VI did not discharge any significant political authority, either in or outside parliament, until the late 1430s. Just as importantly, this was a period when a significant proportion of the nobility were absent from parliament because of military service in France. In such circumstances it was perhaps natural that the Commons would assume a more prominent place in parliamentary processes, and that supplicants would turn to them more readily in the hope of securing greater advantage for their requests.

Most petitioners seeking redress at parliament did so for the first time and therefore their decision to submit a complaint to the Commons (perhaps via the clerk of the Commons and/or Speaker), rather than to the receivers, was probably based on positive advice rather than negative experience. Those petitioners who chose to submit their complaint through the Commons did so as a result of a calculation that their case stood a better chance of resolution if it was adopted by MPs than if it was presented in the upper house unsupported. It is unlikely that many private petitioners addressed their requests to the Commons in the expectation or hope that they would be presented as *common* petitions (though some examples do exist of this occurring).[38] Rather,

[37] For example, see the common petition presented in October 1383 in which MPs requested that 'all the bills which cannot gain remedy except by petition shall be answered . . . bearing in mind the great misfortunes and injuries which the lieges, who have sued at length, have endured and endure from one day to the next': *PROME*, parliament of October 1383, item 51. A petition presented in the late 1380s asked that all private bills not addressed in parliament should be considered after the end of parliament by a committee of Lords, and that this should be done in all other parliaments in the future: SC 8/21/1020 (?1387–8). See also the discussion of the early 1370s in Ch. 5, pp. 145–6.

[38] See, for example, common petitions presented on behalf of John Kidwelly in 1410; Richard Marlow in 1413; John Brompton, Robert Penny, and the prior of Tortington, respectively, in the parliament of March 1416; and John Tutbury in the parliament of

sending private petitions to the Commons was a strategy adopted to encourage the Crown to take a more sympathetic attitude to the particular predicament or need of the petitioner. Thus, it was not simply that securing redress was becoming more difficult for petitioners which explains why they increasingly looked to the Commons for support; it was also because the Commons themselves were becoming more attractive as intercessors in the petitionary process. The prominent role played by the Commons in the political life of the kingdom in the last quarter of the fourteenth century and first decade of the fifteenth century should be held largely responsible for this.[39] In these decades the Commons developed a much greater sense of their place in the government of the realm, asserting themselves more vigorously in areas which previously they had been content to leave to the discretion of the Crown.

This developing sense of purpose extended to petitioning. By the start of the fifteenth century it seems that MPs were no longer content to be passive onlookers as petitions were handed over to the Crown and dispatched with very little reference to their views. In April 1414 the Commons sought to extend their influence in the procedures governing common petitions by asking that legislation made in response to these requests would henceforth accurately reflect the meaning and sentiment of the original petition.[40] They further stipulated that if the Crown wished to alter or modify the terms of a statute initiated by a common petition, this ought only to be done with the Commons' assent. For the present purposes, a more significant development occurred a few years later when, in the parliament of December 1420, the Commons asked that,

October 1416: *PROME*, parliament of 1410, item 66; parliament of 1413, item 36; parliament of March 1416, items 43, 44, and 49; and parliament of October 1416, item 26. No original petitions from these individuals have been discovered in the series SC 8.

[39] The literature is extensive, but the following recent works provide useful general accounts with further references. For the Good Parliament of 1376 see G. Holmes, *The Good Parliament* (Oxford, 1975); and G. Dodd, 'A Parliament Full of Rats? *Piers Plowman* and the Good Parliament of 1376', *Historical Research* 79 (2006), 21–49. For Richard II's reign, see N. Saul, *Richard II* (New Haven and London, 1997), Chs. 6–8. For Henry IV's reign, see G. Dodd, 'Conflict or Consensus: Henry IV and Parliament, 1399–1406', in T. Thornton (ed.), *Social Attitudes and Political Structures in the Fifteenth Century* (Stroud, 2000), pp. 118–49.

[40] *PROME*, parliament of April 1414, item 22. For detailed discussion, see Gray, *Influence of Commons*, pp. 261–87; for a summary, see S. B. Chrimes, *English Constitutional Ideas in the Fifteenth Century* (Cambridge, 1936), pp. 159–64.

If any man sues a bill or petition . . . that, unless that bill or petition has been submitted to the commons in parliament for their agreement and assent, no man should be made to answer to any such bill or petition without it having been endorsed by the assent and support of the commons, for this is contrary to the laws of the kingdom of England.[41]

One can well understand the Commons wishing to keep tabs on the petitions that they had drafted themselves or had taken on as 'sponsored' common petitions, but it is not clear on what grounds, other than a dubious reference to the defence of the kingdom's laws, they were endeavouring to oversee and monitor the requests which individuals brought into parliament. The request was an audacious attempt to extend and formalize the influence of the lower house in an area of parliamentary activity that had traditionally operated almost entirely independently of any input by MPs. It represented an *extension* of the Commons' influence because already, by this stage, the majority of private petitions enrolled on the parliament roll had either been forwarded in the first instance by MPs or had received the Commons' assent (indeed, this may have been one of the corollaries of enrolment, that such cases were normally proclaimed to a full session of parliament). What the Commons appeared to want in December 1420 was a more comprehensive application of this process so that virtually all private petitions presented in parliament, including the majority which were not finally enrolled, were subject to their approval. This was indicated by the stipulation in the petition that MPs should view every petition 'whether it is endorsed with the words "by authority of parliament", or whether [it] is committed to the king's council or the chancellor . . . for the enforcement or determination of what is contained in it'. It was a measure, perhaps, of how self-assured the representatives had become of their own importance in parliament that they now sought to position themselves between the Crown, on the one hand, and private supplicant on the other, to act effectively as 'gatekeeper' for the private complaints brought into parliament. The petition of December 1420 indicates very clearly that the emergence of the Commons as intercessors for private petitioners was as much the result of the Commons' own desire to regulate the complaint coming into parliament as it was the result of pressure from the petitioners themselves to have MPs lend their support to their requests.

[41] *PROME*, parliament of December 1420, item 23.

We should not suppose from this that the Commons' motivation to have petitions subjected to their approval stemmed from a simple desire to acquire greater authority in parliament. The explanation is more likely to lie in an underlying suspicion of the abuses which petitioning could give rise to. It was an ironic stance to take, for a political body so clearly defined by the mechanism of the petition, but the MPs' attempt to monitor private petitions was mirrored by their efforts to ensure the integrity of petitioning in the common-law courts, chancery, and council.[42] The common strand running through this extended programme of lobbying was a belief that petitioning lent itself particularly well to unscrupulous individuals who were able to persuade the Crown to support their malicious accusations against innocent parties. The subtext of the petition of December 1420 was that the Commons did not believe that the Crown could be relied upon to ensure that such injustices would not occur in parliament. The Crown did not agree, for the request was cursorily dismissed with the words 'The king will consider this further'. Accordingly, there was no obvious change to procedure; it would be some decades before petitions not written up on the parliament roll were routinely passed down to the Commons for their assent.[43] Nevertheless, the petition of December 1420 highlights the moral imperative that was beginning to be attached to having the lower house involved in the petitioning process. The request articulated an assumption that a case which came before MPs, and was approved by them, carried more weight and legitimacy than one that did not. The implication was that the Commons could validate whether there was a genuine case to answer in a petition presented to parliament. This, perhaps more than any other reason, explains why parliament developed a dual system in which petitioners could now chose whether to submit their complaints to the Lords or to the Commons.

Who—or what—determined whether a petition was addressed and presented to the Commons or to the king and lords? Almost certainly this is where a petitioner's legal adviser or drafting clerk earned his fee. The decision was a complex one—as we shall see. It involved a number of different considerations, but above all it necessitated an

[42] See *PROME*, parliament of 1346, item 12; parliament of 1352, item 19; parliament of 1354, item 30; parliament of 1355, item 26; parliament of 1365, item 27; parliament of 1422, item 41; and for regulations determining the procedure the council was to follow in handling petitions, see parliament of 1423, item 17 and parliament of 1429, item 27.

[43] See below, n. 64.

excellent knowledge of how parliament worked and what process would best suit the supplicant. Now that a strategic decision was required to determine which of the two houses a petition should be submitted to, the petitioner's presence at Westminster and his or her engagement with the best legal advice in town had become even more of an imperative.[44] A broad survey of the private petitions presented in parliaments between 1420 and 1440 suggests that the nature of the request was the most important, but not necessarily the only, factor that determined where a petition was presented. Such an analysis indicates that there was a discernible pattern in the distribution of many petitions between the upper and lower houses; but it also shows that the picture was by no means straightforward as, on occasion, other factors could take precedence in deciding where a petition was sent. The petitioner's status and his or her connections to people in either house are cases in point. In many instances it is simply not possible to explain why a petitioner chose one house above another. In order to establish why some petitioners regarded the Commons as a more promising venue to air their grievances than the Lords it would be useful, perhaps, to firstly outline the sorts of cases that continued to be sent into the upper house. The remainder of this section is therefore divided between a consideration of both types of petition, beginning with a brief look at some of the cases that tended to be presented in the Lords, followed by the petitions initially sent to the Commons.

6.2.1 Petitions to the Lords

The petitions addressed to the king and handled directly by the Lords, not surprisingly, tended to relate to matters that directly concerned the interests of the king himself or were matters for which the Commons had no obvious or necessary role as intercessors. A large proportion of cases sent directly to the upper house in the 1420s related to financial agreements or 'contracts' between the petitioner and the Crown which appear to have required a fairly straightforward and clear-cut resolution. Three unenrolled petitions dating to the parliament of 1422 provide useful illustrations, for each related to financial arrangements which had been made during the reign of Henry V but which had now been thrown into doubt following the untimely death of the king two months before parliament met. One, presented by John Orell, asked for the

[44] See discussion in Ch. 9, pp. 302–6, 308–10.

payment of an annuity which had been granted to him by the late king but which had not yet been put into effect; a second, from William Say, Adam Penycock, and Robert Daunton, grooms of the chamber of Henry V, made a similar request concerning a grant of £19 2*s*. 6*d*.; and a third, from the Friars Preachers, asked for confirmation of annual grants of alms made to them by the late king.[45] Similar (enrolled) petitions flagging up outstanding royal obligations were presented by Thomas Langley, bishop of Durham in 1423, who wished to be reassured of the repayment of a loan made to the Crown in 1415,[46] and by Humphrey, duke of Gloucester, and Thomas Montague, earl of Salisbury, in 1427, who jointly petitioned for the payment of outstanding wages owed to them for service under Henry V.[47] We might also add to these 'financial' petitions requests that related directly to the royal patrimony including petitions from the queen mother, Katherine Valois, in 1422 and the king's step-grandmother Joan of Navarre in 1423, who both individually asked for confirmation of their dowries.[48]

Petitions which raised matters directly affecting the royal patrimony belonged more clearly than any other type of petition in the upper house. Tenants-in-chief sent their requests to the Lords not only because many of them were peers anyway but because the requests they made often touched on a specific relationship between the petitioner and the Crown that made the Commons' involvement both unnecessary and inappropriate. Thus, petitions were presented by Humphrey, earl of Stafford in 1422, and Thomas, Lord Roos in 1427, each requesting full livery of the lands and estates which formed their inheritance but which were in the Crown's hands by reason of their minority.[49] In 1426, Richard Fleming, bishop of Lincoln, petitioned to have returned those temporalities which had been promised to him after they had been taken into the king's hands 'for certain reasons'—a reference, no doubt, to the pique felt by the council for Fleming's unpopular translation by the pope to the archbishopric of York in

[45] SC 8/24/1184, 28/1351, 24/1185.

[46] *PROME*, parliament of 1423, item 25.

[47] *PROME*, parliament of 1427, item 16.

[48] *PROME*, parliament of 1422, item 40; parliament of 1423, item 35. The Commons took up Queen Joan's cause in 1426: *CCR 1422–1429*, p. 363, printed in full in *Rot. Parl*, v. 411–13. For the position of these queens under Henry VI, see R. A. Griffiths, *The Reign of Henry VI* (Stroud, 1981; repr. 1998), pp. 56–7, 60–3.

[49] For Stafford's petition, which was not enrolled, see SC 8/142/7061, with schedule at C 49/15/1. For the enrolled petition of Roos, see *PROME*, parliament of 1427, item 15.

1424.[50] There were petitions to the Lords in 1423 and 1427 from the executors of Henry V and Henry IV respectively.[51] And in 1427 and 1439 petitions were presented in the Lords touching the duchy of Lancaster: one, from Henry Chichele, archbishop of Canterbury, asked for ratification of a grant made to him by Henry V which allowed him to establish a college of chaplains in the lordship of Higham Ferrars;[52] and the other, from the prior of St Oswald of Nostell, asked that lands might be annexed to the honour of Pontefract so that the hospital of St Nicholas in Pontefract might enjoy the 'liberties, franchises, privileges and customs of your said duchy'.[53] A related, but distinct, category of complaint sent into the upper house might loosely be classified as requests which depended on the exercise of the king's grace for a successful outcome. They raised matters that did not require the rectification of an administrative oversight or arbitration between warring parties, but simply a judgement by the king or his representatives on the deserving nature of the petition. These included requests for financial gain or relief,[54] petitions for office,[55] and petitions asking for a pardon.[56]

It is important to stress that none of these petitions (perhaps with the exception of those relating to the duchy of Lancaster) were of a type considered to fall exclusively within the remit of the upper house. There were no restrictions on the type of petition that the Commons were allowed to endorse, even if some types of petition and petitioner tended to be associated more closely with the Lords than the Commons (and vice versa). Nevertheless, in general terms, it is probably the case that the Lords was the *preferred* venue for many fifteenth-century petitioners for the simple reason that it offered the most direct route to securing redress and justice (see Figure 9). In the fifteenth century, parliament

[50] SC 8/25/1208. A letter patent was issued on 3 August 1426 mandating the escheator of Lincolnshire and other counties to restore Fleming to his temporalities: *CPR 1422–1429*, p. 351. For background to this case see R. N. Swanson, 'Flemming, Richard (*d*. 1431)', *ODNB*.

[51] *PROME*, parliament of 1423, item 24 (for original petition see SC 8/189/9401; C 49/15/7); parliament of 1427, item 20 (for original petition see SC 8/104/5185, schedule C 49/17/9).

[52] *PROME*, parliament of 1427, item 14. Chichele had been made one of Henry V's feoffees for the lordship of Higham Ferrars in 1415: H. Castor, *The King, the Crown, and the Duchy of Lancaster: Public Authority and Private Power 1399–1461* (Oxford, 2000), p. 38 n. 80.

[53] *PROME*, parliament of 1439, item 23. The original petition is SC 8/27/1312.

[54] SC 8/25/1209 (1425–6).

[55] *PROME*, parliament of 1426, item 19.

[56] *PROME*, parliament of 1426, item 26.

had not yet developed a truly bicameral system of processing private petitions.[57] In the Tudor period it was firmly established that all bills handled by the Lords would be sent down to the Commons for their approval, just as all bills handed into the Commons were sent up to the Lords;[58] but for most of the period considered here it is clear that a symmetrical and equitable system along these lines had not yet come into existence. At a basic level, although the Commons could now 'sponsor' private petitions by indicating their keenness to have them granted, the Lords continued to exercise a complete monopoly over the form and extent of the Crown's response to the request. The Commons simply forwarded private petitions: they did not, at this stage, suggest alterations or amendments to the petitions and they had no influence over the terms by which petitions were eventually granted. In fact, for those petitions presented direct to the Lords, it was still possible throughout the fifteenth century for the Commons to have no recorded part in their dispatch at all.[59] This occurred, for example, in the case of Thomas Lord Roos, who petitioned in 1427 to have livery of his brother's lands;[60] it happened when the people of the Isle of Wight petitioned in 1449 to have a commander appointed to organize defence against the French (the endorsement read: 'the king wishes that Lord Beauchamp see to the rule of the Isle);[61] and it was the case with a petition of the same year, from William Neville, Lord Fauconberg, who requested (and gained) the king's promise to victual the garrison at Roxburgh.[62] All the petitions presented in 1455 by supplicants wishing to be excluded from the Act of Resumption passed in that year appear to have been considered, and adjudged, solely within the confines of the upper house.[63]

Even when the endorsement 'the Commons assent to this bill' became more common on petitions handled by the Lords—especially

[57] See Myers, 'Observations on the Procedure of the Commons', *passim*. In emphasizing the undeveloped nature of fifteenth-century petitionary procedures, however, Myers does rather cloud the waters by using early modern terms such as 'public bills' and 'money bills' to describe common petitions and grants of taxation (pp. 50, 61).

[58] Elton, *Parliament of England*, pp. 88–9; M. A. R. Graves, *The Tudor Parliaments: Crown, Lords and Commons, 1485–1603* (Harlow, 1985), p. 29.

[59] The following enrolled petitions were apparently granted without the Commons' assent: *PROME*, parliament of 1432, item 22; parliament of 1433, items 35 and 37; parliament of 1437, items 16 and 19; parliament of 1439, items 23 and 26.

[60] SC 8/25/1219A. [61] SC 8/28/1353. [62] SC 8/28/1354.

[63] There are at least eighteen original petitions on this matter in file 28 in SC 8.

on enrolments—it is unclear exactly what this signified.[64] Did it mean that the petition had been physically sent down to the lower house for proper scrutiny by MPs (in the same way that all petitions originating in the lower house were transferred to the Lords), or did it simply mean that once a petition in the Lords had been expedited the response was read out to a full gathering of parliament where the Commons' assent was given as a matter of course? The distinction is important, for the first scenario implied that the Commons had real power to modify or even reject a petition which had been passed by the Lords (as they did in the sixteenth century), whereas the second suggested that the Commons' assent was merely perfunctory. The fact that the inscription 'soit baille a communes', which indicated that a petition had been sent into the lower house, did not become a common feature of the petitions handled by the Lords until the Tudor period suggests very strongly that the second of these scenarios is most likely to describe the situation in the fifteenth century. In all likelihood, petitions initially sent to the Commons, unlike those dealt with by the Lords, had to undergo two stages of scrutiny (first in the lower house, and then in the upper house), whilst the judgement given to those petitions submitted to the Lords, once passed by the Lords, could be considered final and binding—there are no recorded instances of clerks noting that a petition adjudged by the Lords was subsequently rejected by MPs. This meant that until the assent of the Commons was understood to be necessary for all petitions handled by the Lords, there was an opportunity for some petitioners to approach the Lords with cases that ran quite contrary to the interests of MPs. It was precisely this loophole that was exploited by the merchants of the Hanse in 1422 when they presented a petition in the Lords which sought a reduction to the amount they were having to pay in customs duty.[65] This was a request which directly conflicted with the tenor of two other petitions presented in parliament which aimed to increase the restriction of alien mercantile activity.[66] One of these latter

[64] This inscription did not appear on original petitions until the 1430s (Myers, 'Bill Procedure', p. 66), though the Commons' assent to *enrolled* private petitions was already common at the beginning of the fifteenth century. Annotating original petitions with the phrase 'the Commons assent to this bill' did not become a regular occurrence until the second half of the fifteenth century: see, for example, SC 8/28/1394B (1455), 29/1419B (1463–5), 1426 (1472), 1440 (1473), 1450 (1475)—petitions that date primarily to the 1460s and 1470s.

[65] SC 8/24/1180. This case is discussed in *PROME*, parliament of 1422, Introduction.

[66] *PROME*, parliament of 1422, appendix, nos. 25–8.

petitions was sponsored by the Commons and subsequently enrolled,[67] but the Lords favoured the Hanse and took positive action to address the concerns that they had brought to attention.[68]

6.2.2 Petitions to the Commons

What, then, of the petitions addressed to the Commons? In time, and certainly by the end of the fifteenth century, petitioners turned to the Commons almost as a matter of course. In the mid-sixteenth century, the perception was very firmly that the Commons should automatically fulfil a role as first port of call for petitioners presenting their bills in parliament: in 1589 Lord Chancellor Hatton stated that 'the use of the Higher House is not to meddle with any bill until there be some presented from the Commons'.[69] In the first half of the fifteenth century, as far as is known, there was no official direction on this matter and so the decision rested with the petitioner and his legal counsel. In all probability many petitioners and/or their attorneys tested the water for potential support in the upper house before committing their petition to the Commons. If the signs were promising, the petition was sent to the receivers within the allotted time.[70] This appears to have happened in the case of a petition addressed to the king and lords by Margaret Cornish in 1426. In it, she asked to have a pardon formally ratified by charter for her husband, adding at the end of the request that the pardon had already been confirmed by the dukes of Bedford and Gloucester and other lords of the council.[71] Other petitioners may not have been so clear about their chances of success in the Lords and therefore resorted to the Commons in order to make their position stronger. As a result, it is likely that petitions sent to the Commons tended to be of a more speculative nature than those sent directly into the Lords. Some may

[67] *PROME*, parliament of 1422, item 37.

[68] *CCR 1422–1429*, pp. 49–50, though note that in the end the council upheld the obligation of Hanse merchants to pay the higher alien rate of customs.

[69] Elton, *Parliament of England*, p. 94. However, Elton showed that this perception did not match up with the reality of bill procedure in sixteenth-century England: roughly a third of the bills presented in the seven parliaments covered in his study began in the upper house (p. 93).

[70] I therefore disagree with Myers who suggests that petitioners would have sought the support of the Commons before deciding to submit their supplications to the receivers: 'Observations on the Procedure of the Commons', p. 48.

[71] *PROME*, parliament of 1426, item 26.

even have been last ditch attempts to sway a decision in the supplicant's favour after initial rejection in the upper house.

This last scenario may explain why two petitions were apparently presented by John Banbury, a merchant of Bristol, in the parliament of 1394 complaining that men from Newport had stolen goods from his ship when it had run aground on a sandbank in the river Severn. The two supplications are identical in form and content except for the opening address: one petition is addressed to the king and Lords, whilst the other is addressed to the Commons.[72] It was the petition sent to the Commons which evidently made headway, however: on the face of the petition are recorded the words 'Let the Lords be spoken to', and on its dorse there is a full and very helpful response by the Crown (Banbury was granted a special commission of oyer and terminer and letters of the privy seal to specified Welsh lords).[73] The two petitions suggest a situation in which Banbury had initially petitioned the Lords, but perhaps because his supplication made little impact there (no endorsement is recorded) he then turned to MPs whose intervention apparently secured a resolution. In this case the petitioner was lucky; other petitioners may not have been quite so fortunate, for intercession by the Commons did not automatically produce a positive outcome. In this respect, it is worth noting that proportionately, more petitions appear to have failed to achieve redress which were sent via the Commons than those submitted direct into the Lords. Of the petitions contained in the first eighty files of TNA series SC 8 presented during Henry VI's reign, 24% of the petitions initiated in the lower house (i.e. twenty-four out of ninety-nine) had no response from the Crown, whereas just 11% (six out of fifty-three) of the petitions in the upper house failed to elicit a response.[74]

It can be assumed with some confidence that a large proportion of the petitions sent to the Commons were from petitioners who were uncertain of the support they would receive in the upper house. It is possible that some petitioners acted on firm advice ('this petition will only be considered if it has the support of MPs'); but others may have come to the conclusion that without the endorsement of the Commons, the king and Lords would have no pressing reason *not* to dismiss their

[72] SC 8/92/4569; 96/4758.

[73] For the commission of oyer and terminer, see *CPR 1391–1396*, p. 433.

[74] This excludes the numerous petitions presented in 1455 addressed to the king and relating to the Act of Resumption passed in the parliament of that year.

case out of hand. This may have applied to a number of petitions which sought the reversal of decisions taken by the barons of the exchequer who, as senior officers of the state, were *ex officio* members of the upper house. Take, for example, the petitions of Richard Baussain in 1426 and of Sir Robert Shotesbroke in 1433, both of whom secured the support of the Commons in their attempts to break the intransigence of the exchequer. Baussain appealed to be discharged from an obligation he claimed had been wrongfully imposed on him by the exchequer to pay an annuity to Mount Grace priory;[75] and Shotesbroke sought to rectify an administrative oversight which jeopardized the payment of his annuity of fifty marks—and this, because the 'barons of the exchequer do not wish to allow this'.[76] Both petitioners secured a successful outcome to their requests. Other petitioners may have used the Commons in an attempt to offset their weak standing with influential members of the peerage. This was probably why Anne, widow of Edmund Mortimer, earl of March, sought the intercession of the Commons for a petition presented in 1425.[77] Her request was to have writs of *diem clausit extremum* issued, which would enable her to gain access to her dower. In her petition, the countess noted that the writs 'on account of certain matters influencing our said lord king's council, have been put into respite until now'. This may have been a reference to her husband's dubious political record and also, possibly, to the obstinacy of Humphrey, duke of Gloucester, and Thomas Beaufort, duke of Exeter, who came to control most of the Mortimer inheritance during the minority of Edmund's heir, Richard, duke of York.[78] Anne's appeal to the Commons could therefore have been a consequence of her own political isolation; if so, it worked, for on 23 June 1425 letters patent granting her dower in accordance with terms set out in her request were issued.[79]

If Anne, countess of March doubted the reception which her petition would receive in the upper house, because she was prominent enough in the political hierarchy to have a grievance which made her enemies or opponents in the Lords, other petitioners resorted to the Commons

[75] SC 8/25/1213. [76] SC 8/26/1297.

[77] SC 8/24/1189; *PROME*, parliament of 1425, item 29.

[78] See E. Powell, 'The Strange Death of Sir John Mortimer: Politics and the Law of Treason in Lancastrian England', in R. E. Archer and S. Walker (eds.), *Rulers and Ruled in Late Medieval England: Essays Presented to Gerald Harriss* (London, 1995), pp. 83–97; R. A. Griffiths, 'Mortimer, Edmund (V), Fifth Earl of March and Seventh Earl of Ulster (1391–1425)', *ODNB*.

[79] *CPR 1422–1429*, p. 290.

because their position in the hierarchy was so insignificant. This might account for the petition presented to the Commons in the early 1430s from various (unnamed) creditors of Edmund, earl of March, who, on the latter's death, had sought to recover their credit but dared not press their case with the earl's administrators for fear of losing their own goods.[80] In this instance, the Commons were fulfilling the classic role as champions of the interests of the political or social underdog.[81] There were other reasons to seek the support of the representatives: for many supplicants, submitting a petition to the lower house was the most logical and natural thing to do because the contents of the petition resonated very clearly with the interests of some or most of the men attending parliament as MPs. This is probably why a majority of petitions from merchants or from urban communities were initially sent into the lower house (it is interesting to note a corresponding predilection by senior churchmen and religious houses to send their petitions into the Lords, presumably because they could similarly draw on the support and natural sympathies of their own kind there). We may imagine, then, that William Brampton, merchant of Chesterfield, who petitioned against his brother for landing him in considerable debt by purchasing merchandise on the pretext that he was his brother's attorney,[82] and William Warwick, merchant of Salisbury, who made complaint against Lord Montafiliant of Brittany for detaining his servant, torturing him, and finally throwing him over his castle wall,[83] were both able to draw upon the sympathies of the men of their own class, present in parliament as burgesses, to take up their cases and have them endorsed by the Commons. The same could be said for the petitions on behalf of town or other urban communities, such as the request made by the borough of Southwark to have the Crown punish anyone setting up brothels in the main streets of the borough,[84] or the petition to have the Crown grant powers for a levy on boats entering the river Humber so as to finance the construction of a beacon at Spurn Head.[85] In many cases, petitions were presumably

[80] SC 8/26/1296.

[81] See discussion by Rawcliffe, 'Parliament and the Settlement of Disputes', pp. 317–18.

[82] SC 8/26/1267 (*c*. 1432).

[83] SC 8/27/1303 (1433). Letters of *marqe* were issued by patent on 20 May 1435: *CPR 1429–1436*, p. 457.

[84] SC 8/27/1309 (1437). For background see M. Carlin, *Medieval Southwark* (London, 1996), pp. 218 and 221.

[85] SC 8/25/1232 (1427). For the grant see *CPR 1422–1429*, p. 457. The petition was presented by Richard Reedbarowe, hermit of the chapel of Our Lady and St Anne

submitted to the Commons directly by individual MPs where the request concerned the interests of a parliamentary constituency. We might speculate that this is what occurred with the petition of the mayor and commonalty of the parliamentary borough of Northampton who wished to secure the Commons' intercession to obtain a royal licence allowing them to compel the citizens of the town to maintain the roads adjacent to their property.[86]

Two other types of petition tended to be submitted in the lower house. Firstly, there were petitions that sought to make capital out of the supplicant's military service. These cases are a useful reminder that, particularly in the first half of the fifteenth century, the lower house contained large numbers of war veterans who were probably very well disposed to petitioners who could flag up their military record.[87] Take, for example, the (successful) petition of Louis, administrator of the church of Ely, who pleaded poverty to the Commons on the basis of 'the services which the said supplicant has made to our lord the king in his realm of France, and the great danger and peril which he suffered for this'.[88] It is tempting to regard Gabriel Corbet's reference to his service with Henry V, when he was 'beaten and wounded on the high seas in the [king's] service', to have made a crucial difference in securing success for his request to be made a denizen in 1430 or 1431.[89] An earlier petition of his, which contained no reference to this service, appears to have failed to attract the Commons' support.[90] Cases of particular notoriety, which brought to the fore outrageous violations of the legal or moral code, also seem generally speaking to have been directed to the lower house. This is shown to good effect by a petition presented by the Commons themselves in 1433 which highlighted a particularly gruesome crime committed by the husbandman John Carpenter, of Birdham, Sussex, who murdered and disembowelled his sixteen-year-old wife, to see if she was pregnant, fifteen days after their marriage.[91] The Commons asked for Carpenter to be judged as a traitor, and that he should be 'drawn

at Spurn Head, but there is no doubt that it had the full backing of the merchant community of Hull, five of whose members were charged to oversee the levy.

[86] SC 8/25/1239 (1431). For the exemplification of this petition see *CPR 1429–1436*, p. 117.

[87] For discussion of this in the context of 1422 see J. S. Roskell, *The Commons in the Parliament of 1422: English Society and Parliamentary Representation under the Lancastrians* (Manchester, 1954), pp. 93–6.

[88] *PROME*, parliament of 1439, item 24.

[89] SC 8/25/1249. For his grant of letters of denization see *CPR 1429–1436*, p. 117.

[90] SC 8/25/1250 (?1430–1).

[91] SC 8/26/1281.

and hung as a warning against such crimes in the future'. The case exposed the Commons' outrage at cases of untrammelled lawlessness in the localities and it was a sensible petitioner who played on these fears to further their own individual cause. This is probably why Isobel, widow of John Boteler, provided such fulsome detail in the case she wished to pursue against William Pulle, who had (allegedly) raped her and then abducted her, 'almost naked', into Wales.[92]

To a point then, it is possible to identify cases that were more likely to have been introduced in one house or the other. Petitions from tenants-in-chief, other members of the (high) political elite, religious houses, and other petitioners with matters which directly concerned the king tended to have their supplications brought directly to the consideration of the Lords; those who lacked connections in the upper house or who had concerns that affected the interests of the Commons or who regarded the Commons as natural intercessors to bolster their chances of achieving a result tended to introduce their petitions in the lower house. This was a pattern that would remain remarkably unchanged in the coming centuries.[93] But into this picture we must account for the seemingly anomalous petitions of some of the most powerful individuals in the kingdom who, despite their position, still looked to the Commons to support their petition in parliament. In the 1420s petitions addressed to the Commons were presented in parliament by Thomas Beaufort, duke of Exeter, John le Scrope (a member of the king's minority council), Henry Chichele, archbishop of Canterbury, and John, duke of Bedford himself.[94] Unless we are to believe that these petitioners actually depended on the support of the Commons to have their cases brought to a successful conclusion, which seems highly unlikely, these examples are to be explained in terms of the political symbolism which the Commons' support brought to the requests. These petitioners did not *need* the endorsement of the Commons, but their requests, and the responses given to their requests, gained significantly more prestige for having come via the lower house.

No doubt this was in part a symptom of the particular circumstances of Henry VI's minority, and the need not only to ensure that decisions were made on an inclusive basis but also that the charge of nepotism

[92] SC 8/27/1305 (1437). See *CPR 1436–1441*, p. 83 for the commission to have Pulle arrested.

[93] Graves, *Tudor Parliaments*, p. 20.

[94] *PROME*, parliament of 1423, item 38; parliament of 1425, items 30 and 32; parliament of 1427, item 18.

could not be levelled against those who held the reins of power.[95] But it was also indicative of the (growing) importance that intercession held for the late medieval political process. Intercession has usually been written about in the context of medieval queenship;[96] but for parliament it was absolutely intrinsic to what gave the Commons their power in dealing with the king and nobility. The Commons' traditional role had been to intercede on behalf of their constituencies or the broader community of the realm, and to this extent their authority in parliament, though considerable, was of little personal interest to those members of the upper house who wished to mobilize the Crown on their behalf. By the fifteenth century, the significance of the Commons' representative quality had grown appreciably (for reasons outlined above)[97] so that it now became desirable for peers and everyone else to involve the community of the realm in support of their own private agendas. Sponsorship of a petition by the Commons fundamentally changed the form of a request from being immutably 'private' in nature to being of concern to the political community as a whole, and in this sense the petition could be presented in parliament in a way that was far less self-serving than if it was entrusted into the hands of a small group of well-placed allies. This was an important acknowledgement by the nobility, firstly, that furnishing a petition with popular endorsement mattered, and secondly, that the Commons in parliament were able to provide this in a way in which they could not.[98]

The implications of the Commons' new role as receivers and processors of a significant proportion of the petitionary business which now flowed into parliament went even further than this, however. The Commons' past protestations that their role in parliament was to act merely as 'petitioners and suitors', and that 'judgements of parliament

[95] For discussion (with particular reference to the ordinances governing the action of the council) see R. A. Griffiths, *The Reign of King Henry VI* (Stroud, 1981), pp. 28–32.

[96] P. Strohm, *Hochon's Arrow: Social Imagination of Fourteenth-Century Texts* (Princeton, NJ, 1992), Ch. 5; J. C. Parsons, 'The Intercessionary Patronage of Queens Margaret and Isabella of France', in M. Prestwich, R. H. Britnell, and R. Frame (eds.), *Thirteenth Century England VI: Proceedings of the Durham Conference 1995* (Woodbridge, 1997), pp. 145–56.

[97] See pp. 170–1.

[98] A point worth emphasizing in light of scholarship on the fifteenth century which identifies the responsibility for upholding the 'common weal' as lying primarily with the king and nobility: J. Watts, *Henry VI and the Politics of Kingship* (Cambridge, 1996), Ch. 2.

belong solely to the king and lords' now wore a little thin.[99] It is true that the final judgement on petitions still rested with the king and peers, but in practice, the Commons' decision to 'adopt' a petition may well have been the determining factor to ensure a successful outcome for its author. It was probably the case that many petitions were passed in parliament primarily as a result of the initial judgements made on them by MPs. The example of the Bristol merchant John Banbury, who secured a remedy for his complaint through the Commons after apparently making little headway in the Lords, is a case in point.

Overall, the transfer of petitions into the lower house, and the incumbent need of MPs to weigh up and consider the merits of each case, almost certainly would have pushed the Commons into a more legalistic frame of mind. This is certainly one conclusion to be drawn from the notable increase in the numbers of lawyers returned to parliament in the fifteenth century: their presence reflected the greater role which the Commons now played in the petitionary process and also the increased need and usefulness of having well-informed and eloquent agents within the lower house to persuade the whole body of the Commons to adopt or sponsor a petition.[100] The willingness of MPs to embrace the petitions of individual complainants also signalled a shift in the perception of the uses to which their representative mandate could be used. The Commons' attendance at parliament no longer focused exclusively on their role to represent the interests of the community of the realm; now, their representative quality was being utilized more openly than ever to serve private or individual interests. It represented, in a sense, the quasi-privatization of the public function served by the Commons. Inevitably, this placed huge emphasis on a petitioner's ability to attract support from MPs, and whilst acknowledging that lobbying in parliament was as old as parliament itself, it may well be that in the fifteenth century lobbying became a far more prominent and intensive feature of the activity of the Commons, as petitioners jostled with each other in order to secure support for their petition.[101] In this, the role of the Commons' Speaker was to become more and more important,

[99] *PROME*, parliament of 1399, item 79.

[100] For the most recent discussion of the legal presence in parliament, see S. J. Payling, 'The Rise of Lawyers in the Lower House, 1395–1536', in L. Clark (ed.), *Parchment and People: Parliament in the Middle Ages* (Edinburgh, 2004), pp. 103–20.

[101] Myers, 'Parliamentary Petitions', pp. 401–2, and more recently, M. Davies, 'Lobbying Parliament: The London Companies in the Fifteenth Century', in Clark (ed.), *Parchment and People*, pp. 136–48.

for the Speaker determined if and when a petition was read out in the Commons, and an able Speaker probably had it within his power to sway MPs one way or the other to support or reject a supplication.[102]

6.3 COMMON PETITIONS IN THE FIFTEENTH CENTURY

It remains, then, briefly to outline some of the developments to affect the common petition in the fifteenth century—developments that further integrated the public and private nature of the supplications presented by the Commons to the Crown. One of the curious and unexplained aspects of the extant records of the fifteenth-century English parliament is the survival of large numbers of individual common petitions. The majority can be found in Chancery and Council Proceedings (C 49); but some also exist in the series 'Ancient Petitions' (SC 8). It was a phenomenon noted by A. R. Myers, who pointed to the parliament of 1423 as the point at which 'the originals of common petitions become more frequent'.[103] For many years the printed volumes of the *Rotuli Parliamentorum* kept in the Map Room of TNA have provided a measure of the growth of this new administrative custom, by cross-referencing the enrolled common petitions with original SC 8 or C 49 references: this information has now been written up and included in *PROME*. There are a handful of such cross references which pre-date the 1420s, but it is from 1423 that they begin to appear more regularly. By the parliament of 1429 as many as twenty-seven original common petitions survive out of the forty-one presented (and enrolled) in this assembly altogether.[104] Further evidence for a change in the form of the

[102] For the role of the Speaker in organizing petitionary procedure see J. S. Roskell, *The Commons and their Speakers in English Parliaments 1376–1523* (Manchester, 1965), pp. 83–4. The ability of Speakers to influence the outcome of petitions is partly suggested by the fact that some petitions were addressed to the Speaker (SC 8 24/1168 (?1421); 198/9883 (*c.*1425); and *PROME*, parliament of 1439, Appendix, item 1) and also, partly, because there is evidence of his receiving bribes from hopeful petitioners (Myers, 'Parliamentary Petitions', p. 401). There is also the more explicit evidence provided by the abbot of Wheathampstead who alleged that Thomas Charleton had himself elected as Speaker in 1453 in order to secure the Commons' support for a petition he had submitted claiming the manor of Burston (Herts.)—see *PROME*, parliament of 1453, Appendix, item 32.

[103] Myers, 'Observations on the Procedure of the Commons', p. 65. See also the discussion in Gray, *Influence of the Commons*, pp. 229–35.

[104] These can be found primarily in C 49/19.

common petition is provided by the notes Sir William Illingworth made on the untouched 'bundles' of petitions which he surveyed at the beginning of the nineteenth century.[105] Illingworth's observations extended well back into the fourteenth century, but the parliament of 1423 was the first for which he noted the existence of a bundle of 'original petitions of the Commons'. There can be no doubt that these were common petitions because they were said to have been 'enrolled on the parliament roll from whence the statutes of this year were drawn up'.[106] Illingworth identified similar, self-contained 'bundles' of common petitions for the parliaments of 1425, 1439, November 1449, 1453, and 1455.

Why the originals of fifteenth-century common petitions should have appeared in large numbers within a relatively short space of time is a question that has never received proper attention. Consequently, it is unclear whether this development indicated important changes to the way in which the Commons were framing their petitions, or whether it is simply an extraordinary quirk of fate which explains why only the originals of common petitions presented after the 1420s have survived the vagaries of time. Perhaps the crucial factor is the timing of this change. The parliament of 1423, unremarkable in many respects, did nonetheless see a change in the personnel to occupy the office of clerk of parliament. In October 1423, a week after parliament had begun, the clerkship passed from John Frank, who had held it since 1415, to William Prestwyke, who would fill the post until his death in 1436.[107] As clerk of parliament, Prestwyke was the senior administrator of parliament whose special responsibility lay in organizing and compiling the record of parliament. His duties included receiving the common petitions, which were handed to him by MPs, and reading out the answers to these petitions at the end of parliament, before overseeing their engrossment on the roll.[108] It is likely, therefore, that the initial explanation for the appearance of individual common petitions lay with a decision taken by the clerk of parliament who wished to ensure the preservation of the originals of the petitions after they had been

[105] TNA/PRO 36/19.

[106] The bundle or file (containing 13 pieces) evidently did not contain all the common petitions presented in this parliament, which numbered 18.

[107] A. F. Pollard, 'Fifteenth-Century Clerks of Parliament', *BIHR* 16 (1937–8), 137–61, pp. 142–6.

[108] For discussion of the clerk of parliament's duties, see H. G. Richardson and G. O. Sayles, *The English Parliament in the Middle Ages* (London, 1981), Ch. 22, esp. pp. 377–9.

enrolled.[109] Prestwyke was not the first, and would not be the last, clerk of parliament to have radically changed the way in which the proceedings of parliament were recorded and archived.[110]

What informed Prestwyk's decision to make separate 'bundles' or collections of common petitions is less easy to answer. But the survival of these individual supplications does suggest that by the early 1420s, at the very latest, the Commons had ceased to present their grievances—or at least a proportion of their grievances—to the Crown in the form of consolidated lists or schedules of petitions.[111] This much is indicated by the fact that from 1423 there was no consistency in the language with which common petitions were recorded on the parliament roll. Whereas before 1423 common petitions were uniformly enrolled in French, after this date they were enrolled in a mixture of French *and* English, as though the clerk of parliament was now writing up the roll by drawing upon an assortment of individual pieces of parchment.[112] One suspects that the abandonment of such preliminary lists was partly a consequence of the absorption of local concerns into the grievances which the Commons forwarded to the Crown.[113] The promotion of localized complaints, many of which started out as conventional private petitions, may have unduly complicated the process by which the Commons sent their own list of complaints to the clerk of parliament. There was also a significant advantage to having common petitions presented to the king individually because they could be handed into

[109] The introduction of common petitions enrolled in English, copied directly from English originals, may be seen as another consequence of Prestwyke's reforms: see W. M. Ormrod, 'The Use of English: Language, Law, and Political Culture in Fourteenth-Century England', *Speculum* 78 (2003), 750–87, p. 777 n. 108.

[110] Other reform-minded clerks of parliament of the fourteenth century include William Airmyn, Henry Edenstowe, and Thomas Drayton. For discussion and references see W. M. Ormrod 'On—and Off—the Record: The Rolls of Parliament, 1337–1377', in Clark (ed.), *Parchment and People*, pp. 41–2 and n. 9. Early modern historians have also emphasized the importance of the clerk of parliament for changes made to the records of parliament. These include John Gunthorpe, who probably took the decision to enrol bills on an inclusive basis in the parliament of 1472–5 (see Elton, 'Rolls of Parliament', p. 7), and John Taylor, who did most to establish the official journal as the principal parliamentary record in the sixteenth century (G. R. Elton, 'The Early Journals of the House of Lords', *EHR* 89 (1974), 481–512, pp. 487–93).

[111] See discussion in Ch. 5. From the last decades of the fourteenth century it is likely that the common petitions enrolled on the parliament roll originated from a schedule of petitions put together by the Commons together with additional 'individual' cases selected from the files of private petitions which the Commons wished to endorse.

[112] In 1423, for example, six out of eighteen common petitions were English; in 1425, five out of seventeen were English.

[113] For discussion, see Ch. 5, pp. 143–52.

the clerk of parliament on a piecemeal basis throughout the course of the parliamentary session. This meant that the king and council could consider the issues raised by the petitions at a more leisurely pace without having to wait until parliament was well under way before being presented with the complaints en masse.[114]

Determining exactly when, between the 1370s[115] and the 1420s, the Commons reverted to the 'stand alone' common petition is a question for which no answer readily presents itself. Myers was almost certainly correct to dismiss Gray's suggestion that until 1423 *all* supplications from the lower house were drafted as a single 'comprehensive commons petition',[116] but whether this practice was abandoned in the late fourteenth or early fifteenth centuries is not made clear. The only clue we have is the presence or absence of petitions asking for confirmation of the liberties of the Church, Magna Carta, and the Charter of Forests. These were formulaic requests usually inserted at the very start of the lists of common petitions. They were designed to remind the king of his ancient and solemn obligation to defend the rights and liberties of his subjects. They were also, in a sense, introductory petitions: their purpose was to set an appropriate tone—a mixture of deference and expectation—with which the king might then go on to consider the remaining requests which the political community placed before him. Their presence on the roll makes most sense if they formed the beginning of a consolidated schedule of complaint. Conversely, their *absence* is best explained if the petitions were no longer handed over in collective form. There would have been a much less obvious need, and even less of an opportunity, to introduce the community's petitions with formulaic requests when all such petitions were presented to the Crown individually. There is certainly no evidence to show that these petitions were ever compiled on separate pieces of parchment. Up to November 1384 the introductory petition appears consistently on the parliament roll but is then absent in the remaining parliaments of Richard II's reign, with the exception of 1385 and 1394. Under Henry IV the request occurs in six out of

[114] A point made by Gray, *Influence of the Commons*, p. 374. The downside to this was that it was less easy for the Commons to keep track of their supplications, a point which may explain why there are cases of common petitions which failed to be copied up on to the parliament roll: see Myers, 'Parliamentary Petitions', pp. 591–2.

[115] Ormrod, 'On—and Off—the Record', p. 47, demonstrates that the rolls of common petitions for the parliaments of 1371, 1372, 1373, and 1376 are the 'rough' lists of complaints drawn up by the Commons, which, for some reason, were not subsequently written up in neat.

[116] Myers, 'Parliamentary Petitions', pp. 607–12.

the nine surviving rolls; and in the reign of Henry V on nine out of eleven rolls.[117] Ironically, its last appearance is on the roll made for the parliament of 1423,[118] but from then on it is no longer a feature of the enrolled common petitions presented in parliament.

Perhaps the key to understanding Prestwyk's motives for keeping hold of the original common petitions lies in another development to petitionary procedure which occurred for the first time in the parliament of 1423. It is from this assembly that petitions addressed *to* the Commons begin to appear regularly amongst the enrolled common petitions alongside the more regular type of common petition that was addressed *from* the Commons (i.e. 'Item. the Commons pray: . . . '). In 1423 six out of a total of eighteen petitions presented in the assembly were supplications directed, in the first instance, to the Commons.[119] There had been occasional examples before this parliament of the inclusion of such petitions with standard common petitions;[120] but 1423 marked the point when the practice became common. It is a peculiar phenomenon: why should the Commons have submitted common petitions to the king and council that were addressed to themselves? More pertinently, why should the clerk of parliament have enrolled a common petition and still retained its original address to the Commons?

The most likely explanation is that these were private petitions which had been singled out by the representatives themselves as cases that held particular significance and which ought therefore to be included with the more 'regular' common petitions that had been formulated within the lower house. The process that resulted in the endorsement of private petitions by the Commons has been set out in diagrammatic form in Figure 9. Thus, in the course of a typical assembly the clerk of parliament gathered together two piles or bundles of petitions from the Commons: one comprised endorsed private petitions (some of which were subsequently enrolled on the roll, but as private business of special interest); and a second comprised common petitions, some of which were drafted by MPs and others that had a non-parliamentary

[117] It is not present on the rolls made for the parliaments of January and October 1404, 1410, 1413, and 1415.

[118] Perhaps this accounts for the discrepancy between Illingworth's 'bundle' of common petitions, which numbered thirteen, and the total presented in parliament—were the remaining five part of a schedule which has now been lost?

[119] *PROME*, parliament of 1423, items 44, 45, 50, 51, 53, and 57.

[120] See *PROME*, parliament of March 1416, item 36; parliament of May 1421, items 27–9; parliament of December 1421, item 23.

authorship but which were enrolled as common petitions because they were adjudged to raise matters of general concern. One suspects that the retention of the address on the enrolments of these latter petitions was one of the consequences of the abandonment by the Commons of their preliminary schedules of petitions, when the private origin of some of the common petitions was presumably covered up when the schedule was drafted. It may also have become a simple matter of bureaucratic expedience for clerks to copy up verbatim the wording of the petitions that had been passed to them for enrolment. So, there was no fundamental change in the nature of the common petition in 1423: private petitions had been absorbed into the grievances of the political community for almost half a century. The difference was that in 1423 a change in the secretarial practice of the clerks who handled and recorded petitions in parliament now made it possible to distinguish more clearly between those requests that had emanated from MPs and those which had originated from outside the lower house.

An indication of the numerical relationship between the two types of common petition in the first ten years of Henry VI's reign can be seen in Table 6.1. From the data it is evident that the common petitions addressed to the Commons usually comprised only a minority of the total number of common petitions presented in parliament altogether. Even so, it is striking how successful these petitions generally were in securing a positive response from the Crown, either in the form of statutory legislation (as shown by the table) or in some other way such as the appointment of a royal commission. The parliament of 1423 provides a useful illustration of the sorts of cases forwarded by the Commons in this way. One, from the 'labourers, servants and commons of the realm' secured legislation which imposed penalties on fraudulent cordwainers;[121] another secured legislation which made provision for those who sought the reversal of judgements of outlawry made during the period when they were abroad;[122] and another secured commissions of enquiry to investigate the state of weirs and other impediments to river traffic on the Thames.[123] These, and similar cases in the following parliaments, demonstrate that the same criteria that had applied at the end of the fourteenth century, when localized private petitions formed the basis of common petitions, also applied in the early fifteenth

[121] *PROME*, parliament of 1423, item 44 (2); *Stats. of Realm*, ii. 220 (item 7).
[122] *PROME*, parliament of 1423, item 50 (8); *Stats. of Realm*, ii. 221 (item 9).
[123] *PROME*, parliament of 1423, item 51 (9); *Stats. of Realm*, ii. 222 (item 12).

Table 6.1. Common Petitions Presented by and Addressed to the Commons, 1422–1432

Parliament	Common petitions		Common petitions	
	Presented by the Commons	Number made into statute	*Addressed to* the Commons	Number made into statute
1422	6	2	0	0
1423	11	9	6	5
1425	14	5	3	0
1426	8	3	3	2
1427	17	6	1	0
1429	25	15	3	2
1431	17	6	3	3
1432	17	4	6	3

century: these were still grievances that had a common application and could genuinely be considered to relate to a broad public interest. The difference, of course, is that we can now see more clearly how much legislation was the result of private interests speculating on having a petition adopted by MPs.

It is tempting to judge the importance of private petitions in parliament simply in terms of the volume of requests presented in each assembly. On this basis the fifteenth century is undoubtedly the poor relation of the late thirteenth and fourteenth centuries. But volume should not be the only test of importance. If the place of private petitions in parliament is instead measured by the number of people who were involved in expediting such business, then the fifteenth century was undoubtedly the more significant. By this point, a fundamental change had occurred in the way private petitions were handled in parliament. In the thirteenth and fourteenth centuries parliament had provided a convenient administrative framework in which matters which lay outside the remit of common law or which required royal grace could be considered. The petitions stimulated the growth of special administrative apparatus in parliament; but they did not fundamentally depend on parliament itself to be expedited. This was because only small elements of parliament's membership were actively engaged in processing private business—the small committees of triers, dominated by professional judges, and the relatively limited membership of the king's council—and these bodies could just as easily (and often did—see Figure 1, Ch. 3)

expedite the petitions when parliament had ended as when parliament was in session.

By the fifteenth century private petitions were no longer presented in parliament simply because this was the most opportune occasion when such business could be attended to; now, private petitions had become fully integrated into the basic fabric of parliamentary life. This chapter has demonstrated how responsibility for the dispatch of private petitions had extended beyond the small specialized committees, including the council, of the previous century to include the full membership of both the Lords and the Commons. By the early decades of the fifteenth century private petitions could be said to be truly *parliamentary* petitions because the Lords and Commons were now key participants in the procedures adopted by parliament to have them expedited. The Lords had created for themselves a more sharply defined role as the supreme judges of the realm, and their involvement in hearing difficult or contentious cases brought by private petition was to become an important expression of their jurisprudence in the medieval polity. Moreover, private petitioners increasingly resorted to the lower house to have their cases brought to the attention of the king and Lords: this was a measure of the growing status and prestige of the Commons, but also of the willingness of MPs themselves to act as the crucial middleman in the petitionary process. The more active involvement of both the upper and lower houses in handling private petitions inevitably meant that both the Lords and MPs began to take a keener interest in the outcome to petitions, and so, it is in the fifteenth century that decisions reached in one house on a petition began to be checked and verified in the other house. Indeed, as time passed, the Commons appear to have become increasingly uneasy at the prospect of large numbers of petitions being left unanswered until after parliament had ended, when they would not be present to witness the Crown's responses. Their request in 1427, that any petitions considered after parliament had ended should 'be enacted, enrolled and put on record in the roll of your same parliament', provides good evidence of the desire of MPs to assert their 'ownership' of the petitionary process and to bring it all within the purview of the parliamentary record, irrespective of when the petitions were actually addressed.[124] All in

[124] *PROME*, parliament of 1427, item 45. I interpret this to be a reference to private petitions rather than common petitions, partly because no additional common petitions from this parliament exist, and partly because the Crown's proposed

all, the emergence of what, in effect, was two-way petitionary traffic between the Lords and Commons further integrated peers and MPs into the petitionary system, and put further distance between this system and the procedures adopted in the thirteenth and fourteenth centuries which had kept private petitioning at arm's length from the majority of parliament's members.

In some respects, then, private petitioning in the fifteenth century was markedly different to petitioning in earlier periods; but we should be careful not to overstate either the pace or the extent of this change. Private petitions were now introduced in both houses; some private petitions (in addition to common petitions) were enrolled; the Commons gave their assent to some of the petitions introduced in the Lords; and the private or 'public' origin of common petitions could now be identified thanks to a change in secretarial procedure. These developments could be said to have formed the bedrock upon which a more sophisticated and truly bicameral system of petitioning would emerge in the sixteenth century under the Tudors; but this was still a long way off in the fifteenth century. At this point, only a minority of petitions were enrolled (by 1500 enrolment had become universal);[125] there was no system of 'three readings' in either the Lords or the Commons;[126] and, concomitant to this, there was no procedure for the amendment and engrossment of the petitions as they passed through the different stages of consideration in both houses. Fundamentally, petitions in the fifteenth century remained for the most part supplicatory in nature, so the process of parliamentary adjudication continued to involve the writing out of separate responses which addressed the points contained in the petition. In the Tudor period, the bills themselves, after amendment and rewriting, and having gained general assent, became acts—the change in terminology, from 'petitions' to 'bills', and from 'statutes' to 'acts', is itself indicative of the underlying change of emphasis that was later to effect the petitionary process. In the Tudor period it is possible to describe the Commons as 'a co-equal member of a legislative body' because they were directly responsible for preparing and amending large numbers of bills into the form they would eventually take as private

arrangements for the petitions—to have the responses recorded as endorsements and to have the petitions placed in a file—were reminiscent of the procedures followed for handling private petitions.

125 Elton, 'Rolls of Parliament', p. 15.

126 Even at the start of the sixteenth century, less than half the bills introduced in the Lords received three readings: Graves, *Tudor Parliaments*, p. 25.

or public acts. In the fifteenth century, however, the Commons still considered (and asserted) themselves to be, 'as much assenters as petitioners'.[127] MPs now forwarded private petitions into the upper house, but the responsibility and initiative for responding to these petitions—and common petitions—still lay exclusively with the king and Lords. Indeed, as we have seen, there was as yet no acknowledged principle that private petitions first introduced into the Lords should actually be seen by the Commons. To this extent the Commons, like the petitioners themselves, still stood outside royal government: theirs was a role in which they merely interceded on a petitioner's behalf, to persuade the king and Lords to respond favourably to a supplication. In the Tudor period, the Commons would assume responsibility for taking these decisions themselves. This, perhaps, was the crucial point that marked petitioning in the fifteenth century as being still, essentially, medieval in character.

[127] *PROME*, parliament of April 1414, item 22.

PART II

PRIVATE PETITIONS AND PRIVATE PETITIONERS

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7

Individual Petitioners

The first part of this book has been written primarily from the point of view of the Crown. Private petitioning has been seen essentially as a system of late medieval government: it facilitated, and to a great extent stimulated, a growth in the capacity of the Crown to shape and influence the lives of the king's subjects. Focus has inevitably been placed on the Crown's control of private petitioning, and the way in which developments at parliament, and in a broader political context, affected the quantity, content, and presentation of petitions. This chapter is the first of three to consider private petitioning from the point of view of the petitioner. The shift in emphasis is critical, for the key characteristic of the private petition, and of petitioning more generally, is that these were documents created almost entirely at the behest of the individual—or group of individuals—and which stated an agenda or case almost wholly determined by the experiences and motivations of the petitioner. The private petition undoubtedly constituted an important facet of late medieval English government, but it was a form of government the extent and scope of which was determined above all by the petitioners themselves. Petitioning enabled the Crown to intrude into the lives of the king's subjects; but this was done primarily on the petitioner's own terms and by invitation only. This was a form of government that was, at its heart, 'consumer led'. We are thus faced with a series of questions relating to the circumstances that induced people to seek redress at parliament. Fundamentally, it is time to ask who petitioned parliament and why. This chapter concentrates on individual petitioners who formed the largest category of complainant in parliament and whose petitions can be distinguished from 'corporate petitions' (see Chapter 8) by the fact that the petitioner's names were specified. The discussion will also focus specifically on petitions from England, or from the king's English subjects. Petitions from Ireland, Wales, and Gascony comprise an important subcategory of parliamentary supplication, but they also raise a number of separate issues better left for discussion elsewhere.

The main focus of this chapter will be on the content and presenters of petitions, but it is also important to place the private petition within a broader context of medieval government. To this end, the discussion will also consider what special attributes, if any, set the private petition apart from other types of petition and other modes of interaction between the king and his subjects.

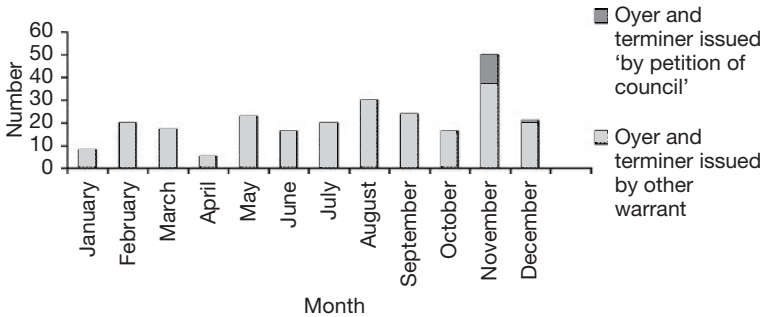
7.1 PRELIMINARY CONSIDERATIONS

As a first step in this direction, and to provide important context for later discussion, it is worth clarifying the place that private petitioning held within parliamentary sessions themselves. It is tempting to take a very simplistic approach to the mechanics of late medieval government and suppose that when parliament was in session the petition took over as the predominant means by which the king's subjects secured the consideration of the monarch to their individual needs or difficulties. In fact, a broader search through the records produced by central government at the time of parliament suggests that there was no obvious suspension of the ordinary activities of the Crown when parliament met and that the king continued to receive and deal with the overtures of his subjects much as he did when parliament was not in session. One presumes that many grants made at the time of parliament, for which evidence of a formal petition is lacking, were prompted by informal *oral* requests made to the king at times when he was not busy attending to the specific business of parliament. Evidence for the existence of this extra-parliamentary business can be shown by briefly focusing on two case studies.

The first relates to the appointment of special commissions of oyer and terminer in the first decades of the fourteenth century. Since Richard Kaeuper's seminal article on the subject, it has been assumed that the petition was the principal method by which litigants could secure for themselves a commission of this type.[1] Because the overwhelming majority of petitions cited by Kaueper belong to TNA series SC 8, the view has also taken hold that parliament played a vital role in generating the large volumes of commissions issued in the period.[2] While this may

[1] R. W. Kaeuper, 'Law and Order in Fourteenth-Century England: The Evidence of Special Commissions of Oyer and Terminer', *Speculum* 54 (1979), 734–84.

[2] This is implicit in much of Kaeuper's discussion. See, for example, footnote 62 where prominence is given to the role of the private petition in stimulating the growth of



10. Special Commissions of Oyer and Terminer Issued in 1318

well have been true in the early years of Edward I's reign,[3] under Edward II it is not so clear-cut. Figure 10 is a survey of the special commissions of oyer and terminer enrolled in the patent rolls for the year 1318, the high-water mark of commissions issued during the reign of Edward II. There is an obvious peak in November 1318 when parliament was in session, but in general it can be seen that commissions were granted all year round, irrespective of whether parliament was in session. As for the commissions granted during parliamentary time (between 20 October and 9 December), Figure 10 shows that only a small proportion were warranted *per peticionem de Consilio* (twelve out of sixty-five). This in itself does not prove that the remaining commissions were the result of oral requests because instruments resulting from petitions granted by the king or council could be warranted in other ways.[4] But a comparison of the recipients of these commissions with the names of those listed as presenting petitions in the parliament of October 1318 suggests that only a few of the remaining commissions had been prompted by a parliamentary petition.[5] The significance of the 1318 list, it should be remembered, lies in the fact that it apparently provides the names of

the special commissions. The view has been endorsed more recently by A. Musson and W. M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke, 1999), who state that 'three-quarters of the commissions issued during Edward II's reign emanated from private petitions' (p. 120).

[3] See J. R. Maddicott, 'Edward I and the Lessons of Baronial Reform: Local Government, 1258–80', in P. R. Coss and S. D. Lloyd (eds.), *Thirteenth Century England I* (Woodbridge, 1986), pp. 24–5.

[4] See discussion in Ch. 3, p. 64

[5] *PROME*, parliament of October 1318, E 175/1/22.

all petitioners who submitted complaints to this parliament. Of the fifty-three special commissions of oyer and terminer issued between 20 October and 9 December 1318, but not warranted *per peticionem de Consilio*, only five have been positively identified as cases that were raised by individuals whose name appears on the list.[6] Of the remainder, it is hard to escape the conclusion that these were cases that had been prompted by oral requests and that the term 'complaint' was used in the enrolments of the commissions in a traditional legalistic sense, to indicate that government had acted on the basis of *querelae*, or 'plaints', rather than formal written petitions.[7] During the parliament of October 1318 the chancellor was busiest issuing special commissions of oyer and terminer (33 cases);[8] the king was second busiest (23 cases); the council issued 3 commissions; one was issued by a privy seal writ; and the remainder (just 12 cases) were apparently granted as a result of a petition presented in parliament.

The second case study focuses on the twin parliaments of January and March 1348 when writs issued by the privy seal had become one of the principal means for the king to mobilize the government in accordance with his will. By this point the warranty note *per peticionem de Consilio* had been phased out, making it less easy to determine which actions were the result of a parliamentary petition; but the existence of privy seal writs sent into chancery (TNA series C 81) and the unusually large collection of petitions that have survived for this year makes it possible to establish in general terms what proportion of the business handled by the keeper of the privy seal had been initiated by a private petition.[9] The results are startling. Between the start of the first session of parliament (15 January) and the end of the second session of parliament (13 April) a total of 321 privy seal writs were issued and sent to the chancellor for action. Of those individuals on whose behalf privy seal writs were issued, only

[6] Hugh Audele, John Crombwell, Ralph Basset of Drayton, Phillip Leighton, Henry Santon. These recipients of special commissions of oyer and terminer have their names recorded on the list of petitioners made in October 1318: see *CPR 1317–1321*, pp. 286–303.

[7] See *Select Cases of Procedure without Writ under Henry III*, ed. H. G. Richardson and G. O. Sayles, Selden Society, 60 (1941), 'Introduction'; A. Harding, 'Plaints and Bills in the History of English Law, Mainly in the Period 1250–1350', in D. Jenkins (ed.), *Legal History Studies 1972* (Cardiff, 1975), pp. 65–86 (esp. pp. 66–8).

[8] Chancery instruments with no warranty note indicated that the chancellor had instigated the action: B. Wilkinson, 'The Authorisation of Chancery Writs under Edward III', *BJRL* 8 (1924), 107–39, p. 125.

[9] The petitions are published in *Rot. Parl.*, ii. 175–99, 205–24.

fourteen have been positively identified as parliamentary petitioners in 1348. A further thirty-one writs were evidently initiated by petition, but no evidence that these were *parliamentary* petitions has been discovered (though the possibility cannot be discounted). Thus, it can be seen that no more than forty-five out of a total of 321 writs (or 14%) issued at the time of parliament could have been initiated by parliamentary petition. Even allowing for the fact that the petitions printed in *Rotuli Parliamentorum* do not account for all the petitions presented in parliament in this year, it seems extremely unlikely that anything approaching a majority of these writs would ultimately have been prompted by requests made in parliament. Even when parliament was in session, it seems to have been far more common for government to act on behalf of individuals who chose not to use the system of private petitions than it was for action to be taken as a result of a request sent through parliamentary channels.

An added twist is that there was a very noticeable surge in the number of writs to be issued when parliament was in session. This is demonstrated by the fact that twice as many writs (168) were issued during the first session of the 1348 parliament (14 January–12 February) as during a similar length of time when parliament had been prorogued (13 February–31 March). This suggests that although a majority of privy seal writs sent into chancery at the time of parliament apparently had little to do with the business transacted within parliament, the very fact that parliament was in session was enough to attract a much greater volume of business into the broader framework of government. Only a handful of these writs were issued on the behalf of MPs who had been returned to parliament,[10] so we must conclude that a meeting of parliament (at least when it was held at Westminster) attracted large numbers of people to the capital *in addition* to MPs, Lords, and private

[10] From the parliament which met in January 1348 just four out of 182 known MPs have been identified as recipients of grants or commissions that were made as a result of a privy seal writ sent into chancery. They are John Clerk, burgess for Hereford (C 81 329/19 369); Thomas Verdoun, knight of the shire for Northamptonshire (C 81 328/19 212); Roger Widrington, knight of the shire for Northumberland (C 81 327/19 199); and John Brown, knight of the shire for Worcestershire (C 81 327/19 117). One other MP returned to the January parliament secured a privy seal writ that was issued during the assembly which met in March: Hugh Spicer, burgess for Nottingham (C 81 330/19 445). Two MPs returned to the March assembly secured writs that were issued during parliamentary time: Laurence Pageham, knight of the shire for Hampshire (C 81 329/19 387); and John Wyn, burgess for Chichester (C 81 329/19 403). (Three MPs returned in March had writs issued in their name during the January assembly: Ralph Middelnye, C 81 328/19 209; Ralph Daubeney, C 81 328/19 221; John Beauchamp, C 81 327/19 149.)

petitioners drawn to parliament itself. This almost certainly reflected the fact that a meeting of parliament presented opportunities for all sorts of suitors to pursue their interests at court because of the concentration of the departments of central government and, crucially, the presence of the king himself, in a single location at a time that had been publicized in advance.

Both case studies show very clearly that a meeting of parliament did not result in the wholesale suspension of the ordinary day-to-day functions of late medieval government; but they also open up a whole series of subsidiary questions about the relationship between 'private' business handled in parliament and the other, apparently more conventional, routes available to individuals to mobilize the Crown for their own ends. Placed in this context, it can be seen that petitioning in parliament was not necessarily the most direct way of approaching the Crown, and it certainly was not the least formal method of attracting the king's attention to an individual's plight. Parliament held many advantages for individuals to seek redress or ask for favour, but it is quite possible that in many cases potential supplicants travelled to a meeting of parliament in the first instance to secure dispensation from the Crown informally. Perhaps only when their access to the king was denied or the king's ministers were unwilling to act independently did they then commit their request to writing and proceed along the formal petitionary route available within parliament itself. Moreover, it seems clear that parliament, when it was in session, did by no means command the full attention of either the king or his ministers. Parliamentary business was considered alongside other business. The chancellor and keeper of the privy seal acted in both a parliamentary and a non-parliamentary capacity, when discharging their duties at the time of parliament. The same was probably true of the treasurer and barons of the exchequer. Only the royal justices, it seems, were expected to put their routine legal duties to one side so that they could devote all their energies to parliamentary matters.[11] This reflected the fact that, of all the king's ministers, the senior royal justices had the most labour-intensive and

[11] A comparison of the dates of the law terms with the dates of parliament, between 1290 and 1330, shows that no effort was made to hold parliament outside periods when king's bench and common pleas were due to hold their sessions: cf. C. R. Cheney, revised by M. Jones, *A Handbook of Dates for Students of British History* (Cambridge, 2000), pp. 112–43; E. B. Fryde, D. E. Greenway, S. Porter, and I. Roy (eds.), *Handbook of British Chronology* (Cambridge, 3rd edn, 1986), pp. 548–56. In practice, the work of king's bench and common pleas either ceased entirely or was scaled down considerably

demanding of roles in parliament, as key members of the committees set up to try private petitions and as indispensable advisers to the king and his council on broader matters of legal practice and doctrine.

7.2 THE IDENTITY OF PETITIONERS

In theory, the implication of parliament's special status as the supreme or 'high' court of the realm was that this was an institution that was open and available to all the king's subjects who wished to access royal grace. The key hallmark of the assembly was that it stood outside the boundaries of common-law procedure and therefore did not impose any of the restrictions that applied in the ordinary royal law courts. No legal treatise, unofficial commentary, or royal edict was written which imposed limitations on who should be allowed access to parliament through a petition. As the Commons reminded the king in 1373, grievances brought into parliament ought as a matter of principle to be expedited so that 'none of the lieges of the land shall be disinherited or delayed his rightful claim for default of just judgment'.[12] Even *Fleta*, a legal treatise written about 1300, suggested a universal and inclusive quality to the availability of the institution when it stated that parliament was a place where 'justice is dispensed to everyone according to his deserts'.[13] It was perhaps this principle that lay behind the specification in the *Modus Tenendi Parliamentum* that 'by law the door of parliament ought not to be closed'.[14] The obvious practical difficulty that the location of parliament presented—that travelling in person to present a petition cost both time and money that a large proportion of the population could ill-afford[15]—should not have been an insurmountable obstacle either, at least for supplicants from England.

during parliamentary time. See D. Higgins, 'Justices and Parliament in the Early Fourteenth Century', *Parliamentary History* 12 (1993), 1–18, pp. 3–5.

[12] *PROME*, parliament of 1373, item 14.

[13] *Fleta*, ed. H. G. Richardson and G. O. Sayles, Selden Society, 72 (London, 1955), ii. 109.

[14] *Parliamentary Texts of the Later Middle Ages*, ed. N. Pronay and J. Taylor (Oxford, 1980), p. 89 (cap. 21).

[15] This is well illustrated by a petition presented by John Walsche of Shrewsbury in *c*.1324. He had been attached to attend parliament to answer accusations made against him by Thomas de Newebyngg, but in his petition he requested the king's grace because, as he said, 'he is a poor man and is remaining here [at parliament] to the great harm of his livelihood': SC 8/150/7472.

To those unable to travel up to parliament in person, there was always the possibility of having MPs forward the grievance on their behalf.[16] Nor should the cost of compiling a petition have been prohibitive: a large amount of money *could* be spent if the petitioner wished to engage the services of a top lawyer and/or offer financial incentives to the personnel at parliament to have the petition receive favourable treatment,[17] but the straightforward act of drafting a petition could cost as little as 4*d*., which was notably less than the standard fee of 6*d*. charged for an originating writ at the start of the fourteenth century.[18] There is no obvious reason why the Crown should have sought to bar poor petitioners accessing justice and grace: indeed, in 1424, in ordinances which were admittedly made specifically to regulate the activity of the minority council, the Crown went out of its way to ensure that poor petitioners were helped as much as possible in presenting their supplications.[19]

And yet, a survey of the status of the petitioners who presented supplications at parliament reveals in very striking terms that this was an institution that was used above all by landholders, churchmen, and merchants. Again, the nature of the source material necessarily makes for crude methodology; but if the status of a petitioner is judged by the type of complaint or request he or she presented, then it is clear that the majority of cases brought into parliament were matters that concerned the interests of the gentry, churchmen, and urban elites. The predicaments faced by large numbers of petitioners in parliament stemmed in many cases from the consequence of a

[16] J. R. Maddicott, 'Parliament and the Constituencies, 1272–1377', in R. G. Davies and J. H. Denton (eds.), *The English Parliament in the Middle Ages* (Manchester, 1981), p. 70, though see my discussion in Ch. 9, pp. 308–9.

[17] See M. Davies, 'Lobbying Parliament: The London Companies in the Fifteenth Century', in L. Clark (ed.), *Parchment and People: Parliament in the Middle Ages* (Edinburgh, 2004), esp. pp. 140–2. A breakdown of the costs of compiling and presenting petitions is in J. F. Baldwin, *The King's Council in England during the Middle Ages* (Oxford, 1913), p. 533.

[18] P. Brand, 'Petitions and Parliament in the Reign of Edward I', in Clark (ed.), *Parchment and People*, p. 31. For the cost of writs see A. Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester, 2001), pp. 165–6.

[19] *PROME*, parliament of 1423, item 17; *Proceedings and Ordinances of the Privy Council of England*, ed. H. H. Nicholas, 7 vols. (London, 1834–7), iii. 150. The clerk of the council was charged to see that the bill of the poorest suitor was read and answered first. The king's serjeant was charged to give assistance and good advice to poor petitioners on the matters they were suing. The possibility exists, of course, that these measures responded to the unsympathetic treatment meted out to poorer petitions in the past.

direct relationship which the petitioner enjoyed with the Crown. This relationship was almost always defined by landholding, office-holding, or finance—concerns that were inevitably restricted to the social and political elite. Rather than focus on the great body of petitioners who fall into these categories, the following section will instead focus on petitioners who did not so readily fit this conventional profile. This will enable us to more accurately measure the reach of parliament, as a petitionary forum, into the various layers of late medieval society.

7.2.1 Peasants

To what extent, if at all, did the justice and grace offered by parliament extend to the lower social classes: the rural and urban poor of late medieval England whose wealth and standing was negligible and whose connections with the Crown (or a powerful patron) were minimal? The question is difficult to answer because it was a common strategy of many petitioners to portray themselves as powerless and on the brink of destitution—even if they were not—in order to elicit a more favourable response to their requests. Pleading poverty could be a powerful rhetorical device. Yet there are numerous examples of petitioners whose claim to be too poor to have their grievance resolved through conventional non-parliamentary channels would appear to be verified by the Crown's positive response to the request and (therefore) its implicit endorsement of the petitioner's claim. In 1390, for example, Robert Werkesworth and his wife, Margaret, successfully secured a writ to have Percival Pensax and associates arrested and brought before the council to answer for their misdeeds because, as the endorsement to the petition put it, 'the supplicants cannot, through poverty, have recovery at common law'.[20] Similarly, in the early 1330s, Richard Freeman asked, on the basis of his poverty, to be excused a fine for a non-suit in the case of attaint he had brought against the abbot of Tewkesbury: the Crown granted Freeman his request, ordering the justices involved in the case to pardon him 'because of his poverty'.[21] In other cases, it is evident just by the nature of the request that the petitioner occupied a very modest position in society: a very early example is the petition from the men of Halcetor who complained in 1278 that the bailiff of Montgomery had taken from each of them their best draught beast, leaving them

[20] SC 8/146/7254. [21] SC 8/47/2348.

with barely one beast to work with each.[22] Occasionally, the interests of the poor appear to have been represented in parliament indirectly, by someone of greater standing and means: in 1305, for instance, Piers Turgys petitioned on behalf of the poor people of York to have a wall built alongside one bank of the river Ouse to protect the people who lived in Skeldergate from the danger of flooding.[23] Parliament may have been used in the main by the 'middling sort' of the kingdom, but it was not a closed shop and the poor appear to have been allowed as much access to parliament as the rich, providing they had a legitimate reason and the means to present a petition there.

Clearly, though, parliament was not swamped with petitions from the peasantry. Some examples of petitions from rural workers exist (for which see below), but their scarcity suggests that parliament was not the appropriate forum for complaint from this quarter. While the costs involved in presenting a petition at parliament may have been a factor,[24] the most obvious explanation for the absence of peasant petitioners in parliament is that the scope of jurisdiction that parliament exercised stopped well short of the jurisdiction exercised by the customary courts of the land—the communal courts of the county, hundred, borough, and vill; and the feudal or seigniorial courts of the honour and the manor.[25] It is an obvious point to make; but parliament's jurisdictional reach extended no further than the legal parameters that defined the work of the king's common-law courts. Parliament, from a jurisdictional point of view, was of relevance only in cases that concerned the exercise or malfunction of the *king's* law: any predicament that was subject to the jurisdiction of a customary court does not appear to have been open to consideration in parliament. The fact that no petitions survive which explicitly attempted to overrule the judgements of local courts suggests either that this principle was widely recognized or that the receivers of petitions, who were the first point of contact for petitioners at parliament, did their job well by weeding out and returning those cases which the king in parliament was unable (or unwilling) to consider. This conception of parliament as an essentially royal court, albeit a

[22] SC 8/116/5800. [23] SC 8/10/489.

[24] Particularly if the petitioner wished to travel to parliament in person to present his complaint. See the example given above in n. 15.

[25] The best summaries of late medieval English jurisdictional structures are given in Musson and Ormrod, *Evolution of English Justice*, pp. 8–10; A. L. Brown, *The Governance of Late Medieval England, 1272–1461* (London, 1989), pp. 106–34.

prerogative royal court, naturally meant not only that a huge body of legal action lay outside its remit, but also that the vast majority of the population who were subject to customary law never had any reason, opportunity, or perhaps inclination[26] to look to parliament for the resolution of their individual complaints or difficulties. Servile peasants were in any case entirely covered from a legal point of view by their lords. On the occasions when peasants—that is to say, *free* peasants—had reason to access royal justice, because they had a case that fell within the remit of the common law (for example, if the ownership of land was disputed), the king's courts seem to have been more than adequate in soaking up and dealing with the vast majority of such cases without the need to refer them to the higher jurisdiction of parliament.[27] Presumably this had much to do with the low status of the peasant plaintiffs and defendants and the fact that their cases were usually resolved in a straightforward and decisive fashion by the king's justices.

Exceptions can be found, but significantly the majority were cases where peasants or village dwellers presented grievances in the name of their whole community. This no doubt reflected the fact that collective grievances from low-status supplicants usually lent themselves far more readily to consideration in parliament (because they often required the attention of the king) than cases brought individually.[28] It is particularly interesting in this regard to note the preponderance

[26] Note the comment '[i]n practice, external courts were seldom used voluntarily by local people' and accompanying discussion in M. K. McIntosh, *Autonomy and Community: The Royal Manor of Havering, 1200–1500* (Cambridge, 1986), p. 69 ff.

[27] Free peasants had direct access to the king's courts and made particular use of the writ of novel disseisin to recover land that had been wrongfully taken from them. Unfree peasants had no recourse against their lords, but they nevertheless had access to royal courts on other matters, for which see P. R. Hyams, *King, Lords, and Peasants in Medieval England: The Common Law of Villeinage in the Twelfth and Thirteenth Centuries* (Oxford, 1980), p. 130; J. Hatcher, 'English Serfdom and Villeinage: Towards a Reassessment', in T. H. Aston (ed.), *Landlords, Peasants and Politics in Medieval England* (Cambridge, 1987), pp. 277–80.

[28] See, for example, the series of petitions presented in 1348 from village communities asking the king for a reduction in their respective tax assessments: *PROME*, parliament of 1348, appendix nos. 11, 32, 42, 44, 50, 59, 60, 61, 62, 63, 117, 124. Other examples include a supplication from the tenants of five villages in the West Riding of Yorkshire who appealed to the king in *c*.1331 to enforce the results of an inquisition which found that they should pay 14*d*. to the keeper of the chase of Bowland for puture instead of 2*s*. (SC 8/35/1704); a petition of the tenants of Edmund Woodstock (*c*.1320) who complained that William de Cleydon, lieutenant of Aymer de Valence, earl of Pembroke, had expelled them from their common rights (SC 8/88/4358); and, in *c*.1330, the complaint of the tenants of William Claydon against their lord for imposing services on

of petitions from peasants—or 'tenants' as they were described—who identified themselves as inhabiting lands of the ancient demesne. Ancient demesne land either was presently part of the royal patrimony or had once belonged to the king in time gone by.[29] Significantly, the inhabitants of the ancient demesne usually held their land by servile tenure—they were villein sokemen.[30] Examples of petitions from peasants claiming ancient demesne status include a complaint from the tenants of Cookham and Bray (Berks.) in *c*.1320 against Ralph de Camoys, a steward of the forest, who was accused of disturbing them in their rights in Windsor forest, despite the fact that 'their land [is] royal demesne, and they and their ancestors having rights to the same';[31] a request from the tenants of Raughton (Cumberland) asking for the remission of 9*s*. which they were obliged to pay the king, as tenants on demesne land, when there were no nests of goshawks for them to guard;[32] and the petition from a group of five named tenants from the royal manors of Helston, St Clement, and Tywarnhaile (Cornwall) who had travelled up to parliament in 1331 (we know this because they made a point of it in asking for a remedy) to 'speak for themselves and for the other tenants of the king's manors' asking to have wastelands granted to them in return for rent and a fine for entry.[33] It is well known that the ancient demesne, and the peasants who lived on it, occupied a special place within the legal and economic framework of the kingdom.[34] Peasants on royal manors viewed themselves as having a privileged relationship with the Crown that stretched back many centuries to the Conquest.[35]

them which they were not accustomed to make—in this case they were told to sue at common law (SC 8/14/677).

[29] One of the best descriptions is still F. Pollock and F. W. Maitland, *The History of the English Law* (Cambridge; repr. 1968), pp. 383–406.

[30] R. S. Hoyt, *The Royal Demesne in English Constitutional History, 1066–1272* (New York, 1950), p. 192.

[31] SC 8/82/4080.

[32] SC 8/69/3448 (*c*.1325–*c*.1350).

[33] SC 8/65/3231.

[34] See Hoyt, *Royal Demesne*, pp. 194–207; B. P. Wolffe, *The Royal Demesne in English History: The Crown Estate in the Governance of the Realm from the Conquest to 1509* (London, 1971), pp. 24–6; M. K. McIntosh, 'The Privileged Villeins of the English Ancient Demesne', *Viator* 7 (1976), 295–328.

[35] The best discussion of this is in R. Faith, 'The "Great Rumour" of 1377 and Peasant Ideology', in R. H. Hilton and T. H. Aston (eds.), *The English Rising of 1381* (Cambridge, 1984), pp. 43–73. An addition to the examples of petitions referring back to the Domesday Book is SC 8/61/3007, a request from the tenants of the manor of Merton to have the prior of Merton brought before the king and council to answer for the oppressions he had inflicted on them. The petitioners claimed that King Harold had given the manor to the prior who was now acting 'contrary to Domesday Book'.

For them, the king was not only their sovereign lord, but also, in a more directly seigneurial sense, their feudal lord. Perhaps, then, their recourse to parliament should be seen in terms of the special relationship which their status as tenants of the ancient demesne created.[36] They petitioned parliament not because it was the highest court of the land or because they had been unable to gain redress or resolution through the common law, but because this was the most obvious and accessible place to address the king as tenants of his land. Just as royal justices could intervene locally in cases brought by villein sokemen, because this did not impinge on any other lord's demesne, so too such individuals asserted their right to obtain arbitration in parliament because for them parliament was acting as a quasi-seigneurial court, in which the king presided not so much as their sovereign but as their feudal lord.

7.2.2 Women

The limited scope of parliament's jurisdiction can also be seen in relation to women petitioners. The key factor here is not the existence of a separate jurisdictional framework that isolated parliament from a large section of medieval society, but the extent to which the limitations of common-law procedure transferred into a parliamentary context. Technically, parliament was not bound by the common-law diktat which denied women, when they were married, from initiating legal proceedings in their own right. In practice, however, only a small number of women appear to have made use of this opportunity, and even here it is not clear why they were acting independently of their husbands. Alice Russel, for example, submitted a complaint in the 1320s on behalf of herself and her husband against Sir William Cleydon, who had forcibly obtained their charters in order to seize their lands;[37] and a similar complaint was made by Margery Donheved against her husband's sister who had instigated their forced removal from lands in Dunchurch (War.).[38] More illuminating, but hardly typical, is the request of Thomasin, wife of William Fornivall, in 1383 who asked for the king's assistance in having her husband pay £100 in maintenance as

[36] It is significant in this respect that tenants of the ancient demesne already enjoyed special rights to review by the central courts: M. K. McIntosh, 'Central Court Supervision of the Ancient Demesne Manor Court of Havering, 1200–1625', in E. W. Ives and A. H. Manchester (eds.), *Law, Litigants and the Legal Profession* (London, 1983), p. 87–8.

[37] SC 8/17/831. [38] SC 8/18/863 (*c*.1327).

part of a separation settlement imposed on them by the Church.[39] More petitions can be found from women who made no mention of their marital status. They may have been married, widowed, or spinsters; but in terms of the presentation of the petition (as well as from a strictly legal standpoint) they were projecting themselves as fully independent legal entities. This was the case with the petition of Eve of Stirling, who in 1305 asked for the recovery of land she had held in Stirling which had been taken from her by the Scots because she had supplied the besieged English garrison there with food and 'other things'.[40] There was a petition from Agnes le Clerkes of Ogbourne (Wilts.) in *c.*1320 in which she complained of the oppressions she had suffered at the hands of William Rameshull and his followers—he was accused of seizing a cart full of wheat which le Clerkes was taking to Salisbury in order to raise money for the king's taxation.[41] And finally, Agnes Dunlegh petitioned parliament in 1330 asking for the repair of the walls of the Tower of London which adjoined her tenements and which the Crown had agreed to maintain as part of a settlement reached in the time of Edward II.[42]

But it would be wrong to see any of these cases as typical of the petitions that women presented in parliament. By far the most common type of petition involving women were those presented either by widows or by husbands on behalf of their wives. To this extent, the pattern of petitioning by women in parliament chimed very closely with the conventions followed in the common-law courts.[43] Widows tended to approach parliament for one of two reasons. In the first instance, there were a small minority of petitioners who were powerful individuals in their own right and whose single status and generous dower enabled them to petition in parliament from a position of strength.[44] Take, for example, a petition presented in 1422.[45] This was a request drafted by a confederacy of the great and the good of the West Riding of Yorkshire

[39] SC 8/46/2291. [40] SC 8/9/441. [41] SC 8/39/1942.
[42] SC 8/11/513.
[43] See discussion by S. S. Walker, 'Litigation as Personal Quest: Suing for Dower in the Royal Courts, circa 1272–1350', in S. S. Walker (ed.), *Wife and Widow in Medieval England* (Michigan, 1993), pp. 81–108; E. Hawkes, '"[S]he will . . . protect and defend her rights boldly by law and reason . . .": Women's Knowledge of Common Law and Equity Courts in Late-Medieval England', in N. J. Menuge (ed.), *Medieval Women and the Law* (Woodbridge, 2000), pp. 145–61 (esp. pp. 145–50).
[44] For a useful discussion of the prospects facing a wealthy widow, see J. K. McNamara, 'Aristocratic Widows in Fifteenth-Century England', in B. J. Harris and J. K. McNamara (eds.), *Women and the Structure of Society: Selected Research from the Fifth Berkshire Conference on the History of Women* (Durham, NC, 1984), pp. 36–47.
[45] SC 8/27/1330.

including Maud, Countess of Cambridge, and Alice, Lady Deyncourt, a group of knights and esquires, and the communities of York, Hull, and Yorkshire itself. The supplicants shared a common concern to have the bridge over the watercourse called 'le Dyke' modified to allow vessels to pass unimpeded to Fishlake and Doncaster. It may be significant that the two ladies headed the list of petitioners' names, as though they were the prime instigators of the request or else were considered to be the most important of the parties who wished to secure an outcome to the request. A far more common type of widow was the 'victim': a woman struggling to obtain her rightful share of her late husband's tenure as dower; a woman who petitioned parliament as a victim of crime (either against her person or against her property); or a woman who petitioned parliament on the basis of the poverty she faced as a result of her widowhood. Examples in each of the categories include the petition of 1307 from Ermina, widow of John Seton, who had nothing for her dower because her late husband's lands had been forfeited to the Crown when they were in the possession of her stepson Christopher Seton;[46] the petition of Elizabeth Zouche, widow of William, third baron Zouche, who made complaint in 1406 against her stepson, William, fourth baron Zouche, whose attack on her house was said to have resulted in one of her servants having his right arm cut off and one of her daughters giving premature birth;[47] and finally, in 1305, the petition of Floria Bellhouse, widow of Thomas Belhouse whose time as sheriff of Cambridgeshire had landed Floria with a large debt owed to the Crown which she pleaded to have moderated because, as she claimed, she was unable to support herself or her children without the king's grace.[48]

Petitions presented by married couples—that is to say, those presented in parliament in the name of both husband and wife for property the husband held in right of his wife—are amongst the most numerous 'gentry' petitions that can be found in TNA SC 8. They usually took a common form: the married couple were petitioning in parliament to recover lands or rights which had been lost by the woman before she was married. The petition of John Deveros and his wife, Joan, was typical of this type of complaint. In 1409 they petitioned to have the manor of 'The Lowe' [Shrops.] restored to them after it had been seized from Joan's father by John Bromdon and then taken into the hands of the Crown under Richard II: it was now leased at farm to

[46] SC 8/2/57. [47] SC 8/23/1109. [48] SC 8/1/31.

a William Banastre.[49] The king granted the petitioners' request to have the chancellor consider the case and a resulting commission was issued to inquire into the case.[50] The relative scarcity of petitions from unmarried daughters suggests that in cases of disputed inheritance or illegal seizure of an heiress' estates, most women waited until they were married before pursuing their rights in parliament through a petition by their husbands.[51] It is distinctly possible—though extremely difficult to prove—that many such petitions were compiled very shortly after marriage had taken place, possibly as a direct result of husbands specifically examining the claims to property that their new wives could bring to the union.

The volume of petitions presented in parliament by or on behalf of women confirms what has already been illustrated in studies on the English chancery, namely, that the king's prerogative courts were especially favoured by women in obtaining resolution to their predicaments.[52] At least in terms of parliament, this was probably because a large proportion of the cases that married women brought to the assembly (with their husbands) related to longstanding, complex, and often intractable lawsuits over the possession of land which necessarily required the combination of legal expertise, access to government records, and, crucially, the king's grace, for resolution. Many such cases, of course, involved the Crown itself. On the other hand, it was perhaps inevitable that a large number of widows would seek recourse to parliament since they were especially susceptible to the subversion of the common law and gentry lawlessness—transgressions which parliament was particularly adept at dealing with. But the circumstances in which women approached parliament also highlight how closely parliament stuck to some of the basic tenets of common-law process. This is a key point to make, for parliament's fundamental purpose in providing remedial action was not to subvert or undermine common-law process, but to supplement it and fill in the gaps as and where they occurred. To have allowed married women to petition in their own right over property which, in any other legal context, was considered to be in the

[49] SC 8/43/2101. [50] *CPR 1408–1413*, p. 176.

[51] For useful discussion on this in the early modern period see M. O'Dowd, 'Women and the Irish Chancery Court in the Late Sixteenth and Early Seventeenth Centuries', *Irish Historical Studies* 31 (1999), 470–87, esp. pp. 473–4.

[52] Hawkes, '"[S]he will . . . protect and defend her rights"', pp. 150–7. I have also benefited from C. Beattie, 'Meanings of Singleness: The Single Woman in Late Medieval England', PhD thesis, University of York, 2001, pp. 157–206.

possession of their husband risked fundamentally destabilizing the legal framework, not to say creating an enormous confusion over jurisdictional boundaries. Parliament operated outside the parameters of the common law: but it still needed to implement decisions that remained compatible with processes followed in the king's ordinary courts.[53] There was a very practical reason for this. As Maitland so astutely (if rather too dogmatically) pointed out, the petitioner in parliament 'did not get what he wanted, he was merely put in the way of getting it'.[54] In order words, a great number of (but not all) petitioners, including women petitioners, approached parliament in order to initiate processes that either made use of common-law procedure or were intended, ultimately, to be recognized within a common-law context. For this to occur, they necessarily needed to keep one eye on the longer term security and viability of the resolution which they hoped to secure by petition.

7.2.3 Nobility

To what extent did members of the English nobility utilize the private petition to further their own individual or private needs? There is more to this question than first meets the eye because it points us towards the much broader issue of relations between the king and his nobles, and the systems in place that determined the nature and scope of these relations. Recent scholarship has tended to downplay the role of the written petition as a mechanism to facilitate interaction between the king and his nobles.[55] This view may be underscored by an assumption that the closer an individual was to the person of the king the less important their need to have a request written out and presented formally as a petition. The true measure of status or position in the polity, we have been led to believe, was the ability to have private interests served by the king in the more informal and unrecorded environment of the royal court or household. Insofar as parliament is concerned, there is probably

[53] A point often made in relation to the 'equity' jurisdiction exercised by the chancellor: see M. E. Avery, 'The History of the Equitable Jurisdiction of Chancery before 1460', *BIHR* 42 (1969), 129–44, p. 130; J. H. Baker, *An Introduction to English Legal History* (4th edn, London, 2002), p. 102.

[54] *Memoranda de Parliamento*, ed. F. W. Maitland (London, 1893), p. lxviii.

[55] J. Watts, *Henry VI and the Politics of Kingship* (Cambridge, 1996), p. 85; C. Carpenter, *The Wars of the Roses: Politics and the Constitution in England, c. 1437–1509* (Cambridge, 1997), p. 37 ('For the nobility, who could normally speak to the king whenever they chose, parliaments were not usually of any particular interest . . . ').

some truth in this argument, for hardly any examples exist of private petitions presented to the king in parliament from the notorious royal favourites of the late medieval period. Piers Gaveston, Robert de Vere, ninth earl of Oxford, and William de la Pole, duke of Suffolk, did not accrue their wealth and position by public requests to the king for his favour: instead, they gained preferment by exploiting the private access they enjoyed to the king in his chamber (in these cases, Edward II, Richard II, and Henry VI, respectively). The redundancy of petitioning for nobles with direct access to the king is further suggested by the fact that of the nobles who did submit petitions in parliament some did so undoubtedly out of a position of political weakness and isolation, as though this was the only route available for them to access royal grace. The petition presented by Robert de Vere, sixth earl of Oxford, is a case in point.[56] De Vere had evidently sided with Thomas of Lancaster in the failed coup of 1322, though in his petition he was at pains to point out that he had not actually taken up arms against the king—he had merely 'taken the robes' of Lancaster. De Vere was not a major political figure and the relatively innocuous nature of his offence probably induced the king to be generous in allowing the earl's forfeited lands in Northamptonshire to be restored to him, in line with what the petition had requested.

The problem with this analysis is that it suggests that only those nobles who did not enjoy political favour made use of the parliamentary petition.[57] This overlooks the fact that there are many dozens of parliamentary petitions in TNA SC 8 from nobles who occupied a position at the very centre of the political stage. This includes a handful of petitions from the closest members of the king's family.[58] To understand why these petitions were presented it is important to recognize that a nobleman's position at the very apex of the political hierarchy did not necessarily mean that he could automatically circumvent formal bureaucratic processes in order to have the king act on his behalf. Sometimes, even for a nobleman, a request put in writing could be a

[56] SC 8/81/4004 (1322).

[57] This is directly stated in Carpenter, *Wars of the Roses*, p. 37 ('when this informal process of request and response ceased to operate . . . [i]t was then through parliament alone that both nobility and gentry could make their complaints to the king').

[58] See, for example, the petition of Edward II's mother, Margaret of France, in 1315 against the terms of a royal charter recently granted to the citizens of Hereford which denied her revenue from the amercements, issues, and other profits from the city: SC 8/2/69.

more effective and helpful means to securing redress than one that was made orally.[59] This can be seen particularly in cases where petitions formed the basis of writs or were themselves turned into documents authorizing action elsewhere in government. We might imagine, for example, that a written supplication was by far the most effective way for Edmund Fitzalan, earl of Arundel, to have his wish for two separate writs communicated to the relevant king's officers in 1307.[60] We should not assume that a parliamentary petition was the most cumbersome way of initiating action in government. A petition presented in parliament, which was endorsed by the king and then immediately sent into chancery or the exchequer for action, was probably just as efficient in activating government as a request that was made less formally in the royal court, especially if the court was residing in the localities at some distance from the main administrative departments. Such consideration probably lay behind the two petitions of John de Warenne, earl of Surrey, presented, respectively, in *c*.1320 and *c*.1330: in the first he asked to have the treasurer and barons of the exchequer ascertain the extent and nature of the debt owed by the earl to the Crown;[61] and in the other, he asked to have the chancellor assign him lands as compensation for the loss of income from the wardship of John Bardolf.[62] Most nobles attended parliament anyway so this was as good a time as any to set the wheels of government in motion on their own behalf.

A large proportion of the petitions submitted by nobles related to decisions taken by the king or processes undertaken by the king's ministers that could not be resolved by the king making a spur of the moment decision, especially if a dispute over royal rights formed the subject of complaint. Often such cases required careful examination of government records to establish the truth of the matter raised by the petition. In this regard, it should be remembered that many of the issues brought to the king's attention by noblemen had nothing to do with the king bestowing royal favour or handing out grants of royal patronage: they were queries about the workings or malfunctioning of late medieval government. Arguably, parliament, with its concentration of the main departments of state, was a much more appropriate forum in which to

[59] I develop this point further in my discussion 'Patronage, Petitions and Grace: The "Chamberlains Bills" of Henry IV's Reign', in G. Dodd and D. Biggs (eds.), *The Reign of Henry IV: Rebellion and Survival, 1403–1413* (Boydell and Brewer, forthcoming).

[60] SC 8 31/1507. [61] SC 8/87/4349. [62] SC 8/78/3863.

raise such issues than the king's chamber. In 1377, for example, Edmund Mortimer, earl of March, complained that the tenants of villages which lay within his franchise had been distrained by king's bench to make contributions towards the costs of building a bridge at Huntingdon.[63] This was a complaint that required the terms of the earl's franchise to be checked and verified; the petition was accordingly sent to chancery for investigation, while the process itself, against the earl's tenants, was put into suspension. Similarly John de Vere, earl of Oxford, petitioned in 1331 to be reinstated as the king's chief chamberlain (his grandfather had been removed from the office by Henry III).[64] The response to the petition ordained that the remembrances of the exchequer were to be searched to establish the veracity of de Vere's claim. Like everyone else, the interests of nobles could be frustrated by the obstinacy of royal ministers failing to implement due process; and, like other petitioners, the immediacy of the relief which parliament could bring was a powerful incentive for noblemen to petition in the assembly. Such was the case in the late 1340s for Humphrey de Bohun, earl of Hereford and Essex, who had secured a judgement in his favour from the chancellor and royal justices (in relation to his claim to the castle of Builth), but had still not received anything because 'the justices and others did not wish to do anything'.[65] By bringing all the king's ministers together, in the presence of the king, parliament offered an excellent opportunity for noblemen, as for everyone else, to have royal officials account for their actions.

There was more to petitioning in parliament, however, than simply the practical advantages of having requests written out and presented at the very heart of government. If these had been the only considerations, presenting petitions to the king and his council (whose membership included the chancellor, treasurer, and keeper of the privy seal) outside periods when parliament was in session would probably have been a more straightforward route for a nobleman to take (as many undoubtedly did).[66] But parliament had special qualities that could often make it the preferred forum for noble complaint. One was the 'public' nature of the business which it transacted: petitions expedited in parliament were

[63] SC 8/20/982. [64] SC 8/16/754.

[65] SC 8/34/1694 (1345–7). The case was brought before the Great Council for settlement.

[66] See my discussion in G. Dodd, 'Henry IV's Council,1399–1405', in G. Dodd and D. Biggs (eds.), *Henry IV: The Establishment of the Regime, 1399–1406* (Woodbridge, 2003), pp. 95–115.

much more open to scrutiny than petitions—or oral requests—made in other contexts. This was particularly the case towards the end of the fourteenth century when, as we have seen, the substitution of the term 'council' for 'Lords' suggested a much more inclusive involvement of the peerage in the petitionary process.[67] Previous discussion has suggested that the onset of minority rule under Richard II created the need to make parliamentary processes more consensual and more accountable; by the same token, it is possible that similar considerations induced the nobility to turn to parliament more readily for the resolution of their individual grievances. It is noticeable that in the 1370s the number of petitions from noblemen and women appears to increase markedly, and there is a similar surge during the minority years of Henry VI's reign. This may point to a contemporary perception that parliament was the best substitution for an ineffective king when it came to approving and legitimizing grants and other forms of special dispensation which normally required the exercise of royal grace. So, when there were petitions presented in the late 1370s by John of Gaunt, duke of Lancaster, asking to have his claims and liberties in Halton recognized by the king's justice of Chester; from Thomas Beaufort in 1425, disputing charges levied on land entrusted to him as wardship by Henry V; and from John, duke of Bedford in 1426, asking to have a lieutenant appointed in his place to keep Berwick Castle, these petitions were not presented out of political weakness, but from a necessity to expose the workings of (minority) government to public view.[68]

The second factor was rather more consistent in attracting noble petitioners to parliament. This was the assembly's growing status as a forum specifically for the political elite to bring their complaints and requests. Whereas in the late thirteenth and early fourteenth centuries, the social profile of petitioners could vary considerably, and often included men and women of very modest means, by the fifteenth century a much greater proportion of petitioners comprised members of the wealthy and powerful landowning and religious elites. In part, this was a consequence of the growth in the scope of the common law and the emergence of alternative outlets for prerogative justice, such as chancery and council, which diverted many lower status petitioners away from parliament. But it was also indicative of a growing sense of corporate identity amongst the noble classes,

[67] See Ch. 6, pp. 163–6.
[68] SC 8/103/5101 (*c*.1377); 24/1190 (1425); *PROME*, parliament of 1426, item 19.

and a sense in which parliament was coming to be seen as the most appropriate forum for the resolution of intractable aristocratic problems or complaints. Parliament had always been a venue in which the Crown offered arbitration between warring parties, but from the late fourteenth century onwards the nature of this arbitration shifted so that the political community as a whole, rather than just the king and his closest advisers on their own, began to act as the arbiters in such cases.[69] It was at this time that parliament acquired the tab 'high court of the realm'—a phrase which reflected not only the superior jurisdiction that parliament possessed, but also the fact that the membership of this court comprised the political and legal elite of the kingdom.[70] The appearance of this new terminology was not a coincidence: it reflected an important shift in emphasis from an institution that had appealed to a broad swathe of the population and which had handled petitions predominantly in an administrative capacity, to an institution that came to be dominated by high-profile petitioners who required parliament to act much more explicitly and exclusively as a special court in its own right.

7.3 THE CONTENT OF THE PETITIONS

Enough has been said in the previous section to suggest that the nature of the complaints and requests submitted to parliament changed quite considerably over the two-hundred-year period covered by this book. In this section, the nature and extent of this change is examined in more detail; but by way of preliminaries it is worth outlining the principles that determined what could, and what could not, be sent into parliament for redress. These ground-rules were first elucidated in the pioneering work of Maitland and then expounded in more detail by Ehrlich. Between them, Maitland and Ehrlich identified two main categories of petition: firstly, there were petitions for justice, for legal relief either in cases in which the king was directly concerned or cases in which one party wanted justice against a private opponent; and

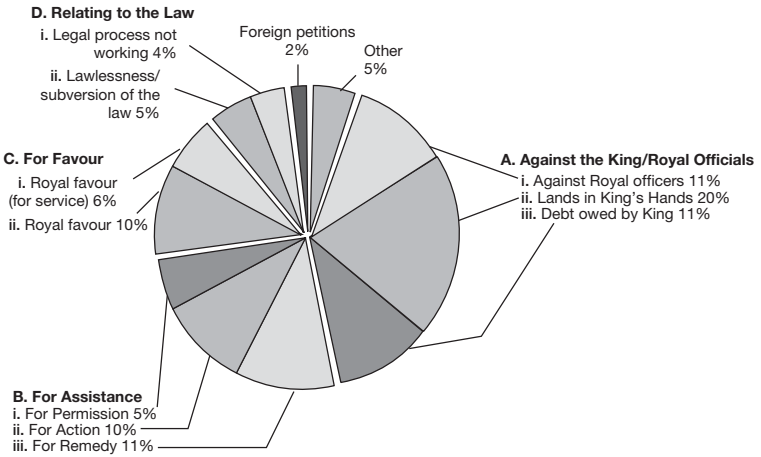
[69] C. Rawcliffe, 'Parliament and the Settlement of Disputes by Arbitration in the Late Middle Ages', *Parliamentary History* 9 (1990), 316–42. Rawcliffe details a number of cases brought before parliament for arbitration before the Lords and Commons.

[70] A penetrating discussion of the phrase 'high court of the realm' is provided by S. B. Chrimes, *English Constitutional Ideas in the Fifteenth Century* (Cambridge, 1936), pp. 70–6.

secondly, there were petitions for favour to be granted by the king.[71] From a jurisdictional point of view, parliament's basic function for Englishmen and women was not so much to act as a court of appeal, in which overturning or reviewing judgements made in lower courts formed the stock and trade of the business to which it attended,[72] as it was to provide a 'safety net' for any cases which could not be tried via conventional legal processes. Most commonly, this meant that a petition raised a concern either which was not covered within the general body of common-law procedure or which the petitioner could not have resolved in the king's ordinary courts because of procedural delays or because the petitioner's opponent was subverting the normal legal channels. Petitions for 'favour' can be defined, in basic terms, as requests (rather than complaints) that required the king to give something away, such as a grant, pardon, or a licence. Petitions for favour have sometimes been equated with petitions of 'grace'. This is understandable but not strictly accurate, for many other types of petition resulted in the conferment of royal grace. Grace was not an attribute determined by the type or nature of a petition, but by the form of the response which the petition elicited; that is to say, whether the petition had come before the king and had been dispatched as a result of the exercise of the royal will. As we shall see, grace was an attribute that had as much relevance to petitions asking for justice as it did for petitions asking the king for grants of royal patronage.

[71] F. W. Maitland, 'Introduction' to *Memoranda de Parliamento* (London, 1893), pp. lxvii–lxviii; L. Ehrlich, 'Proceedings against the Crown (1216–1377)', in P. Vinogradoff (ed.), *Oxford Studies in Social and Legal History* (Oxford, 1921), pp. 96–7 (including n. 6 on p. 97).

[72] See above, Ch. 2, pp. 40–1. Only occasionally does this seem to have occurred. For examples of petitions alleging an error of judgment in king's bench, see *PROME*, Edward I, Roll 1, item 61 (41); parliament of 1315, items 208 (170). If, in practice, parliament's appellate jurisdiction was infrequently called upon, the principle which underlay this authority was widely accepted and acknowledged. This was demonstrated in a petition presented by Henry Despenser, bishop of Norwich, in 1376, in which the royal justices asserted that 'by sheer necessity by the law of England such error made in the common bench [as alleged by the bishop in his petition] should be amended in the king's bench . . . But if it should happen that an error is made in the king's bench, then it should be amended in parliament': *PROME*, parliament of 1376, item 48. See also discussion in Baldwin, *King's Council*, pp. 337–8. In practice, the flow of petitionary business was almost certainly far heavier from parliament to king's bench (where the king's justices were required to act on decisions taken in parliament) than vice versa. For references, see G. O. Sayles, *The Functions of the Medieval Parliament of England* (London, 1988), p. 206 n. 2. The appendices provided in *PROME*, for parliament rolls dating to Edward I's reign, contain numerous references to the enrolled proceedings of king's bench which had initially been prompted by petitions presented in parliament.



11. Breakdown of Petition Content—Parliament of February 1324 (total number of petitions 155)

The division of types of petition presented in parliament into two basic categories—justice and favour—is a useful starting point to analyse the business which parliament dealt with; but there is scope for further refinement. This is shown in Figure 11, which provides a more nuanced breakdown of the categories of request to have been presented in the parliament of February 1324.[73] Each of these categories has been consolidated into four principal groups. The largest of these groups—Group A—is defined as complaints against the actions of the king or his officials. The petitions in this group constitute 42% of *all* the issues raised in this parliament. Given that the initial declared purpose of petitioning in parliament was to bring to account recalcitrant royal officials, it is important to note that this specific category of complaint (Ai) accounted for only a quarter of the complaints in Group A, and just 11% of all the petitions to have been presented altogether in 1324. This is not a diminutive proportion, but it does demonstrate how much greater the remit of parliament was beyond the immediate purpose assigned to it by the Crown in the late thirteenth

[73] This survey draws on the transcriptions made by Sir Francis Palgrave of the petitions contained in the files compiled for this assembly: see TNA/PRO 31/7/98 and 99.

century.[74] The local royal officers who were the subject of complaint included a sheriff, who was accused of putting insufficient men on local juries;[75] justices of the forest (one petition complained that a justice had wasted money which should have been spent on defence against the Welsh; another, that a local justice of the forest had incorrectly included the petitioner's property within the forest boundary; and another, that a justice was disturbing the petitioner's rights to lands that lay outside the forest boundary);[76] a king's bailiff (for taking the petitioner's horse on questionable authority);[77] a king's avener (for taking oats and hay without payment);[78] and, finally, the 'officers of the king and queen' who were paying tin miners in other ways besides the 'coin of London'.[79]

Closely linked to this category in Group A, because of the central role of the king's escheator, were the petitions asking for restitution of lands which were in the king's hands (Aii). This type of complaint was probably more prevalent in 1324 than at other times because a considerable amount of land had recently passed into the Crown's hands as a result of the downfall of Thomas of Lancaster and his allies in 1322. It was fairly typical in such cases for the complainant to claim original possession of lands now in royal control.[80] Take, for example, the request of William Haym. He petitioned in parliament to have lands restored which had lawfully descended to him, but were now in the king's possession having been forfeited by John Withington, who had presumably (though it is not stated) held them from Haym in trust or on lease.[81] A slightly different scenario is presented by the petition of Elizabeth de Brianceoun, who appealed to have the wardship and marriage of her son, through her first marriage to Sir John Brianceoun, restored to her and her husband, Sir John Joce: the rights had been forfeited on the claim that Joce was an adherent of Bartholomew de Badlesmere.[82] In this case, the petitioner was unsuccessful: the Crown reasserted that Joce had been a rebel against the lord king and Elizabeth was therefore to receive nothing. There were other more ordinary 'run of the mill' petitions asking for the restoration of lands: Joan Heveningham, for instance, asked to have her dower in

[74] See Ch. 2, pp. 29, 32–3. [75] SC 8/152/7592.
[76] SC 8/127/6350, 117/5808, 112/5600. [77] SC 8/133/6638.
[78] SC 8/112/5571. [79] SC 8/103/5129.
[80] The representatives presented a general complaint in the parliament of November 1325 in which they asked to have 'issue of law' on lands forfeited into the king's hands which really belonged to innocent parties: SC 8/8/392 (1325).
[81] SC 8/117/5817. [82] SC 8/95/4736.

lands which had been wrongfully (as she alleged) taken into the king's hands because her late husband's son and heir was underage (the Crown stood by the action because it asserted that the lands had been acquired after Joan's marriage);[83] Roger Grey asked the king to 'remove his hand' from tenements which had been seized by the Crown even though they were not held in chief of the king;[84] and Thomas Bardolf asked for the return of lands which had been taken into the king's hands from Robert Lewer, who had forcefully seized them from the petitioner's mother.[85]

A third area that stimulated large numbers of petitions was cases of royal debt (Aiii). Some of the debts petitioned about in 1324 stretched all the way back to the beginning of the reign. These included the request made by Andrew Grimstead, Robert Knoyle, and Robert Lavington for a writ to the treasurer to have payments for the canvas and wax bought from them for the coronation;[86] a petition from Roger Prior, poulterer of London, asking for payment of £3 7*s*. 8*d*. owed to him for poultry received by the king when he was still a prince (the petitioner had thirty-three tallies to show for this payment);[87] and a petition from Adam Kingston, asking for payment for fish supplied to the king in his second regnal year.[88] The petitions of Prior and Kingston were typical of other requests made in 1324 for the restitution of royal debts incurred in the course of victualling the royal household.[89] It is difficult to know how to interpret these complaints, particularly those which referred to debts only recently incurred by the Crown. The responses given to the requests, which appear to be very reasonable and constructive (directing the petitioners to the treasurer and barons of the exchequer to have payment if their claims were true), could be seen as a sign that the programme of exchequer reform undertaken in the 1320s was making a very real difference to the Crown's ability to honour its obligations;[90] but by the same token, the fact that the petitions were presented in

[83] SC 8/117/5809. The Crown's response was based on the premise that a widow's dower was to be calculated on the basis of the lands held on the day of her marriage: see J. S. Loengard, '"Of the Gift of Her Husband": English Dower and Its Consequences in the Year 1200', in J. Kirshner and S. F. Wemple (eds.), *Women of the Medieval World: Essays in Honour of John H. Mundy* (London and New York, 1985), pp. 215–37, esp. pp. 218–20 and n. 7; and Walker, 'Litigation as Personal Quest', pp. 92–3.

[84] SC 8/112/5597. [85] SC 8/95/4735. [86] SC 8/112/5594.

[87] SC 8/67/3336. [88] SC 8/120/5958.

[89] For example, SC 8/95/4716; 133/6635; 150/7475.

[90] N. M. Fryde, *The Tyranny and Fall of Edward II, 1321–1326* (Cambridge, 1979), pp. 90–105; G. L. Harriss, *King, Parliament and Public Finance in Medieval England to 1369* (Oxford, 1975), pp. 216–28; M. C. Buck, 'The Reform of the Exchequer, 1316–1326', *EHR* 98 (1983), 241–60.

the first place could indicate that the plight of individual creditors was as bleak as it had ever been and that any person who chose to victual the king and court, even in the 1320s, still ran a very real risk that repayment would not be forthcoming.[91]

Petitions of debt, along with the petitions against royal officers and the petitions asking for the restitution of lands in royal hands, were in essence complaints against the Crown. They highlight the crucial role which parliament played in providing the king's subjects with the opportunity to hold the king and his local officials to account. They also provide a fine illustration of the principle articulated most famously by Henry Bracton, that the king was subject both to God and to the law.[92] It is true that other possibilities existed for litigants to bring cases against royal ministers (in the thirteenth century, for instance, there was the general eyre and in the first half of the fourteenth century, the itinerant king's bench); but in cases that directly concerned the Crown, or decisions taken by the Crown, parliament filled a vital niche in the legal structure, especially in the late thirteenth and early fourteenth centuries.[93] This was a point noted by the author of the *Mirror of Justices* (*c*.1285–90), who stated that 'it was agreed as law that the king should have companions to hear and determine in the parliaments all the writs and plaints concerning wrongs done by the king'.[94] The importance of parliament in this respect was partly a consequence of the general principle which held that whatever touched the king must be determined by him: since one of parliament's unique and special attributes was the assured presence of the king in its sessions, this made the assembly ideally and uniquely suited to dealing with cases that directly concerned the king's interests. But there were other more pragmatic considerations, for whereas cases brought against royal officials who had committed an offence could be proceeded upon by suit of writ, no such process could be initiated against an officer who

[91] It may be significant in this respect that throughout the winter months of 1322–3 Edward II expressly forbade payments to be issued by the exchequer unless they had been specifically allowed by the king: Harriss, *King, Parliament and Public Finance*, p. 221.

[92] *Bracton on the Laws and Customs of England*, ed. S. Thorne, 4 vols. (Cambridge, MA, 1968–77), ii. 33.

[93] The best and fullest discussion of this theme is still Ehrlich, 'Proceedings against the Crown', pp. 12–28.

[94] *The Mirror of Justices*, ed. W. J. Whittaker, Selden Society, 7 (London, 1895), p. 7. For discussion, see D. J. Seipp, 'The Mirror of Justices', in J. A. Bush and A. Wijffels (eds.), *Learning the Law: Teaching and the Transmission of Law in England, 1150–1900* (London, 1999), pp. 84–112, esp. pp. 98–101.

had acted according to the dictate of the Crown—the king could not issue a writ against himself.[95] The petition thus provided a much needed way around this difficult procedural limitation; and parliament, at least until the mid-fourteenth century, was the principal context in which this appears to have been done.

The petitions which have been classified as belonging to Group B—petitions asking for royal permission, for government action, and for remedy—need only receive brief consideration. Each of these categories greatly differs from the petitions discussed in Group A because they were appeals for the Crown's assistance rather than complaints against royal action. In general, Group B petitions raised local predicaments which necessitated the intervention of the Crown. Petitioners asking for the king's permission (Bi) did so usually in the context of the transfer of land or rights where the Crown was an interested party. Thus, the abbot of Chertsey petitioned for permission to appoint coroners in the hundred of Godley (Surrey) in order that he might have the right to hear the confessions of thieves in Godley gaol;[96] John Boutetourt and his wife asked for permission to give the advowson of the church of Belchamp Otten (Essex) to the abbess of Marham;[97] and Ralph de Dacre and his wife sought a licence to enfeoff various named individuals of their lands in Cumberland (pointing out that an inquisition had already established that this would not prejudice the king's rights).[98] The second category in Group B—petitions for action (Bii)—were cases where the petitioner had identified exactly what form of action they wished the Crown to take on their behalf. Examples include requests for writs (e.g. the petition of John de Harington and John de Boyvill, who asked for a writ to be sent to the steward of Leicester ordering him to desist from making demands

[95] See F. Pollock and F. W. Maitland, *The History of English Law before the Time of Edward I*, 2nd edn (1898; repr. Cambridge, 1968), pp. 515–18; Ehrlich, 'Proceedings against the Crown', pp. 83–4. Only very rarely was this important point made, presumably because it was so obvious. One such example was a petition presented at the start of Edward I's reign (?1278) in which the supplicant complained at not being able to recover her dower 'since [the petitioner] cannot implead our lord the king by writ': *PROME*, Edward I, Petition 1, item 35 (31).

[96] SC 8/103/5123.

[97] SC 8/95/4715. This request fits into the category of petition prompted by the Statute of Mortmain of 1279, which laid down that no lands or tenements could be transferred to the Church without special licence of the king. In 1292, it was specified that a licence should be obtained (by recipient or donor) by presenting a petition in parliament; see S. Raban, *Mortmain Legislation and the English Church 1279–1500* (Cambridge, 1982), pp. 39–41.

[98] SC 8/108/5362.

for services upon them);[99] inquests (e.g. the petition of John Hastings, Lord of Abergavenny, who asked to have an inquest reissued to examine the arrears of rent due to Hastings from lands in Gringley (Notts.));[100] and enquiries (e.g. the petition of Matilda and Simon Furness, who requested an enquiry into a sum spent by Matilda's husband on victuals for Carlisle—the victuals had been lost at sea and the petitioners wished to have an allowance).[101] Finally, in Group B, there were more general requests for remedy (Biii); that is to say, cases for which no obvious solution presented itself to the petitioner who therefore presented himself to the king in the hope that remedy would be forthcoming. This category covers a wide variety of issues. Examples include the petition of Richard Lok of Bray (Berks.), who complained about mariners who were denying him customs duties by claiming that their ships belonged to the king;[102] the petition of the abbot of Lyre (Normandy) who sought the king's intervention in a case which had been brought against the dean of Wimborne (Dorset), who was accused of withholding payment of a fee and evading justice in the matter because of his close ties to the Crown;[103] and the petition of John Waldeshof, who asked to have remedy for the injustice he had suffered as a result of having his franchise withdrawn and being forced into exile for maintaining a suit relating to the holding of markets in Cornhill (London).[104]

Group C petitions are classified as requests for royal favour. These have been divided into just two subcategories: petitions which asked for the king's grace on the basis of a service rendered (mainly of a military nature)—Ci; and straightforward appeals to the king's benevolence—Cii. A good illustration of the first type is the petition of Luke Barry, a former servant of Edward I's household, who claimed to have been put to ransom twice by the Scots under Edward I and once under Edward II after the battle of Bannockburn, and was now destitute and in need of assistance from the king.[105] Barry was instructed to sue his case before the steward, keeper of the wardrobe, and king's confessor. A representative sample of the petitions calling in more general terms upon the king's mercy (i.e. Cii) included a plea of Juliana le Convers, for the king to remember his promise to have her children financially supported by the House of Converts in London;[106] the request of William Exeter for a charter granting him the office of beadle

[99] SC 8/117/5810. [100] SC 8/117/5818. [101] SC 8/112/5576.
[102] SC 8/89/4436. [103] SC 8/123/6109. [104] SC 8/152/7590.
[105] SC 8/95/4730. [106] SC 8/103/5120.

for term of life;[107] and a request from William Orlanston to have a pardon.[108] Most of these petitions sought to access, in one way or another, the large reserve of patronage which lay at the disposal of the king. Significantly, such requests represented only a small proportion of all the petitions to be presented in parliament. This almost certainly reflected the fact that parliament, even in the 'heyday' of petitioning, was not the primary or most obvious route for the distribution of the king's largesse.[109] It is interesting to note, in this respect, that most of the petitioners in group Cii were of relatively humble social status: an old war veteran; an impoverished widow; a minor local office holder; and an obscure criminal. If these individuals were typical of the petitioners who used parliament to access royal patronage, it suggests that parliament performed this role predominantly for those suitors who may not have had the influence or connections to pursue their interests directly with the king at court.

The last collection of petitions—Group D—comprised cases that related to the shortcomings or failure of the law. A good example of the legal process not working was another petition presented by William Exeter, who asked to have the king's assistance in expediting a case in the common bench which had been pending since the eyre of London (1321).[110] A typical petition complaining about the subversion of the law was presented by Amice Fitz Simon, who claimed that Simon Fitz Richard had wrongfully brought an assize of novel disseisin against her, and had succeeded in obtaining the manor of Great Dunmow, because of the maintenance of Humphrey de Bohun, earl of Hereford.[111] The relatively small number of cases relating to the subversion of law (just 5%) deserves particular comment, for we can be sure that this rather diminutive figure disguises the true extent to which law and order had broken down in the 1320s. The small number of petitions presented in the parliament of 1324, which complained about the subversion of the legal process, was undoubtedly a symptom of the fear that gripped political society at this point as a result of the malignant influence of Edward II's favourites, the younger and elder Despensers.[112] This was a

[107] SC 8/108/5393.

[108] SC 8/133/6622. There is no record that such a pardon was issued.

[109] As discussed in my forthcoming discussion of TNA series E 28 (the so-called 'chamberlain's bills') in 'Patronage, Petitions and Grace'.

[110] SC 8/108/5391.

[111] SC 8/123/6115 (1320–22).

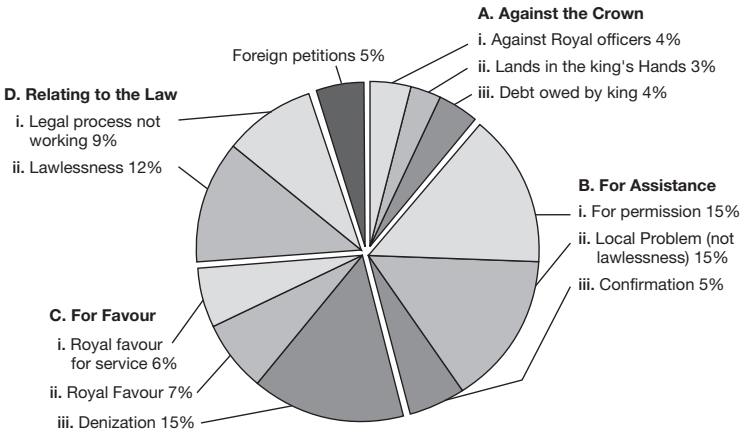
[112] Fryde, *Tyranny and Fall of Edward II*, pp. 106–18; R. M. Haines, *King Edward II* (Montreal and London, 2003), pp. 157–64.

period when the subversion of the law was at one of its highest points, but the control exercised by the Despensers on the political and legal process made petitioning in parliament against them not only a futile, but also an extremely dangerous, exercise. The situation was neatly summed up by the monk of Bridlington who wrote at the time that Edward II was prevented from hearing complaints or from doing justice because of the invidious influence of the Despensers.[113] If a similar breakdown of categories of parliamentary complaint was made of the parliament of 1327, the first assembly to meet after the deposition of Edward II and the downfall of the Despensers, one would undoubtedly find that a significant proportion of the petitions submitted in this assembly related to the subversion and infringement of the law.[114] This is a good example to show the way in which current political circumstances could significantly alter the nature and volume of complaint that flowed into parliament.

Over a hundred years later, in the early 1430s, some of the underlying characteristics of private petitioning evident in the early fourteenth century remained, but there were some significant changes. Figure 12 presents a breakdown of the subject-matter of private petitions presented between 1430 and 1435. A span of five years has been chosen for this second survey (a period in which four parliaments met) in order to produce a volume of petitions that is comparable to the number of petitions presented in 1324. The four basic groups of petitions remain in place, but the share of the business which they account for has shifted quite dramatically, particularly in Group A. Cases of complaint brought against the Crown now only account for 11% of the cases brought into parliament—roughly a quarter of the proportion seen in 1324. The petitions which complained about the unfair seizure of the supplicant's lands into royal hands (Aii) represented a much smaller proportion than had been the case in 1324, no doubt because of the more stable political circumstances which pertained in the later period. The great reduction in the number of complaints against royal officers (Ai) and unpaid debts (Aiii) is also striking and hints, broadly, at an improved quality of royal government and, specifically, at a closer supervision of

[113] *Bridlington* in *Chronicles of the Reigns of Edward I and Edward II*, ed. W. Stubbs, 2 vols. (Rolls Series, London, 1882–3), ii. pp. 68–9.

[114] On the great outpouring of complaint against the Despensers after their demise I have benefited from an unpublished paper given by Dr Simon Harris at the International Medieval Congress at Leeds in 2004, entitled 'Getting Your Own Back: Petitioning in the Last Years of Edward II'.



12. Breakdown of Petition Content—1430–5 (sample of 107 petitions taken from SC 8 1–7768)

royal agents in the localities. Even allowing for some distortion of the figures in 1324, because of the political upheaval of the time, the contrast in the number of petitions to have been presented against the Crown, between the early fourteenth and the early fifteenth centuries, is such as to suggest an important shift in the function of petitioning at parliament. By the fifteenth century, it is clear that parliament had almost totally ceased to act as a venue for the king's subjects to instigate proceedings against the king and his ministers. Parliament was now used almost wholly as a means for facilitating processes in government or for resolving disputes with third parties or problems in the localities. The Group B petitions of the 1430s raised issues similar to those of the petitions of 1324 and need not be examined in detail. An additional category of petition has been included to cover a small number of requests which asked for the confirmation of rights, liberties, or licences. Category C petitions again need not delay us, except to highlight another new category: petitions asking for denization. This type of request had its origins in the statute of 1351 which first laid out requirements for English naturalization.[115] Parliament's continued role in defining the qualification for English nationality made it the

[115] *Stats. of Realm*, i. 310.

obvious and natural forum for petitioners wishing to secure letters patent and there seems to have been a particular flurry of activity in this regard during the first half of Henry VI's reign.[116] The matters raised by the petitions in Group D again adhere very closely to the sorts of issues raised in 1324. Interestingly, in the fifteenth-century petitions there is a striking contrast between the status of many of the individuals who petitioned in the two categories: whereas no nobles made any complaint about lawlessness (Dii), four of the petitions raising legal difficulties (Di) were presented by men of this status;[117] whereas no widows presented petitions relating to legal difficulties, at least five of the petitions asking for justice against persecution and intimidation were from widows.[118]

In sum, the analysis of the cases brought before parliament suggests that parliament was developing a more specialized role as time progressed across the fourteenth and fifteenth centuries. In the early period parliament attracted a remarkable range of different types of request, much of it relating to matters which required the king's specific input for resolution. By the later period, a greater concentration of legal cases came into parliament and, correspondingly, fewer petitions required the specific intervention of the king. The shift was indicative of the expanded capacity of royal government to handle cases outside a parliamentary context, but it was also symptomatic of the changing nature of parliament, as its role in discharging a special 'superior' jurisdiction came increasingly to the fore. Petitioners presented their requests in parliament because parliament still had something special to offer; but the qualities and attraction which parliament held in the fifteenth century were quite different to those it offered in the early fourteenth century. Just as this was reflected in the higher status of petitioners resorting to parliament in the fifteenth century, compared to the early fourteenth century, so too the increasing specialism of parliament was reflected in the fact that much of the more mundane and relative triviality of the subject-matter which came before parliament in the early period had disappeared by the fifteenth century. The petition of Ralph Sechevill in 1293, in which he complained that John Crassewall had threshed

[116] See A. Beardwood, 'Mercantile Antecedents of the English Naturalization Laws', *Medievalia et Humanistica* 16 (1964), 64–76, esp. pp. 67–8 and 72–3.

[117] SC 8/26/1260, 1278, 1280, 1295.

[118] SC 8/25/1243, 1246; 26/1259; 39/1946; 47/2331.

his corn in his grange and took it and some pigs and bacon for his own use,[119] was not an unusual complaint to come before parliament in the late thirteenth and early fourteenth centuries; in the fifteenth century, a complaint of similar standing would have been quite out of place.

7.4 THE KING'S GRACE

To what extent should we equate the function which parliament served in dispatching private petitions with the exercise of royal grace? The evidence from Figures 11 and 12 suggest different conclusions. In the early fourteenth century, petitioners submitted their complaints in the hope that their grievances would receive the personal attention of the king; but in the majority of cases, as we have seen in previous chapters, these grievances were deferred into other contexts. In practice, the committees of triers handled more petitions than came before the king.[120] Thus, if we define royal grace as an attribute that only the king, in person, could dispense, then more petitions were dispatched in parliament without accessing royal grace than those that did. But even the petitions which came before the king should not necessarily be assumed to have been dispatched strictly through the exercise of royal grace. By its very nature, an act of grace carried no obligation: it was a decision taken voluntarily and out of the king's special regard for his subjects. But not all the cases that came before the king drew so obviously on his reserve of humility and magnanimity. When petitioners came to parliament complaining that the Crown owed them money or held lands that ought really to be in their possession, and when these complaints were sent to the king and were provided with resolutions, the king's response to these cases was not a matter of his exercising his conscience, but of conforming to the principles of positive or natural law.[121] The king addressed these complaints because, legally and morally, he was

[119] SC 8/143/7107.

[120] Interestingly, in 1324, there was no obvious pattern between the types of complaint/request and the route they took in parliament: there are examples in every category represented in Figure 11 that appear either to have been passed onto the king for his personal consideration or dispatched directly by the triers. This can be discerned by the presence, or absence, of the annotation *coram rege* on the dorse of the petitions, indicating whether it had been sent into the presence of the king.

[121] F. Kern, *Kingship and Law in the Middle Ages* (Oxford, 1939), pp. 70–9.

obliged to do so. Thus, the petition of Agnes Bole in 1324 which asked for the payment of a debt of £4 10*s*. for meat bought for the king's use was sent before the king (the petition was endorsed *coram rege*) where it was answered that the treasurer and barons were to seek out evidence for the debt and then do 'what is reasonable': here, the king was not exercising the royal prerogative, but was ensuring that due process was followed and that the Crown fulfilled its obligation to adhere to the legal code.[122]

There was thus a large body of complaint which reached parliament that was neither determinable at common law nor required the exercise of the king's grace: these were cases that obliged the Crown to recognize its position as a defaulting legal party. Erhlich provides a useful example to demonstrate where the boundary between legal obligation and royal grace could lie.[123] In 1328, Maventus Fraunceys petitioned parliament for compensation against the loss of a ship carrying victuals to Newcastle for the king's use. Eventually, in 1330, the exchequer found against Fraunceys (arguing that the Crown was not responsible for the supplies until they had reached Newcastle) and ordained that the compensation should not be paid, unless the king wished to do so *as a matter of grace*. The implication was that, technically speaking, grace was exercised only when the king was under no obligation to provide a remedy, and when the remedy itself was not subject to the diktat of any legal code or administrative procedure. A broader survey of the contexts in which the king's grace was referred to in the responses given to petitions provides striking confirmation of this supposition. It suggests that, at least from the point of view of the Crown, there was a surprisingly clear understanding of when the king's grace could, and by implication should not, be invoked when petitions were dispatched. Take, for example, the first part of a petition presented by Michael de Harcla in 1305, where he asked the Crown to make allowance for the arrears of his account from the time when he had been sheriff of Cumberland.[124] He claimed not to be able to raise the necessary funds because of the destruction to the county caused by the Scots at the time when he held office. Harcla may have had legitimate reasons to claim dispensation, but he also had a clear obligation to pay the debt, and was therefore entirely dependent on the goodwill of the king to have his circumstances taken into account and have the debt written off. The Crown's response to this first request

[122] SC 8/95/4714.
[123] Ehrlich, 'Proceedings against the Crown', pp. 121–2.
[124] SC 8/9/430.

was therefore framed in terms of the bestowal of royal grace: 'he is to have grace, by a writ of chancery addressed to the treasurer and barons of the exchequer'. Interestingly, Harcla submitted a second request immediately following the first in which he asked to be repaid £38 which was the value of the wool taken from him by the king's purveyor, Henry de Meynvill. This request very clearly drew on the king's sense of fair play and justice, and accordingly the response avoided using the term grace and instead ordained that Harcla was 'to have an allowance in his arrears'.

In the mid-1390s, the tenants of the duke of Gloucester asked the king for a writ of supersedeas to the sheriff of Essex to stay proceedings on all writs sued against them by Thomas Hardying, since they claimed that he had already accrued more than the damages done to him by the petitioners during the Peasants' Revolt of 1381.[125] Again, we can see that the petitioners had no reason automatically to expect redress in this case, and the king himself had no clear obligation to intervene in the petitioners' plight, and so the request was granted as a matter of the king's 'special grace'. The link between grace and mercy is even more clearly demonstrated in the petition of a group of convicted criminals from Ireland who asked in 1404 to have their possessions and lands restored to them.[126] This was entirely a matter for the king's discretion: the petitioners gave no reason why this favour should be shown to them, and there was no hint that they considered themselves to have been wrongly convicted. Their plea was a plea for clemency rather than justice, and almost certainly for this reason the petition was said to have been granted by the king's special grace. Finally, and perhaps most straightforwardly, grace was invoked by the Crown in straightforward requests for favour: such was the case with the pavage granted to the people of Shropshire and Cheshire in 1322,[127] and in the request of Henry Burghersh, bishop of Lincoln, to have the duration of fairs in Banbury and Newark extended.[128] It is important to stress that these mentions of 'grace' were only intermittent: the Crown did not, as a matter of course, invoke royal grace in all cases where it evidently applied. But there is a consistency to the type of petition where such references were made. In general, the Crown invoked royal grace in cases which either required the king to overrule or circumvent normal legal procedure (most obviously where pardons were sought), or where

[125] SC 8/21/1031. [126] SC 8/29/1415. [127] SC 8/5/240.
[128] SC 8/18/877 (1327).

the king, out of generosity rather than legal obligation, decided to help a petitioner. It is also worth stressing that grace was invoked—by the Crown—only in decisions that had been taken by, or at least involved, the king.[129]

But to define royal grace in such precise terms runs the risk of making distinctions that most contemporaries, or at least most *petitioners*, almost certainly would not have recognized. Modern attempts to categorize or define cases that fell within the remit of royal grace should not obscure the very real possibility that most contemporaries, when they used the term, did not understand the concept of 'grace' in such a precise or clearly delineated way. It is quite possible that the king's ministers and legal advisers had a firm sense of which matters should be addressed by following set procedure and which matters should be reserved for consideration by the king because they required the application of the royal prerogative. But the vast majority of petitioners (and the clerks and lawyers who drafted their supplications) probably used the word 'grace' in only a very loose sense, as a way of asking for the king's personal consideration of the supplicant's request and to acknowledge the king's authority to resolve such matters through his personal judgement. Contemporaries placed no great store on the use of the word—a point strongly borne out by the fact that of all the petitions presented in 1324, only 46% actually employed the word 'grace' in their plea for resolution. It was a turn of phrase that some petitions utilized whilst others did not. Even in the petitions presented directly to the king in his chamber, the word 'grace' was not commonly used.[130] In practice, although petitions were dispatched in parliament by drawing on a number of different legal, moral, and governmental imperatives, petitioners almost certainly had no clear view of where the boundaries between these different considerations lay; where the Crown's obligation to do justice stopped and the king's *choice* to exercise royal grace began. The terms 'grace' and 'justice', which were in one sense quite incompatible, nevertheless appear to have been regarded by contemporaries as interchangeable, a point demonstrated by the petition of Thomas de Lovetot in 1298 who requested 'grace and justice' to have the wardship and marriage of Robert Wassinglee restored to him after it

[129] As illustrated by the endorsement to a petition from the prior of Durham which read: 'the council are not able to extend this grace to the people of the bishop [of Durham] without the advice of the king' (SC 8/44/2156 (*c*.1322)).

[130] This has been established by randomly surveying the petitions contained in TNA Treasury of the Receipt: Council and Privy Seal Records (E 28).

had been wrongfully seized by the king's escheator on behalf of Queen Eleanor.[131] Technically this was not a matter for the king's grace, but rather his sense of legal propriety, but for Lovetot, grace was a concept vested with such general meaning that it was assumed that all requests to the king represented an application to the royal prerogative. The point is even more clearly demonstrated by the petition of Agnes atte le Woke of Worcestershire whose attempt to secure justice against John de Middlemore, for assaulting, imprisoning, and stealing from her had been frustrated because her goods had been removed to other counties (she claimed to have sued no fewer than fourteen writs to this end).[132] At the end of the petition she stated that 'she has no legal remedy so she requests grace'. For her, grace equated very straightforwardly with the personal intervention of the king. Interestingly, the petition was not treated as a matter of grace by the Crown, for it was referred to both chancery and the exchequer where, as the endorsement put it, '*justice* should be done to her'.

If the picture is rather less than straightforward in the early fourteenth century, the relationship between royal grace and petitioning in parliament is no less complicated in the fifteenth century. In practical terms, the king's grace was exercised in only a limited number of cases in the early fourteenth century because the majority of petitions were expedited along administrative routes by the triers or concerned matters which the king was obligated to dispatch because of legal considerations. In the fifteenth century, these factors were no longer so important; but by this time the context in which petitions were presented in parliament had changed significantly, for their dispatch now often entailed the involvement of the Lords and Commons, as well as the king and his ministers. The conferment of royal grace in cases that required the king to make a personal judgement was a special function which parliament continued to discharge; but what made parliament *unique* by the fifteenth century was its ability to confer the opinion of the broader political community in cases brought into the assembly. It meant, in essence, that the authority of parliament was no longer necessarily synonymous with the authority of the king. This principle was very effectively summarized in the response to a common petition presented in October 1383, where the Crown stated that 'those [petitions] which cannot be dealt with outside parliament be considered in parliament . . . those which can be settled by the king's council be placed before the council, and those

[131] SC 8/120/5997. [132] SC 8/3/125 (1320).

bills which concern grace be submitted to the king himself'.[133] Here was an explicit statement to the effect that the king and council no longer defined the authority which parliament exercised over the cases that were brought to it. The king and council had symbolically been removed from parliament, leaving parliament itself as a free-standing jurisdictional entity able to pronounce judgements on petitions in its own right. What defined parliament's special jurisdiction was no longer the special grace of the king or the expertise of his judges and advisers, but the considered opinion of the broader political community who formed the assembly's membership. This, in essence, is what gave parliament its authority.

Very early in the fifteenth century there are signs that this unique quality was beginning to receive recognition, for some petitions now began to be dispatched not at the behest of the king or the triers, but 'by authority of parliament'.[134] In 1406, a petition from Sir Robert Layborne against the sheriff of Westmorland, Thomas Warcop, was referred to the council who were 'to have power by authority of parliament to hear the parties and to do justice'.[135] Perhaps more striking was the reply to a petition presented in 1442 by John, Lord Dudley, which stated that the king 'by authority of the same parliament, has granted this petition, and wills and grants . . . by the same authority, that it should be done in all points'.[136] In this case, Dudley himself had couched his request (for the reinstatement of his rights to a manor which the king claimed was held in chief) in terms of a resolution to be validated 'by authority of the present parliament'. The implication was that the remedy, whilst immediately determinable by the king, was to receive its ultimate validation from parliament. This is not to say that parliament and the king operated as competing jurisdictional entities; all petitions necessarily required the assent of the king if they resulted in an outcome that changed the status quo. But the implication of the phrase 'by authority of parliament' is that royal and parliamentary authorities were now distinguishable and that the king was invoking the

[133] *PROME*, parliament of October 1383, item 51.

[134] For discussion of this phrase see Chrimes, *English Constitutional Ideas*, pp. 137–40. An electronic search of *PROME* confirms Chrimes' impression that the parliament of September 1397 marked the point when the phrase began to be used regularly in the parliament rolls. An electronic search of TNA series SC 8 shows that it was not until the (early) 1390s that the Crown began to respond to petitioners' grievances by invoking the authority of parliament (e.g. SC 8 21/1042 (1391); 63/3111 (1391); 134/6672 (1391–2); 21/1031 (1394–5).

[135] SC 8/23/1106. [136] SC 8/85/1442.

latter in order to give a greater sense of legitimacy to the former. The point is amply illustrated by a petition presented by Henry Percy, earl of Northumberland in 1414, in which the earl requested to have his name, estate, and inheritance restored to him notwithstanding the forfeitures suffered by his father and grandfather.[137] In this case, the petition was granted 'of [the king's] special grace and with the authority of the same parliament'. It is a useful illustration of the way in which royal grace had lost the crucial element of exclusivity. Previously, royal grace had been invoked in cases which were considered to be determinable solely by the special consideration of the king. If a petition had been dispatched with royal grace it meant, in essence, that no other authority in the kingdom had the power or right to pronounce judgement on it. Indeed, this was presumably why grace was required, because no one other than the king was able to offer redress. But in 1414, a petition which touched a subject that was close enough to the royal prerogative to demand the application of the king's 'special grace' also shared the stage with parliament. The political community now evidently had a say in matters touching the royal prerogative. Put another way, royal grace was no longer sufficient in itself to validate the Crown's response to the request made by the earl of Northumberland—it needed the authority of parliament.

This was a measure of the extent to which parliament had developed an identity and jurisdiction of its own, and of the degree to which the political community now shared in decisions that, in the early fourteenth century, would have been reserved exclusively for the king. Admittedly, the petition of Northumberland is not typical: the particularly prominent role given to parliament in the case no doubt reflected the fact that this was a request from a peer of the realm which demanded the participation of the larger parliamentary community, and especially the parliamentary peers. But the reference made to parliamentary opinion, in a more general sense, was commonplace in the responses given to petitions in the fifteenth century. Those petitions dispatched specifically with the king's grace were now not infrequently described as also having 'the advice and assent of the lords spiritual and temporal'.[138] At least in a parliamentary context, royal grace regularly appears to have been subject to the approval of the broader political community. It was a sign that parliament was no longer primarily the creature of the royal will. One particularly striking illustration of how this sense of independent authority could have a practical application was the way in which

[137] SC 8/23/1134. [138] E.g. SC 8/22/1076 (1404); 29/1415 (1404).

committees of triers continued to be appointed in late fourteenth- and fifteenth-century parliaments even when the king was absent from the assembly: in three parliaments which met in 1339 and 1340, no panels were appointed, because Edward III was campaigning on the Continent; in the 1410s the same conditions applied, when Henry V was away in France, but this time the appointment of the committees remained unaffected.

At the end of what has been a very broad-ranging discussion on the use made of parliament by individual supplicants, it is worth briefly returning to the question posed at the beginning of the chapter: why did the king's subjects present petitions in parliament? Or rather, why did they present them in parliament and not in other contexts? *Fleta*'s description of the function of parliament as a place where 'doubts are determined . . . concerning judgements, new remedies are devised for wrongs newly brought to light, and there also justice is dispensed to everyone according to their desserts' sums up the basic contemporary conception of parliament as a clearing house for all cases that could not be handled anywhere else.[139] Perhaps the key to *Fleta*'s description, however, lies in the preceding sentence where the author of the tract describes parliament as an occasion in which 'the king has his court in his council in his parliaments when prelates, earls, barons, magnates and others learned in the law are present'. What made parliament the high court of the realm, and what allowed it to fulfil its crucial troubleshooting role, was the concentration of all the government's resources into dispatching the business that came before it. The importance of this point cannot be underestimated. It meant not only that decisions taken in parliament were final and unimpeachable, it also extended parliament's jurisprudence so that there was no request or complaint which it could not handle: either a petition was addressed within parliament itself or it was fast-tracked by parliament for resolution elsewhere. No other governmental body could compete with parliament on this score. Even in the fifteenth century, when the king's council was deputizing for an infant and therefore enjoyed extensive powers, the principle still applied. Royal justices had to be especially summoned to meetings of the council where matters came before it which concerned the king's prerogative or the rights of

[139] *Fleta*, ed. Richardson and Sayles, ii. 77.

the king's subjects;[140] in parliament, the king's justices were already present to deal with such matters as a matter of course. It was this, above all, that gave parliament its unique quality: the assembly had a reserve of expertise that no other petitioning context could claim, including, importantly, the king himself. To the question, why did petitioners go to parliament and not to the king in his chamber, to have their complaints or requests addressed, the answer is very simple: the king simply did not have the legal and administrative expertise to answer many of the queries which his subjects wished to have resolved.[141]

In fact, there is a clear sense in which some cases could only be handled within a parliamentary context. Across the fourteenth and fifteenth centuries numerous petitioners presenting requests or complaints in one parliament were referred to the *next* parliament to have a resolution for their case. The clear implication was that neither the king nor his council or other chief officers were in a position to offer a definitive response in the interim. At least in the earlier part of the period, the explanation for this appears to have been primarily administrative. The period of time between assemblies allowed the king's officers to follow up or check the facts in cases brought into parliament before reporting back to the king and his council in the next session. This is exactly what happened in 1302 when the royal justices, Robert Retford and Henry Spigurnel, were assigned to investigate the petition of the hospital of St Mary Magdalen of Colchester, whose inmates had complained about their abbot who was withholding tithes and other income from the hospital after having burnt their charter.[142] The justices were instructed to 'enquire, hear and report back to the king at the next parliament'. Similarly, in 1305, the treasurer and barons were ordered to scrutinize the rolls and memoranda of the exchequer to establish the truth in a case brought by Robert Bayouse, sheriff of Cambridgeshire, who claimed to be paying a £30 fine for the fees of Richmond when the revenue from the honour was actually passing directly into the hands of the duke of Brittany.[143] The ministers were instructed to certify the matter to the king at the next parliament. Both cases are important reminders that the king did not,

[140] A reference to the measures implemented in 1424 to ensure the smooth running of government during Henry VI's minority: *PROME*, parliament of 1424, item 17.

[141] From my investigation of petitions presented in the king's chamber, it is clear that the king generally only addressed requests in this context which related to matters of 'pure' grace (paper entitled: 'Patronage, Petitions and Grace'). Grievances which required a legal or political judgement were usually left to the council or parliament.

[142] SC 8/1/20. [143] SC 8/1/32.

and very often could not, make decisions in isolation. They demonstrate that not all the petitions that came before the king were matters for royal grace which could be resolved simply on the basis of the king drawing on his conscience. Royal authority functioned within the context of a legal and administrative framework and the king very often had little choice but to call on the advice and expertise of his senior judges and administrators before taking a decision—something that would almost certainly have been more problematic outside parliamentary time.

Petitioners therefore turned to parliament not just because of the attraction it held by offering the full gamut of government action to resolve their cases, but because very often this was the only suitable forum in which their complaints might receive an answer. In later years, of course, the circumstances were rather different as decisions taken in parliament came to involve a much greater proportion of the political community. This added an extra dimension to the special qualities which parliamentary redress offered, for the assembly provided a context in which difficult or particularly controversial requests could be aired in public and resolved with the full consent of the whole political community. This, without doubt, was the key to parliament's continued functioning as a court for the resolution of private grievances. Petitioners valued parliament for the authority and legitimacy it gave to decisions taken on their requests; and the king and his advisers valued parliament for the opportunity it provided to share the responsibility for reconciling conflict and discord. But in the final analysis, perhaps the most important factors to attract petitioners to parliament were also the most straightforward: petitioners knew in advance when and where parliament was meeting; they could be assured of the king's presence in the assembly; the institution had the administrative capacity to handle great volumes of complaint; and—a factor not to be underestimated—it allowed supplicants the possibility of having the outcome to their requests officially recorded on the parliament roll.

8

Petitions from Communities

Parliament was the natural environment in which communities could present their common grievances to the Crown. The particular advantage that petitioning held over the stricter and more rigid system of common-law procedure was quickly grasped by groups of people whose common circumstances encouraged them to adopt a collective identity in their representations to the Crown. Local communities had existed, and had thought of themselves in collective terms, long before parliament came to prominence, but the particular representative quality which parliament embodied undoubtedly provided fertile ground for the enhancement and crystallization of community identity.[1] The impetus for 'community' petitions lay not simply in the practicalities of royal administration, and the fact that the best and most effective solutions to local problems were often best conceived in collective terms; it was also partly ideological and cultural, since the underlying political morality of the period placed so much premium on the importance of shaping government to the needs of the people rather than the individual.[2] This chapter considers three types of 'community' petition—from religious, county, and urban communities—not because they are the only type of collective entity to have formulated grievances for presentation in parliament, but because they represent three of the most important categories of such complaint to come before the institution. Key questions to be asked of these petitions include how far the language of 'community' reflected a genuine sense of collective identity; how far the petitions themselves truly represented broad-based and inclusive interests; and what light such petitions shed on the relationship between the Crown and local society.

[1] See the comments by J. P. Genet, 'Political Theory and Local Communities in Later Medieval France and England', in J. R. L. Highfield and R. Jeffs (eds.), *The Crown and Local Communities in England and France in the Fifteenth Century* (Gloucester, 1981), p. 19.

[2] J. Watts, *Henry VI and the Politics of Kingship* (Cambridge, 1996), pp. 25–31, 34–6.

8.1 PETITIONS FROM THE CLERGY

> The *communitas cleri* live under our rule no less than the rest of the people and enjoy our defence and protection of their temporalities, and for the most part of their spiritualities.
>
> Edward I to the bishop of Worcester, 1279[3]

Clerical petitions are usually considered in terms of the parliamentary *gravamina* that were presented on an intermittent basis throughout the thirteenth and fourteenth centuries.[4] These were the clerical equivalent of common petitions, formulated from widely-held and broad-based grievances, and presented to the Crown with the view to establishing remedial legislation. The attention given to the *gravamina*, though of crucial importance in demonstrating what concerned the clergy at a general level, tends to obscure the much more consistent—and remarkably extensive—use made of the private petition by members of the clergy in order to resolve difficulties or to have favours granted that were more specific to their circumstances. Remarkably, virtually nothing in print has been written about the recourse which clergymen made to parliament to obtain grace or justice from the king.[5] This is an important omission, both for the history of the Church and for the history of parliament. In scholarship on the Church, it is a well-established truism that the affairs of the clergy were inextricably linked to—and in many areas determined by—the actions and policies of the Crown. This close relationship between 'church and state' has been addressed in many ways: in the context of the workings of royal patronage; the Crown's financial demands; in its repressive as well as supportive legislative programmes; and in the service individual churchmen provided the Crown in government. Scholarship has also considered the complex and multifaceted relationship between secular

[3] Quoted by J. H. Denton, 'The Clergy and Parliament in the Thirteenth and Fourteenth Centuries', in R. G. Davies and J. H. Denton (eds.), *The English Parliament in the Middle Ages* (Manchester, 1981), p. 102.

[4] W. R. Jones, 'Bishops, Politics, and the Two Laws: The *Gravamina* of the English Clergy, 1237–1399', *Speculum* 41 (1966), 209–45.

[5] The only scholarship to address this topic at length was undertaken by J. H. Tillotson, 'Clerical Petitions 1350–1450: A Study of Some Aspects of the Relations between the Crown and Church in the Late Middle Ages', DPhil thesis, Australian National University, 1969. It is to be regretted that none of this research was published by the author.

and clerical jurisdictions.[6] In this respect, special emphasis has been placed on conflict and discord, as the Crown increasingly sought to expand its control over the 'borderland'[7] of jurisdictional uncertainty that existed between canon law and the common law. The statement from Edward I quoted at the start of this section is demonstrative of the Crown's assertiveness in this respect.

Petitions to parliament, from members of the clergy, cast interesting new light on the relationship between the Church and the Crown. Above all, they reveal a striking contrast between, on the one hand, the autonomy and independence claimed for the Church by the clergy as a unified body and, on the other hand, the readiness of ecclesiastics to seek royal interference in their individual affairs. Thus, whereas the clerical *gravamina* provide good grounds for crediting the Church with a vigorous, spirited, and united defence of its position against the encroachments of the Crown on the proper exercise of canonical justice, clerical private petitions reveal a very different set of dynamics, for they show the clergy acting as individuals or single corporate entities in cases that were not only highly specialized, but which also sometimes brought them into conflict with their fellow clergy. Moreover, if there was an unspoken assumption behind the *gravamina* that the Church's defence of its rights and liberties stemmed from the fundamental principle that it somehow ought to stand outside, and independent of, royal interference, private petitions from the clergy bespoke a very different relationship in which the subservience of the supplicant to the Crown, and to the Crown's benevolence, was absolute and manifest. Clerical *gravamina* sought to keep the Crown's interference in the affairs of the clergy to the bare minimum; private petitions were presented by the clergy precisely in order to involve the Crown in these affairs. And the resolution or favour which clergy petitioners sought explicitly drew its authority and legitimacy from the *secular* power of the king. The large numbers of petitions from members of the clergy indicates how successfully the English Crown had come to make the well being and security of the Church and its members dependent on the action of the Crown.

The volume of complaint from the clergy ought also to modify our view of parliament in the late medieval period. Again, the tendency

[6] See W. R. Jones, 'Relations of the Two Jurisdictions: Conflict and Cooperation in England during the Thirteenth and Fourteenth Centuries', *Studies in Medieval and Renaissance History* 7 (1970), 79–210.

[7] A phrase coined by F. Pollock and F. W. Maitland, *A History of English Law before the Time of Edward I*, 2nd edn, 2 vols. (Cambridge, 1911), ii. 198.

in historiography has been to emphasize the growing separation of the Crown and the Church, as the clergy increasingly sought to distance themselves from the 'secular court' of parliament by setting up their own representative assembly in the form of convocation. The clergy, we learn, were only reluctant attendees of parliament. Higher status clergymen and especially the abbots tried to avoid, as far as they could, individual summons to parliament on the grounds that they were not tenants-in-chief,[8] and those who could not escape the obligation to attend avoided personal inconvenience by sending proctors in their place.[9] Its lower status members—the elected representatives of the cathedral chapters and of the diocesan clergy—continued to attend parliament throughout the late medieval period, but almost certainly in reduced numbers compared to the first decades of the fourteenth century.[10] But the willingness of the clergy to utilize parliament to secure redress and favour suggests another dimension to the links between parliament and the Church. From a fiscal point of view, the clergy's inclination was to keep parliament at arm's length; from a jurisdictional point of view, parliament was, for both individual clergymen and religious houses, an important and much-valued source of judicial relief and patronage. Something of the scale with which the clergy turned to parliament is indicated in the opening months of 1348 when as many as thirty-five petitions were presented to parliament from this source. In fact, so many were presented that a special committee of clerical triers was set up to handle these complaints.[11] This was admittedly out of the ordinary, but petitions from members of the clergy routinely accounted for a significant proportion of the supplicants that parliament attracted throughout the late medieval period.[12] The significance of

[8] D. D. Knowles, *The Religious Orders in England*, 3 vols. (Cambridge, 1955), ii. 304–7; H. M. Chew, *The English Ecclesiastical Tenants-in-Chief and Knight Service* (London, 1932), pp. 172–9.

[9] J. S. Roskell, 'The Problem of the Attendance of the Lords in Medieval Parliaments', *BIHR* 29 (1956), 153–204, pp. 158–9, 172–5; R. G. Davies, 'The Attendance of the Episcopate in English Parliament, 1376–1461', *Proceedings of the American Philosophical Society* 129 (1979–81), 30–81, pp. 34–5.

[10] Compare the figures cited in J. H. Denton and J. P. Dooley, *Representatives of the Lower Clergy in Parliament 1295–1340* (Woodbridge, 1987), p. 49, with A. K. McHardy, 'The Representation of the English Lower Clergy in Parliament during the Later Fourteenth Century', in D. Baker (ed.), *Sanctity and Secularity: The Church and the World* (Oxford, 1973), p. 100 n. 13.

[11] *PROME*, parliament of January 1348, item 3.

[12] The volume is likely to be even higher than the contents of SC 8 'Ancient Petitions' suggests, for it is evident that a considerable quantity of ecclesiastical material 'of a

clerical petitioning in parliament has yet to be fully explored, and further detailed research is needed before we may fully understand the importance it had for the workings and nature of the institution. There are a number of key questions that have yet to be explored. How far, for example, were clerical *gravamina* shaped or prompted by the individual supplications that clergymen brought up to parliament, in the same way that common petitions often originated from a 'private' source?[13] How far did the representatives of the lower clergy act as conduits for complaints emanating from their clerical constituents, in the same way that knights of the shire may have been responsible for forwarding the complaints of their secular constituents? Indeed, how far should we define the role of the clerical representatives primarily in terms of a petitioning function?[14] Did many clerical proctors use the opportunity of their attendance at parliament to present private petitions for their individual ends?

Since the subject of ecclesiastical petitions in parliament is so relatively untouched it seems prudent, for what remains of this section, to leave questions relating to the internal dynamics of parliament to one side and instead to set out some of the basic areas which were the subject of parliamentary complaint by the clergy. Like secular petitioners, there were petitions from an extremely wide spectrum of clergy, and like the secular world, fewer petitions appear to have been presented by the poorest and least powerful of the Church's members. Thus, there are many petitions from rectors, but far fewer examples of complaints brought by vicars, chaplains, chantry priests, and so on. Again, this

purely formal character' was removed from the old series of 'Parliamentary Petitions' in the nineteenth century, to form the current TNA series C 84 'Chancery: Ecclesiastical Petitions': 'Introduction', *Index of Ancient Petitions*, Lists and Indexes 1 (repr. New York, 1966), p. 8.

[13] No systematic work has yet been done on this question, though some examples have been identified: in 1301, for example, the general complaint against the king's treatment of alien priories echoed grievances presented in parliament by individual priors (Denton, 'Clergy and Parliament', p. 99 n. 33).

[14] The two principal scholars of clerical proctors, Denton and Dooley, have produced conflicting interpretations on this issue. Denton played down the role of clerical proctors in the petitioning process, arguing that 'any clergyman could petition in parliament, and there appears to be no evidence that the clerical proctors petitioned there in concert' ('Clergy and Parliament', p. 102). On the other hand he, with Dooley, noted the existence of a number of petitions presented in the parliament of October 1318 that related to religious matters and suggested that it was 'more than likely that the elected proctors of the cathedral and diocesan clergy had a hand in formulating . . . at least some of these clerical petitions' (*Representatives of the Lower Clergy*, pp. 61–2).

was not because the lesser clergy were barred from parliament, but because those who were beneficed often held lands and rights that meant they more readily faced difficulties that only parliament could resolve. Thus, in 1307, Richard de la Chambre, parson of the church of Leigh (Shrops.), submitted a complaint against Edmund Fitzalan, earl of Arundel, and his bailiffs for forcibly removing him from £60 worth of land in the franchise of Oswestry;[15] and in 1321–2, John de Lavyngton, parson of the church of Stainby (Lincs.), complained that John de Parys, Richard le Forester, and forty other men from Folkingham entered his lands with force and arms, broke down the doors of the granges, granaries, and other buildings, threshed his corn, and carried off fifty quarters of corn and malt and twenty-four cartloads of hay—an act that caused the petitioner to lose eighty sheep for lack of food and cost him damages of a hundred pounds.[16] It is to be noted that both these petitions concerned temporalities possessed by the clergymen. This, of course, is the underlying explanation for the presence of clergy petitioners in parliament: since the king and his courts had complete jurisdiction over the temporal affairs of the Church, many clergymen—like all the king's other subjects with lands, income, or rights to defend—might easily find themselves looking to parliament for resolution because sufficient remedy could not be provided in any other of the royal courts. At the top end of the Church hierarchy were the churchmen who held their temporalities from the king in chief. These individuals frequently turned to parliament for redress not just because the institution had a special status as the kingdom's highest court, but also because as tenants-in-chief they had an obligation to attend parliament anyway. This must have seemed the most appropriate and convenient venue to bring complaints or requests to the king's attention.[17]

Petitions from the regular clergy form a prominent subsection of this larger group and ought to receive more detailed consideration because these were most obviously petitions presented in the interests of a community, which is the focus of this chapter. Petitions from monastic houses were uniformly presented in the name of the incumbent abbot. This was not a function of the petitioning process, but reflected the

[15] SC 8/2/56. Writs were dispatched to the earl ordering him to do justice in the matter: *CPR 1301–1307*, pp. 544–5.

[16] SC 8/6/253. The Crown directed Lavyngton to have recourse at common law.

[17] See Chew, *Ecclesiastical Tenants-in-Chief*, pp. 172–9. There are countless examples of petitions from bishops and archbishops in SC 8.

particular legal status of the members of the religious house.[18] A monk could not sue or be sued individually because a monastery's legal status was invested solely in the person of the abbot who alone could represent his house or its individual members in a legal capacity. Petitions sent to parliament from religious houses raised a variety of different complaints or requests, but virtually all can be said to have revolved around two general themes: land and finance. These petitions can be considered in a very straightforward manner as cases relating to the temporal affairs of the religious house. More often than not they were complaints brought by the abbot against either the Crown or a third party whose actions threatened the physical well being of the monastery. Despite Edward I's aspirations, petitions relating to the spiritual affairs of monasteries are virtually non-existent, but there are plenty of cases that related to the *internal* affairs of the monastery. These are cases that might be considered to inhabit Pollock and Maitland's 'borderland' of secular and ecclesiastical jurisdictions where the Crown's judgement on the case could have important implications for the spiritual life of the house. As with petitions from individual members of the clergy, the profile of religious houses presenting petitions in parliament tended to lean towards the wealthiest and most heavily endowed of the religious Orders—primarily the Benedictines and Cistercians, but also to a lesser extent the Augustinians—because they possessed the wealth and standing which tended to create the conditions in which resort to parliament was necessary. The predominance of petitions from Benedictine houses may also have reflected the fact that, from the 1330s, Benedictine abbots monopolized the writs of personal summons for attendance at parliament.[19]

First, let us turn to the predicaments which religious houses faced as a result of factors external to the house itself.[20] Since religious houses were some of the greatest holders of rights, liberties, and franchises in the land, it should be no surprise that they were just as vulnerable (and perhaps more so) to the maladministration and heavy-handed action of royal ministers as secular petitioners. The abbot and convent of Cymmer (Cist.) in North Wales, for example, complained in 1316 that the lieutenant of the Justiciar of North Wales was distraining them to build

[18] Knowles, *Religious Orders*, i. 271 and n. 1.

[19] A. M. Reich, *The Parliamentary Abbots to 1470*, University of California Publications in History, 17 (Berkeley, CA, 1941), pp. 345–50.

[20] The following discussion draws on the petitions presented in the period 1300–30.

a bridge over the river Mawddwy against the tenor of their charters and privileges;[21] at some point in the final decade of Edward II's reign, the abbot of Battle (Ben.) complained that the keepers of the king's market and alnage had entered the abbey's franchise to perform their office there, contrary to the charter granted by the king's ancestors;[22] and the abbot of Burton-on-Trent (Ben.) complained in 1322 that the king's ministers had prevented his house from receiving three cartloads of deadwood a day from lands pertaining to the earldom of Ferrers, which was currently in the king's hands.[23] A complaint of a rather different order was submitted by the abbot and convent of Netley (Cist.) in the first half of Edward III's reign: it asked for the allowance of their charters so as to confirm their possession of lands and tenements which the house had purchased by royal licence—lands and tenements for which they were being prosecuted and troubled by the king's justices.[24] In this instance, the troubles experienced by the monks of Netley presumably arose directly as a result of the controls imposed by the Statute of Mortmain of 1279 on the transfer of land to the clergy.[25] Other supplications showed how monasteries could use petitioning in a more constructive context, to further and enhance their temporal interests. The abbot and convent of Tavistock (Ben.), for example, petitioned at the start of the fourteenth century suggesting that the Isles of Scilly, which were currently in the abbey's hands, could be exchanged with the Crown for other lands held in Devon because the monastery could not guarantee the proper defence of the islands from attack.[26] The abbot and convent of Beaulieu (Cist.) petitioned in the mid-1320s for the wool staple to be relocated from Winchester to Southampton, presumably because Southampton offered a more convenient port for the monastery to have its wool passed or processed through the customs system.[27]

A petition which demonstrates a rather different side to the relationship between the Crown and English religious houses was presented in 1322 by the abbot of St Osyth (Aug.).[28] The petition requested relief from the sheriff of Suffolk whose constables had seized the abbot's manor

[21] SC 8/54/2698.
[22] SC 8/32/1558. [23] SC 8/5/243. [24] SC 8/73/3621.
[25] For background see S. Raban, *Mortmain Legislation and the English Church 1279–1500* (Cambridge, 1982).
[26] SC 8/75/3720.
[27] SC 8/32/1579. A similar request was made by the prior and convent of St Denys near Southampton (Aug.): SC 8/42/2083.
[28] SC 8/7/326.

of Stowmarket until he had paid a fine for not 'swiftly sending men-at-arms' to the king's aid at Burton-upon-Trent in March of the same year. The abbot claimed to have sent an allowable excuse to the king's court accounting for his inaction. Ordinarily, only those monasteries which held lands from the Crown in chief were obliged to provide soldiers at times of military necessity.[29] St Osyth was not an abbey known to have held any land from the Crown by military service. But in 1322 the levy to which the petition referred was not a feudal levy, but a national muster called at a time of political crisis.[30] On 16 February 1322 writs had been sent to all bishops, abbots, and priors ordering them to assist the king by providing as many men-at-arms, horsemen, and foot as possible for the royal army marching northwards to confront Thomas of Lancaster.[31] The petition is interesting, for it shows that the writs were followed up and, if St Osyth was typical, those religious houses whose assistance was not considered adequate were punished. It also highlights the fact that the tenurial status of a religious house mattered little if the needs of the Crown were adjudged to be urgent and pressing: in 1322 an internal challenge to the Crown was evidently considered to be of such seriousness as to require *all* landholders to mobilize their resources in support of the king. There was, of course, a reverse side to the unfortunate plight experienced by the abbot of St Osyth, for in the same year the prior and canons of St George the Martyr in Gresley (Aug.) presented a petition requesting a licence to acquire lands and rents, reminding the king of the good service they had performed for him during the 'recent disturbances' when he had stayed at Caldwell.[32]

These petitions demonstrate the plight which religious houses could find themselves in as a result of external factors that either directly

[29] In the middle of the twelth century there were twenty-four religious houses who owed the Crown knight service by virtue of holding land from the Crown in chief: Chew, *Ecclesiastical Tenants-in-Chief*, p. 5; and Reich, *Parliamentary Abbots to 1470*, pp. 293–7. The remaining religious houses of England held their land in frankalmoign, which did not customarily necessitate military service: E. Kimball, 'Tenure in Frankalmoign and Secular Services', *EHR* 43 (1928), 341–53, esp. pp. 348–9. For a more general discussion, see B. McNab, 'Obligations of the Church in English Society: Military Arrays of the Clergy, 1369–1418', in W. C. Jordan, B. McNab, and T. F. Ruiz (eds.), *Order and Innovation in the Middle Ages: Essays in Honor of Joseph R. Strayer* (Princeton, NJ, 1976), pp. 297–8.

[30] For context, see M. Powicke, *Military Obligation in Medieval England: A Study in Liberty and Duty* (Oxford, 1962), pp. 150–1.

[31] *CCR 1318–1323*, p. 523. Writs were sent to seventy-seven abbots and forty-six priors: these are listed in *Parliamentary Writs*, ed. F. Palgrave, 2 vols. (Record Commission, 1827–34), ii.2, pp. 550–1.

[32] SC 8/108/5394.

or indirectly concerned the Crown. But just as the possession of lands and rights could often push religious houses into a difficult and troubled relationship with the Crown, so too the juxtaposition of secular and clerical jurisdictions could become the cause for friction between religious houses and lower status members of lay society. In some cases this was no doubt because religious houses were considered to be easy targets with rich pickings, especial if they were alien houses. A typical case was brought to the attention of parliament in *c*.1307 when the prior and convent of Tutbury (Ben. alien) made complaint against William Burdeleys, John Russel, and John de Minores who were alleged to have come to the priory with two hundred men and, having forced the prior to flee, held the religious community captive until they had given up their keys and made over the estate of their church. The petition claimed that the prior dared not return and, on the basis that divine service was suffering, requested to have mainprise so that the case could be heard at common law in a place of the prior's choosing.[33] Of a slightly different order, but no less uncommon, were petitions asking the Crown to resolve disputes between religious houses and local secular communities. Typical is the petition of the abbot and convent of Abingdon (Ben.) who complained in 1327–8 of numerous attacks on the abbey, its monks, its property, and franchises by the townspeople of Abingdon.[34] The abbot was invited to appear in chancery to 'advise the court how he can best be helped by the law', and the chancellor was instructed to provide him with 'recovery and remedy'.[35] Of course, conflict between secular and religious communities cut two ways, and it was just as common for abbots to be the subject of complaint as it was for them to claim victimhood. In the last years of Edward II's reign, for example, a petition was presented by the burgesses of St Albans who complained that the abbot of St Albans monastery (Ben.) had maliciously indicted the townspeople of various crimes through the control he exercised over the sheriff, coroner, and justices.[36] In this

[33] SC 8/77/3805. For a similar type of complaint, involving Roger D'Amory, from the prior of Goldcliff (another alien Benedictine priory), see SC 8/68/3360 (1322).

[34] SC 8/88/4379.

[35] For the commission of oyer and terminer granted as a result, see *CPR 1327–1330*, pp. 221–2. The riots which prompted the petition from the abbot were part of a running dispute between the inhabitants of Abingdon and the abbey, over the latter's claim to have lordship over the town. The dispute would eventually lead, famously, to the impeachment of the abbot in 1368: see G. Lambrick, 'The Impeachment of the Abbot of Abingdon in 1368', *EHR* 82 (1967), 250–76.

[36] SC 8/30/1483.

instance, the royal justice, Roger de Grey, was instructed to have brought into chancery the record and process of the case brought by the abbot.

Abbots could also turn to parliament in the hope of securing the king's grace to improve the fortunes of their house. Under Edward II, one of the most common causes for religious houses to seek royal grace was the Scottish war, and the damage and losses inflicted on northern religious communities as a result of cross-border raiding. This was a situation exemplified by the petition of the abbot of Coverham (Ben. alien) who asked to purchase lands under mortmain licence to help his house recover its estate after the recent Scottish raid had devastated its holdings.[37] He was granted, by the grace of the king, a licence to acquire land to the value of ten marks. War was not the only cause for a plea of poverty: in *c.*1323 the abbot of Pipewell (Cist.) claimed that their house was so impoverished by the dispersal of lands for renting that it no longer had sufficient wealth to pay the tenth recently granted by the clergy in parliament.[38] In this case, the king's need was said to be greater and he could offer no special financial dispensation to the monks. In the post-Black Death era pleas of poverty were commonplace, as exemplified by the petition from the prior of Avebury (Ben. alien) who counted amongst his priory's misfortunes flood, fire, plague, murrain of sheep, withheld rents, and reconstruction costs in an attempt to secure a royal pardon for the arrears of his farm.[39]

Finally, numerous petitions were submitted to parliament by religious houses either complaining about or actively seeking the interference of the Crown in the internal affairs of the monastery. Petitions from royal houses in particular, like those from the tenants of the ancient demesne,[40] show parliament acting in a special capacity as a forum in which the consequences of a specifical proprietary relationship between the petitioner and the king came to be aired. From the point of view of the Crown, this presented significant opportunities to exploit. Petitions presented by third parties asking for corrodies in royal houses, together with petitions from royal houses complaining about difficulties caused by vacancies, were the principal expressions of this exploitative relationship in parliament. Petitions for corrodies, or pensions, were frequent and numerous.[41] This was a useful way for the king to reward large numbers of his servants and clerks. In *c.*1320, for example, one

[37] SC 8/41/2020 (1318).
[38] SC 8/66/3274.
[39] SC 8/195/9706 (1356–7).
[40] See Ch. 7, pp. 210–11.
[41] See Reich, *Parliamentary Abbots to 1470*, pp. 311–13.

of the royal cooks who had served Edward I and the king's brothers requested that royal letters be sent to the prior and convent of Hatfield Broad Oak (Ben. alien) granting him a corrody there.[42] For the most part religious houses simply tolerated this unwelcome and often costly drain of their financial resources, but occasionally resistance was offered: Henry Creton in 1318, for example, made complaint against the men of the priory of St Frideswide's (Aug.) who had broken into his chamber and carried off his goods and the 'writing of his corrody'. He claimed to have been prevented from resuming his rights within the priory ever since.[43] At other times religious houses might pre-emptively attempt to establish their immunity from such impositions, as occurred in the petition of the abbot of Chester (Ben.) in 1328 who asked to have the wording of the abbey's charter state more explicitly that they were not obliged to find sustenance for the king's servants and ministers.[44] As patron, the king also had the right to custody of the abbey's temporalities during a vacancy, a situation that frequently led to charges of neglect and abuse on the part of the royal officers who were often assigned to look after the abbey's affairs.[45] One of the commonest ways of avoiding such difficulties was for the abbey to request custody of its own temporalities in return for an appropriate fee, a course of action taken by the abbot of Glastonbury in 1328.[46]

On the other hand, a direct link between the king and a religious house could be advantageous at times of adversity—royal patronage could be not only the source of exploitation for the king; it could also be advantageous to the client houses, as the source of aid or protection. Most obviously, royal abbeys could cash in on their connections if they needed financial assistance or some other form of dispensation; but the parliamentary petition could also be an extremely useful device for royal houses to obtain resolution to conflict, either when it occurred within the religious community itself or when disputes arose with other religious establishments. Take, for example, the petition from the monks of Bardney (Ben.) who complained to the king in *c.*1315 about their abbot, Robert de Wainfleet, who had allegedly caused many dilapidations to their house.[47] Wainfleet had purchased an exemption from the pope, preventing the bishop of Lincoln from intervening in the affair, and the

[42] SC 8/88/4353. The petitioner was told to provide himself elsewhere as the priory was already charged by the king.
[43] SC 8/40/1994. [44] SC 8/98/4890.
[45] See Reich, *Parliamentary Abbots to 1470*, pp. 297–311. [46] SC 8/16/755.
[47] SC 8/2/94. See also SC 8/31/1545 (?1307–10).

monks now looked to the king to persuade the pope that an inquest should be held by royal justices. A slightly different complaint reached the king in 1302 from the hospital of St Mary Magdalen in Colchester, which claimed that the abbot of Colchester had tricked the inmates into giving them their charter, which he promptly burned so that the abbey would no longer be required to give them tithes.[48] The petitioners further claimed that the abbot had installed a brother as master of the hospital, in the place of Simon de la Neylonde, even though, as they pointed out, the king was their patron. In this instance, the petitioners successfully secured an enquiry, though the outcome is unknown. One of the most interesting petitions to have been presented between 1300 and 1330 was drafted in the name of the monks of the Cistercian Order in England asking for the intervention of the king to prevent the abbot of Cîteaux from imposing a tenth which he had granted in favour of the pope.[49] The Cistercian order, like the Premonstratensians, had kept themselves largely free from lay influence and yet here they proactively sought the intervention of the king in affairs that one might consider to have been more appropriate for internal consideration within the Church. The petition is an excellent example for illustrating how the parliamentary petition so effectively cut through the lines of demarcation separating the spiritual from the secular world. It was a device which gave very tangible expression to the pronouncement made by Edward I (and quoted at the start of this section) that his clercial subjects should be as much subject to the authority, arbitration, and protection of the Crown as were his lay subjects.

8.2 PETITIONS FROM COUNTY COMMUNITIES

Petitions which claimed to speak in the name of a county, or group of counties, constitute an important category of collective complaint brought into parliament. They are not particularly predominant in numerical terms; their significance lies in the bearing they have on debates about local identity, collective action, and the extraordinarily vexatious concept of the 'county community'. It is a particularly opportune moment to discuss county petitions because new questions are beginning to be asked about the ways in which local society thought

[48] SC 8/1/20. [49] SC 8/38/1897 (*c*.1320).

of itself, both in terms of its individual constituent members and in terms of its collective relationship to the Crown. The old debate as to whether there existed a community of county gentry ruling over the shire as a self-consciously unified political oligarchy has now largely given way to a broader focus on local mentalities. Historians have come to understand that if a sense of community cannot realistically be located in spatial terms, then it might still be identified by exploring how people thought of themselves and how they presented themselves to the external world: the 'county community' has given way to the 'community of the mind'.[50] Petitions in the name of counties, which were once treated as rather peripheral to the debate, ought now to take centre stage, for these petitions provide the most explicit evidence for the articulation *by local people* of a county-wide identity. Taken at face value, they are assertions of an inherent unity of purpose on the part of a group of individuals who defined themselves on the basis of their county affiliation.

But herein lies the underlying difficulty, for just how far should the petitions be taken at face value? How far did petitions from counties reflect the broad interests of a significant proportion of the county's population, to the point where one might infer the existence of a 'community of interest'? How far were the authors of these petitions instead channelled into articulating their grievances using the terminology of the county community both by the nature of the problems which they sought to resolve (i.e. problems relating to royal administration which was organized on county lines) and by the context in which the petitions were presented, in parliament, where representation was similarly organized according to county divisions? Put a different way, the question becomes one of language: were these petitions utilizing the language of the county to reflect genuine localized concerns that existed at a county level, or was the county unit invoked simply as a way of engaging the Crown on its own terms, petitioners having to present their grievances in this way because the Crown would frame its response in terms of a county-wide solution?

In working out exactly where the balance lay between these two scenarios, debate has focused on the crucial role of the county court,

[50] The key discussion on this (with extensive references to modern county studies) is C. Carpenter, 'Gentry and Community in Medieval England', *Journal of British Studies* 33 (1994), 340–80. See also R. Horrox, 'Local and National Politics in Fifteenth-Century England', *Journal of Medieval History* 18 (1992), 391–403, and M. Rubin, 'Small Groups: Identity and Solidarity in the Late Middle Ages', in J. Kermode (ed.), *Enterprise and Individuals in Fifteenth-Century England* (Stroud, 1991), pp. 132–50.

where it is assumed that county petitions were compiled. Here, a second layer of contention exists as historians have attempted to establish how central the institution of the county court was to the county's political life. J. R. Maddicott is the strongest advocate of an active and dynamic county court, arguing that in the fourteenth century 'as a political assembly, communicating with parliament through its elected members, reacting to the demands of the government, and expressing the views of the locality [through petitioning], the county court stood more closely than before at the centre of the county's political life'.[51] Christine Carpenter has articulated the opposite standpoint, dismissing the county petition as an expression of county solidarity because the county court had become redundant in the eyes of the county's political elite, who rarely turned up to its meetings. For her, county petitions were essentially products of an environment created by the Crown.[52] In a more recent contribution to the debate, Peter Coss has attempted to chart a middle ground, arguing, on the one hand, that 'had the county court really been outside most men's normal orbit . . . it hardly seems plausible that the crown would have used it so much for the transmission of information and general instructions', whilst, on the other hand, pointing out that 'the existence of a sense of county society' did not necessarily depend on regular attendance of county court meetings.[53] This last point might be extended by suggesting that a meeting of the county court was not necessarily the only venue in which county petitions could be drawn up and prepared for presentation in parliament.

A more detailed and systematic analysis of county petitions may yet move the debate forward. It should be noted in the first instance that the phrase 'county community petition' is something of a misnomer for the greater part of petitions presented in the interests of a shire.

[51] J. R. Maddicott, 'The County Community and the Making of Public Opinion in Fourteenth-Century England', *TRHS*, 5th series 28 (1978), 27–43, p. 29

[52] Carpenter, 'Gentry and Community', pp. 347–8, 375–8. The underlying difficulty in assessing the importance of the late medieval county court lies in the lack of evidence predating 1406, when only the names of the elected MPs and their sureties were recorded on election returns, and in the ambiguity of the evidence after 1406, when election returns provided fuller lists of electors, but concluded with a phrase such as *aliorum*, which indicated that various unnamed others had been present. For discussion see R. Virgoe, 'Aspects pf the County Community in the Fifteenth Century', in M. Hicks (ed.), *Profit, Piety and the Professions in Later Medieval England* (Gloucester, 1990), pp. 1–13, esp. pp. 8–9. A handful of county court attendance lists survive from the fourteenth century, but historians are disagreed as to how representative they are.

[53] P. Coss, *The Origins of the English Gentry* (Cambridge, 2003), p. 211.

Under Edward I and Edward II the word 'community' (*communalte*) was commonly employed to describe those in whose interests the petitions were presented, but in the course of Edward III's reign the word community slowly gave way to the word 'commons' (*commune*). It is not difficult to see why this might have been the case: in the first half of the fourteenth century there was a dramatic shift in the political dynamic of parliament so that it was no longer the barons who could claim to voice the concerns of the whole kingdom but the parliamentary representatives. This change was partly manifested in the invigoration in the parliamentary record of the word 'Commons' at the expense of the older and more traditional term 'community of the realm'—'Commons' came into vogue from the 1330s onwards, not only as a way of describing MPs but also to designate those grievances which promoted the interests of the whole kingdom (i.e. common petitions).[54] The obvious inference to make is that those who drafted petitions for the counties made note of this shift in parliamentary vocabulary and began to address grievances using the newer terminology of the Commons to accord with the prevailing trends in political discourse. This is an important point because it suggests that we should not pay too much attention to the specificity of the word 'community', as employed in many of the county petitions dating to the first half of the fourteenth century. It seems that what mattered to petitioners was not to indicate that their supplication expressed the views of a *community* as such, with its connotations of inclusive membership and sense of common identity, but to employ the correct and most up-to-date terminology to describe their collective or broad-based county sentiment.

The point can be taken even further, for it is interesting that in the relatively few petitions presented in the early fourteenth century said to be from more than one county, the word 'community'—in its singular form—was still retained in the address. Thus, in 1320, the '*community* of Devon and Cornwall' petitioned to have the price of wine reduced;[55] and in 1321 or 1322 the '*community* of Norfolk and Suffolk' made complaint against the prior of Our Lady of Thetford whose immunity from local county jurisdiction was said to be the cause

[54] M. Prestwich, 'Parliament and the Community of the Realm in Fourteenth Century England', *Historical Studies* 14 (1981), 5–24, pp. 14, 19–20; G. Dodd, 'Parliament and Political Legitimacy in the Reign of Edward II', in G. Dodd and A. Musson (eds.), *The Reign of Edward II: New Perspectives* (Woodbridge, 2006), p. 173 and n. 35.

[55] SC 8/3/139.

of great oppression to 'the community'.[56] Unless we are to believe that these petitions indicated the existence of *dual*-county sentiment, which seems highly implausible, it is most likely that the term community was being employed in a very loose and ill-defined way in order to furnish the complaint with the perceived authority of collective sentiment. These petitions were not reflecting the views articulated by a single community of two counties; instead, they were defining the views of an imagined community in terms that accorded to the interests and agenda of the authors of the petitions. We should not suppose that the term 'community' or, indeed, 'commons' suggested that a petition had been compiled after broad-based consultation with a large cross section of the people in whose interests the petition claimed to be acting: almost certainly county petitions were devised for the most part by the office-holding county elite whose position in local governance and society gave them the right (and opportunity) to define the county's grievances without necessarily sounding out opinion lower down the social hierarchy. But the fiction of widespread consultation or participation needed to be maintained, which is probably one of the reasons why exhaustive lists of all members of a 'county community', as defined by contemporaries, are very hard to come by.[57] These terms gained their force precisely because they were vague, ill-defined, and ambiguous.[58] We may suppose that when the king and his councillors in parliament came to decide on the particular merits of a county petition, they went through precisely the same process as modern historians in having to work out just how wide-ranging the grievance was and whether, behind the rhetoric of 'community' or 'commons', it truly did represent a collective county-wide interest.

Whilst it may well be true that the content of many county petitions was determined by the parameters of royal administration, to an even

[56] SC 8/7/330.

[57] In one of the few instances where a petition from the 'commons' of a county was accompanied by a list of names, this list finished (like fifteenth-century election returns) with the open-ended phrase *et pluriis alteriis*. The petition, dating to the mid-fourteenth century but probably not parliamentary in provenance, is discussed by Andy King, who makes the important observation that the leading county gentry listed on the document did not perceive themselves to comprise the 'county community' in its entirety: A. King, 'War, Politics and Landed Society in Northumberland, c. 1296–c. 1408', PhD thesis, Durham University, 2002, pp. 242–3, 262.

[58] On the imprecision of medieval collective terminology, see S. Reynolds, 'The History of the Idea of Incorporation or Legal Personality: A Case of Fallacious Teleology', in *Ideas and Solidarities of the Medieval laity: England and Western Europe* (Aldershot, 1995), pp. 4, 9.

greater extent what county petitions requested was determined by the MPs who were responsible for presenting them at parliament. Theoretically, of course, anybody could claim to represent the interests of the county by submitting a petition in the county's name, but in practice it would seem unlikely that such petitions could have passed through parliament without the explicit backing of the county's MPs. This much can be inferred by the relatively small number of such petitions that were presented: if petitioning in the county's name had been an easy strategy for individual petitioners to deploy, in order to have their own narrow concerns addressed, one would expect there to have been a proliferation of 'county petitions' presented in parliament. That there was not could indicate that a fairly stringent system of regulation was in place whereby county petitions could only be verified as such if forwarded at the direct instigation of the county's representatives. As we shall see in the next chapter, there were a range of rhetorical devices which petitioners could use in order to enhance their chances of a favourable outcome to their petition, but overt misrepresentation was not one of these and we can be fairly sure that both the Crown and MPs would have been quick to challenge any petition which falsely claimed to have been drafted by 'the county'.[59] The importance of MPs to county petitions is also suggested by the fact that the appearance of this type of complaint seems to have been very closely linked to the attendance of county representatives in parliament. There appear to be far fewer such petitions dating from the late thirteenth and early fourteenth centuries, when the attendance of MPs at parliament was still quite irregular, in comparison to later periods when representatives attended each session of parliament that was called.[60] Interestingly, none of the forty English petitions enrolled for the parliament of July 1302—an assembly to which no parliamentary representatives were returned—was presented on behalf of a county community (though, significantly, several towns made supplications).[61] By contrast, in the parliament of February 1305, when MPs did attend, enrolled county petitions were recorded for the communities of Cumberland, Northumberland, and Lancashire.[62] It is not to deny the existence of county sentiment to acknowledge that parliament could have played a major role in developing this sentiment,

[59] For further discussion see Ch. 9, pp. 296–301.

[60] J. R. Maddicott, 'Parliament and the Constituencies, 1272–1377', in Davies and Denton (eds.), *English Parliament in the Middle Ages*, p. 69; G. L. Haskins, 'The Petitions of Representatives in the Parliaments of Edward I', *EHR* 53 (1938), 1–20, p. 9 (table A).

[61] *PROME*, SC 9/25, m.1.

[62] *PROME*, SC 9/12, 6 (6), 41 (20), 47 (26).

both in terms of reinvigorating the county court as an occasion for the men of the shire to come together to elect representatives and in providing a forum in which counties were now more regularly able to articulate grievances on a county-wide basis.

A system that filtered grievances through the hands of MPs, who were themselves likely to be members of the county's ruling elite, inevitably had the effect of distorting what complaints were presented to parliament in the name of the county. This is not to say that county petitions *only* articulated the interests of this elite. As we shall see, there is every possibility that MPs took their responsibilities as representatives of their county extremely seriously; but it does mean that petitions which articulated complaints that ran contrary to the interests of the elite were very unlikely to make any headway. The county elite did not monopolize county petitions, but they did hold a position in which they were able to veto or vet the complaints made in the county's name and, crucially, they also had the power to formulate petitions which did not necessarily articulate an all-inclusive consensual point of view. Perhaps the best example of this last point is a petition presented early in Richard II's reign, possibly in 1377, which purported to come from the 'Commons of Kent'.[63] The petition complained that the justices of Labourers had not held their sessions in the county for over four years and asked, on the basis that contraventions of the labour legislation had caused great damage to the inhabitants of Kent, that the justices should be more assiduous in their duties. In light of events a few years later we can be fairly secure in assuming that this petition did not articulate a widely-held viewpoint in Kent, and that the 'Commons of Kent' probably meant, in this case, a relatively small group of landholders whose livelihoods were threatened by the contumacy of their labourers. It could be said that the *real* Commons of Kent articulated *genuinely* broad-based, county-wide grievances at Mile End in June 1381.[64]

The emphasis that has been placed on the role of the county court in formulating parliamentary petitions from the counties suggests that the function of MPs in the process was simply one of forwarding the complaints once they had arrived at parliament. But this probably

[63] SC 8/119/5916.

[64] For a wider discussion of the relationship between the Peasants' Revolt of 1381 and petitioning in parliament, and the importance of the term 'Commons', see G. Dodd, 'A Parliament Full of Rats? *Piers Plowman* and the Good Parliament of 1376', *Historical Research* 79 (2006), 21–49.

understates the active role MPs could sometimes take in articulating their constituency's grievances when they were actually present at parliament itself. As we saw in Chapter 5, in the second half of the fourteenth century it was not uncommon for petitions to be presented in parliament on behalf of a coalition of county communities. [65] Realistically, these can only have been compiled during a meeting of parliament when MPs had the opportunity to intermingle and find common ground on similar local problems. Such petitions probably started out as a particular concern of one or two sets of county MPs who then actively sought the support of their parliamentary colleagues to make the petition as impressive as possible in its geographical application. One suspects this was the case for a petition of the last quarter of the fourteenth century which requested an ordinance for the better defence of the coast, and especially for the town of Southampton and the castles of Portchester and Purbeck.[66] The petition clearly focused on the interests of regions in Hampshire and Dorset, and yet it was presented not only by the commons of these two counties, but also those of Sussex, Devon, and Cornwall. Evidently there was some scope for MPs to use their initiative at parliament by backing complaints, or even initiating them, if the opportunity presented itself. It suggests that the principle of *plena potestas*, by which MPs were enabled to exercise the full representative power of their constituents, had a much wider application than the financial one with which it has usually been associated.[67]

In an attempt to make sense of a large and diffuse collection of 'county' petitions, the remainder of this section briefly focuses on a representative sample of such cases to illustrate some of the general points of discussion so far. In the first place, there is no escaping the fact that a large number of county petitions did indeed relate to office-holding or other aspects of royal administration that operated on county lines.[68] Examples include a petition from the 'community of Lincolnshire' in 1322 complaining that the county was unable to sustain the Crown's demand for a levy of 4,000 well-armed foot soldiers

[65] See Ch. 5, pp. 151–2. [66] SC 8/141/7039 (*c*.1370–1400).

[67] A point that can also be made in relation to common petitions. See J. G. Edwards, 'The *plena potestas* of English Parliamentary Representatives', in F. M. Powicke (ed.), *Oxford Essays in Medieval History Presented to Herbert Edward Salter* (Oxford, 1934), pp. 141–54.

[68] J. R. Maddicott stated that 'the main preoccupation of the shires was with office-holding and with the behaviour of office-holders' ('Parliament and the Constituencies', pp. 70–1).

because of recent murrain, flooding, and crop failure;[69] a petition from the 'Commons of Wiltshire' at the end of the fourteenth century complaining about the keepers of the forests who, it was alleged, had made unauthorized changes to the forest boundaries in the county;[70] a petition of 1321–2 from the 'people of Cornwall' complaining about the activities of the king's purveyors within the county;[71] a petition of 1336 from the 'community of Sussex' asking to have a place assigned for the holding of the county court;[72] and, finally, a petition of 1348 from the 'commonalty of the county of Dorset' asking to have the county's contribution to the fifteenth recalculated because of irregularities in the original assessment.[73] In each of these cases, it should be clear that it was the administrative structure created by royal government that set the contextual framework within which these complaints were made; but there is no obvious or automatic correlation between this and the existence—or non-existence—of county sentiment or identity. The petitions can be read in two ways: either as artificial constructs to fit into a system of local government organized on a county basis or as evidence that the administrative structures imposed by the Crown had come to generate a sense of county identity—a 'community of thought'—amongst those people who were best placed to identify and articulate the failings within the structure.

Of those petitions which were not so clearly delineated by the parameters of county-wide office-holding or administration, one of the most prominent subjects to be aired related to defence. A good example is the petition from the 'people of Sussex' in *c.*1377 which notified the king that Bramber Castle was completely unguarded and that an attack by the French would lead to the devastation of the whole of the surrounding country.[74] There is no obvious 'external' factor to explain why this petition was articulated as a county petition. Instead, it seems reasonable to suppose that it had been drafted in this way because the threat of French attack was genuinely felt to be of concern to the county as a whole. Other petitions were less broad-ranging, but still raised matters which could be considered to have been of general interest: in 1322, for example, the 'people of Shropshire and Cheshire' requested pavage for a stretch of road at Longford which was so filthy and flooded that it impeded those who wished to pass along this route;[75]

[69] SC 8/6/259. [70] SC 8/146/7268 (1377–99). [71] SC 8/4/186.
[72] SC 8/4/157. [73] SC 8/12/598. [74] SC 8/21/1031.
[75] SC 8/5/240.

in the early 1380s the 'commons of Essex' asked to have oyster fishing banned between May and September to preserve stocks;[76] and in 1390 the 'commons of Lancashire' asked to alter the dates for salmon fishing, presumably for similar reasons.[77] These cases lend themselves more easily to the idea that grievances were brought to the county court by specific interest groups who managed to win the backing of the county elite to have them aired as county petitions.

Not all county petitions promoted an agenda that served a common interest. In some cases the exact opposite was the case. The sheriffs of Essex and Hertfordshire were particularly active in this regard, doggedly pursuing the Crown throughout the last quarter of the fourteenth century to have the county's fee farm reduced because of the small number of hundreds in the two shires from which the sheriff could levy income.[78] Two particular points can be made in relation to these petitions. First, although a handful of extant private petitions from the commons of Essex and Hertfordshire survive, it is amongst the lists of common petitions that the majority of such complaints can be found. This may simply reflect losses in the archive; but equally, it may point to the fact such complaints were not actually compiled locally, the MPs for Essex and Hertfordshire having been charged to recruit the support of the lower house once they were at parliament so they could submit the request as a common petition from the start. The second point is that no real effort was made to disguise the narrow sectionalist agenda which these petitions served. They were presented in the name of the commons of Essex and Hertfordshire, and yet within the main narrative of the petitions it was made explicitly clear that the difficulty facing the 'commons' of the two shires actually impacted exclusively on the individuals chosen (or eligible) to serve as sheriffs. In almost all these petitions the victims were quite openly identified as the king's 'officials' or 'ministers' who had been 'ruined and destroyed' as a result of the untenable nature of the fee farm. Only a rather half-hearted attempt was made to broaden the scope of the grievance by claiming that the 'worthy

[76] SC 8/19/950. [77] SC 8/121/6045.

[78] For what follows see *PROME*, parliament of 1376, item 151; parliament of January 1377, item 61 (44); parliament of October 1377, item 73 (32); parliament of 1378, item 59; parliament of November 1380, item 38 (12); parliament of October 1382, item 50 (27); parliament of 1385, item 19; parliament of 1394, item 47; parliament of 1395, item 7 (1); parliament of 1401, item 57. For private petitions see SC 8/109/5405 (1376), 109/5448 (1410), 342/16132 (1377–85). For discussion, see W. M. Ormrod, 'The Politics of Pestilence: Government in England after the Black Death', in W. M. Ormrod and P. Lindley (eds.), *The Black Death in England* (Stamford, 1996), p. 169 n. 65.

persons of the said counties' now declined to live there for fear of being appointed as sheriff. The Commons' willingness to champion these complaints, and the Crown's ready engagement with the complaints in their 'common petition' form not only indicated a complicity in attending to the needs of fellow members of the administrative elite, but also a perception that the county elite had every right, as the more 'worthy persons of the shire', to utilize the language of community or commons for their own ends. We need not see this as underhand or subversive: it was probably predicated upon the assumption that what served members of the elite was also—by their inherent representative quality—bound to serve the broader interests of the community of the shire.[79]

On the other hand, it would be inaccurate to suggest that the county's ruling elite monopolized the county petition paradigm, for the final notable category of county complaint brought into parliament was levelled against this very elite. Perhaps the most notable of these cases were petitions which made complaints against currently serving sheriffs. In 1324, for example, the 'good people of the county of Yorkshire' complained that their sheriff was appointing people to assize juries who were of insufficient economic standing and who resided outside the county.[80] In *c*.1328, the 'community of Bedfordshire' made complaint against their own sheriff, Philip de Aylesbury, who was levying fines for beau pleader in violation of a statute passed against such practice in January 1327.[81] Under Edward III the 'commons of Lincolnshire' asked the king to replace John Fox, under-sheriff of Lincolnshire, with an individual of more impressive standing, a request which presumably ran contrary to the wishes of the sheriff of Lincolnshire whose choice Fox would have been.[82] And, most intriguing of all, a petition of the mid-1340s from 'the community of Bedfordshire and Thomas Studeley' made complaint against Henry Chalfont, sheriff, who was attempting to extract a fine from Studeley in excess of the sum that was owed.[83] Each of these cases highlights how sheriffs did not necessarily have

[79] On the nature of representation, and the role of elites as representatives of communities, see S. Reynolds, 'Medieval Urban History and the History of Political Thought', *Urban History Yearbook* (1982), 14–23, p. 16 (repr. in idem, *Ideas and Solidarities,* Ch. 14).

[80] SC 8/152/7592. [81] SC 8/32/1585; *Stats. of Realm*, i. 256 (item 8).

[82] SC 8/64/3162 (*c*.1327–77). On the appointment of under-sheriffs see R. Gorski, *The Fourteenth-Century Sheriff: English Local Administration in the Late Middle Ages* (Woodbridge, 2003), p. 34 n. 4.

[83] SC 8/32/1588.

automatic right to membership of the 'community' or 'commons' of a county and that the county community concept could, on occasion, be turned against him and other office-holders at the county level. The implication is that in these instances the shire's MPs, if they were not the direct instigators of the complaints, were at the very least complicit in having them presented to the king at parliament. It also suggests that the county court was not necessarily the only venue for the compilation of such complaints, since one presumes that the sheriff, as presiding officer of the court, would have blocked any petition which ran contrary to his interests. In the final analysis, these petitions illustrate why, over the course of the fourteenth century, there was increasing pressure to regulate the sheriff's office, not least in 1372 by preventing the return of current incumbents into parliament.[84] This would at least give petitions against sheriffs a better chance of reaching parliament.[85]

It should be clear, then, that there is no easy way to characterize the county petition. Like common petitions, county petitions encapsulated an enormously wide set of agendas, some genuinely advancing the interests of a significant proportion of the local population, others rather more narrow in their objectives. If the petitions generally reflected the priorities of the county elite, this did not prevent less significant 'corporations' such as hundreds or villages from petitioning parliament and gaining effective redress. Having a petition presented in the name of a county community was not necessarily a prize that all local petitioners aspired to: the county was simply one amongst many types of corporate identity invoked in petitions presented to parliament. Perhaps because the Crown paid far more attention to the actual contents of a petition than to its authors—imagined or real—there are no obvious signs that the county petition idiom was abused. The narrowest of agendas which such petitions promoted was still comparatively broad-ranging and, with one or two exceptions like the petition from Thomas Studeley, few were presented which openly promoted the specific interests of an individual. Sheriffs and MPs were the most conveniently placed to exploit the county petition for their own selfish ends, but there are enough requests from sheriffs petitioning in their own individual right

[84] *Stats. of Realm*, i. 62 (item 6).

[85] For background see K. L. Wood-Legh, 'Sheriffs, Lawyers and Belted Knights in the Parliaments of Edward III', *EHR* 46 (1931), 372–88, esp. pp. 372–6; and N. Saul, *Knights and Esquires: The Gloucestershire Gentry in the Fourteenth Century* (Oxford, 1981), pp. 107–19, 122–3.

to suggest that few saw this as a worthwhile exercise.[86] In general, the existence of county petitions indicates that the leaders of local society took their responsibility to represent the county's grievances to the Crown seriously. Whilst we must be cautious in assuming that county petitions automatically expressed an affiliation or identity with the shire on the part of the petitioners, the possibility cannot be dismissed. In many cases, it is quite plausible to argue that county petitions were the result of local men thinking and acting precisely in these terms.

8.3 PETITIONS FROM TOWNS

There are numerous petitions in TNA series SC 8 which promote the interests of urban communities. So prevalent are they, indeed, that some scholars have suggested that private petitioning was the single most important preoccupation of towns—and their representatives—when parliament met.[87] This is almost certainly an exaggeration. For one thing, the number of petitions which single urban communities presented in parliament was actually very small if viewed across an extended period of time: the occasions when borough MPs went to parliament without presenting a grievance are likely to have far exceeded those occasions when they did. We cannot assume that petitioning in parliament was anything other than a fairly intermittent or occasional activity for the vast majority of English towns who sent MPs to parliament, and even less so for those towns which did not. Even big cities like York, Norwich, and Bristol—not to say London—appear to have presented fewer than a dozen 'corporate' petitions across the whole of the fourteenth and fifteenth centuries. As a *class* of petitioner, however, the urban collective undoubtedly occupied a prominent place in the petitionary process

[86] A survey of the first fifty files in TNA series SC 8 reveals the following petitions from sheriffs, all bar one predating the 1372 ordinance forbidding the election of sheriffs to parliament: SC 8/1/15 (Walter de Molesworth, Beds. and Bucks., 1302); 1/32 (Robert de Bayouse, Cambs. and Hunts., 1305); 3/136 (William de Neville, Warws. and Leics., 1320); 4/174 (past and current sheriffs of Devon, 1320); 12/564 (John Cayly, Norf., 1335); 16/765 (William de Praers, Cheshire, 1332); 39/1906 (Roger de Chaundos, Heres., 1331); 39/1912 (Simon de Chamberleyn, Lincs., 1322–5); 41/2040 (John de Coggeshale, Essex, 1334–54); 42/2097 (the sheriff of Devon, *c*.1300–50); 44/2190 (John Dengayne, Hunts., 1377).

[87] M. McKisack, *The Parliamentary Representation of the English Boroughs during the Middle Ages* (Oxford, 1932), pp. 119–20; Maddicott, 'Parliament and the Constituencies', p. 70.

and in a typical session of parliament up to a dozen petitions might be presented from this quarter. It is interesting to reflect on the late medieval period as a whole that burgesses presented far more petitions in the name of their borough constituencies than knights of the shire presented in the name of their county constituencies. On this basis alone it is easy to see why burgesses have been so closely aligned with this aspect of parliament's activity.

The insularity with which the urban parliamentary agenda has been associated is also understandable in view of the contemporary perception of the role which burgesses played in parliament. This was articulated most notably in the Ordinance of 1372, which excluded borough MPs from the Crown's stipulation that lawyers should not be returned to parliament because they were exploiting their position in the lower house to promote the interests of private individuals.[88] The inference was that whilst the full attention of the knights was desired for matters of a wider national import, the representatives of towns were to be left unregulated. It is possible that this reflected a contemporary perception that the urban representatives had nothing important to contribute to discussion on the kingdom's affairs; but equally, it is possible that it reflected the belief that the promotion of local affairs was so central to the urban experience in parliament that banning lawyers, on whom boroughs relied so heavily to represent their interests, risked generating considerable opposition.[89] There may be some mileage in this second hypothesis when we consider how important the boroughs were for the Crown's financial needs, especially from the middle of the fourteenth century when the onset of large-scale war against France meant that the Crown was forced to rely more heavily than ever before on the fiscal resources of the urban dwellers.[90] Towns which returned MPs to parliament were marked out as having to contribute the largest proportion of taxation when direct subsidies were granted (i.e. a tenth on moveable goods)[91] and their inhabitants also contributed most to

[88] *PROME*, parliament of 1372, item 13.

[89] Boroughs continued to return lawyers to parliament in numbers throughout the late fourteenth and early fifteenth centuries: see J. S. Roskell, L. Clark, and C. Rawcliffe (eds.), *The House of Commons, 1386–1421*, 4 vols. (Stroud, 1993), i. Appendix B2 (p. 171).

[90] See W. M. Ormrod, *The Reign of Edward III: Crown and Political Society in England 1327–1377* (London, 1990), pp. 171–96.

[91] See J. F. Willard, 'Taxation Boroughs and Parliamentary Boroughs, 1294–1336', in J. G. Edwards, V. H. Galbraith, and E. F. Jacob (eds.), *Historical Essays in Honour of James Tait* (Manchester, 1933), pp. 417–35.

indirect taxation levied on overseas trade.[92] The size of these towns, and the wealth they generated for the Crown, meant they were best placed to develop at least a modicum of self-government, and so were amongst the most independent and independent-minded of the urban centres in the kingdom. These were also the towns that in time acquired corporate status, which essentially formalized the self-regulating nature of urban government and allowed the town, as a corporate entity, to hold, convey, and defend land at law.[93] Omitting the burgesses from the terms of the Ordinance of 1372 may therefore have been as much an acknowledgement by the Crown that it had no right to dictate who was returned to parliament by independent-minded boroughs as it was recognition of how important men with a legal background were to urban constituencies when choosing their MPs. Arguably, the Crown had to pay far more lip service to the needs of its boroughs—in order to preserve the 'unarticulated "gentlemen's agreement" '[94] that allowed towns the power of self-government in return for their financial support of the Crown—than it did to the counties where the sense of community, identity, and independence was much less coherent and where the Crown itself exercised much more direct control.

Of course, the perception that towns and their MPs were little interested in matters of national importance is wholly fallacious. There are a sufficient number of common petitions which promote interests likely to have been articulated by the urban representatives to suggest that towns had a very developed and sophisticated understanding of the difference between their own local needs and aspirations, and their collective obligation to articulate the broader concerns of the community of the realm. We cannot assume that the burgesses did not participate in discussion of a wider nature about the state of the kingdom—on matters of political, religious, military, or social import—but the common petitions relating to mercantile or commercial issues are

[92] On the proportion of indirect taxation to direction taxation levied across the fourteenth and fifteenth centuries, see W. M. Ormrod, 'England in the Middle Ages', in R. Bonney (ed.), *The Rise of the Fiscal State in Europe, c. 1200–1815* (Oxford, 1999), Figure 1.16.

[93] M. Weinbaum, *The Incorporation of Boroughs* (Manchester, 1936); Reynolds, 'History of the Idea of Incorporation', pp. 8–16; D. M. Palliser, 'Towns and the English State, 1066–1500', in J. R. Maddicott and D. M. Palliser (eds.), *The Medieval State: Essays Presented to James Campbell* (London, 2000), pp. 132–3.

[94] A phrase used by Barrie Dobson in his 'General Survey 1300–1540', in D. M. Palliser (ed.), *The Cambridge Urban History of Britain, 600–1540* (Cambridge, 2000), p. 281.

sufficient in themselves to indicate how central parliament was to the political life of urban communities, as the means to facilitate 'national policies' on matters of specific interest to townsmen.[95] This can be measured by identifying some of the issues addressed by common petitions presented at different times across the fourteenth and fifteenth centuries. In the parliament of 1363, for example, there were petitions asking for confirmation of legislation regulating the actions of the Calais staplers; for the safeguard of the currency; against the forestalling of victuals; against unlimited export of corn and other foodstuffs; for the removal of obstructions in rivers; for the regulation of the wine trade; and for legislation to restrict merchants to trading in only one form of merchandise.[96] In January 1390, there were common petitions on the staple; weights and measures; the cloth trade; the weight and (separately) the cocketing of wool; shoemakers, cordwainers and tanners; and unreasonable customs duties.[97] In 1423, there were common petitions on the currency; the quality of embroidery; weirs in the Thames; measures; and the regulation of nets permanently positioned in rivers.[98]

One very noticeable characteristic of the common petition from the point of view of towns is that there are almost no examples of requests presented by urban 'confederations' in the same way as there are, from the late fourteenth century, common petitions presented in the name of two or more counties.[99] The obvious inference to make is that towns did not share regional problems or grievances to the same extent as counties and that there was therefore little need to form urban alliances in this way. It may also indicate the more competitive nature of inter-town relationships. As we have seen, the influx of county petitions onto the

[95] This can be said particularly of the period after the mid-fourteenth century, with the decline of the phenomenon of separate merchant assemblies and the expansion in the number of borough MPs returned to parliament: see G. Unwin, 'The Estates of Merchants, 1336–1365', in G. Unwin (ed.), *Finance and Trade under Edward III* (Manchester, 1918), pp. 179–255.

[96] *PROME*, parliament of 1363, items 11–17, 21, 23, 34, and 35.

[97] *PROME*, parliament of January 1390, items 35, 37, 42, 47–49, 52, 53, 55, and 57.

[98] *PROME*, parliament of 1423, items 48, 49, 51, 53–55, 57, and 58.

[99] There are a handful of exceptions, such as the petition of 1378 from 'the citizens and burgesses of Bristol, Shrewsbury, Hereford, Gloucester, Worcester and other March towns' complaining about the distress being unfairly levied upon them when provisioning parts of Wales: *PROME*, parliament of 1378, item 61. For another example, from the burgesses of Durham, Darlington, Bishop Auckland, Gateshead, and Stockton, see SC 8/43/2149.

lists of common petitions had the effect of blurring the definition of what came to be thought of as a common grievance,[100] but in the case of towns there appears to have been a much clearer distinction between the contents of petitions that raised matters of a general concern and the contents of those that were presented to advance more localized or private interests. Generally speaking, common petitions drew the Crown's attention to problems connected with commerce and trade, whilst private petitions were almost exclusively confined to promoting the individual interests of single towns. Whereas 'economic' common petitions could be classified in general terms as mercantile in nature, in that they pertained to the interests of the broad merchant class, private petitions were much more specifically related to the challenges of self-government faced by towns as self-contained corporate entities. Thus, in a sense, it could be said that borough MPs (most of whom were the leading merchants of their towns) used the common petition to address issues which related to their shared profession, and they used private petitions to raise issues that had become their responsibility as the leading members of their town's ruling oligarchy.

Modern historiography places great emphasis on the developing homogeneity of the Commons in the course of the fourteenth century,[101] but in the case of common petitions which articulated the concerns of more than one constituency there appears to have been a fairly clear line of demarcation between counties and boroughs. Not only are there hardly any examples of towns allying with each other in presenting a petition to the Crown, but towns very rarely joined with counties when particular regional problems required airing in parliament.[102] The one notable exception was the city of Bristol, which participated in a number of 'county common petitions' presented in the last quarter of the fourteenth century.[103] But Bristol was a special case, for it had

[100] See Ch. 5, pp. 143–52.

[101] See G. L. Harriss, 'War and the Emergence of the English Parliament', 1297–1360', *Journal of Medieval History* 2 (1976), 35–56; Ormrod, *Edward III*, pp. 163–70.

[102] It is interesting to note that in a petition of 1376, which asked the Crown to repeal the charter given to Yarmouth which allowed it to levy cusoms on herring—a request which plainly served the interests of Lowestoft—the request was actually presented in the name of seven counties: Lowestoft itself was not mentioned: *PROME*, parliament of 1376, item 76 (25).

[103] These petitions are discussed in C. D. Liddy, *War, Politics and Finance in Late Medieval English Towns: Bristol, York and the Crown, 1350–1400* (Woodbridge, 2005), pp. 155–75.

been given county status in 1373 and was therefore allying itself to other south-western and border counties not as a demonstrably different entity, providing the petitions with a distinctive 'urban perspective', but as an equal partner to the other counties. The really interesting aspect to Bristol's involvement in these petitions is that it suggests that knights of the shire had a very clear sense that the grievances of boroughs and counties did not ordinarily mix. It suggests that Bristol had somehow 'earned' itself a place in these petitions because of the additional prestige and status that had been conferred on the city by royal charter. Presumably, no other boroughs within the regions were admitted because they were not counties, even though they may have suffered even more so than Bristol from the problems articulated by the knights of the shire in their petition.

The vast majority of private petitions thus raised matters that pertained to the specific circumstances of individual towns. Unlike county petitions, which fully embraced the rhetoric of unity to emphasize the representative nature of the collective grievance, petitions from towns did not usually employ words such as 'community' or 'commons'. For the most part, urban petitions were addressed from the 'burgesses' of the town. This was a useful 'catch-all' term that could designate both a town's MPs, who presumably handed the petition in at parliament, and the broader community of the town's propertied and ruling elite. The direct and open way in which petitions from urban communities made no claim to articulate the views of the town's population in its totality reflected the underlying expectation that a town's ruling elite would fulfil its obligation to represent the common good.[104] Perhaps the difference in language between urban petitions and county petitions can be explained by the fact that in towns, the representative quality of the community's leaders was essentially institutionalized (town officers, for example, swore oaths to carry out their duties for the common good), whereas the representative quality of those who framed county petitions was more informal, and probably much less publicly accountable. Having said this, it should be noted that towards the end of the fourteenth century some petitions from towns began to employ a more inclusive language when framing requests. Examples include petitions from 'the mayor, burgesses and commons of Southampton';[105] 'the mayor, bailiffs,

[104] The best discussion on the principles that guided the action of urban elites is Reynolds, 'Medieval Urban History', pp. 14–23.

[105] SC 8/75/3705 (1377–8).

burgesses and commonalty of the town of Wallingford';[106] and the 'burgesses, commons and tenants of Great Yarmouth'.[107] It is difficult to be certain why this change occurred. Possibly, it represented nothing more than a simple change of vocabulary, in line with the broader trend towards the greater elaboration of the petitionary diplomatic;[108] but a more attractive theory is that the new forms of address reflected an underlying shift in the political culture of towns, and the fact that the civic elite now felt it incumbent to include a 'popular' element in their petitions as a sop to the citizens of lower standing who wished to have a greater voice in urban government.[109]

How far 'collective' petitions truly represented the common interest or just the interests of the ruling elite is a question as problematic to address for towns as it is for counties (and, indeed, for parliament as a whole). There are no easy answers to indicate who composed urban petitions (as opposed to who *drafted* them, which was probably done by town clerks and/or lawyers);[110] how much consultation with the broader town community there was in drawing up the complaints; how far the views of ordinary citizens were suppressed from a town's petitionary agenda; and how far those petitions presented in parliament made a real and positive difference to the town as a whole. These questions form part of a wider debate about the motivation of urban elites, a debate which has ranged widely from the views of Susan Reynolds, who has argued for an urban political culture based on consensus and *effective* representation of the urban masses, to the views of Stephen Rigby, who has suggested that the appearance of 'aristocratic' urban government was little more than a veneer generated in civic records to

[106] SC 8/78/3853A (1385–99).

[107] SC 8/113/5616 (1397).

[108] See Ch. 9, p. 287.

[109] In some instances this resulted in significant constitutional changes to the organization of civic administration. This was particularly apparent in York, for which see S. Rees-Jones, 'York's Civic Administration, 1354–1464', in S. Rees-Jones (ed.), *The Government of Medieval York: Essays in Commemoration of the 1396 Royal Charter*, Borthwick Studies in History, 3 (1997), pp. 122–3. For the more general picture of the pressure for more inclusive civic government see A. F. Butcher, 'English Urban Society and the Revolt of 1381', and R. B. Dobson, 'The Risings in York, Beverley and Scarborough, 1380–1381', in R. H. Hilton and T. H. Aston (eds.), *The English Rising of 1381* (Cambridge, 1984).

[110] If petitions were drawn up at the time of parliamentary elections, then it seems probable that they were the product of discussion between the mayor and leading burgesses of the town who normally decided on the choice of MPs: McKisack, *Parliamentary Representation*, pp. 33–8.

justify the monopoly of power held by the town's rulers.[111] Petitions do not readily lend themselves to support conclusively either one or the other of these perspectives. To the extent that there are hardly any examples of urban petitions which complained about the ruling elite as a class it can be said with some confidence that the petitioning process was dominated and controlled by the town's *probi homines*. One of the few exceptions—a petition presented in the Good Parliament of 1376 by the 'poor commonalty of Yarmouth', against the 'hardships, wrongs and oppressions [committed by] the great men of the town'—almost certainly was a product of political instability at the centre, and the fact that amongst the 'oppressors of the community' were the Yarmouth merchants William Elys and Hugh Fastolf who were the subject of the (parliamentary) Commons' opprobrium at this time.[112] Parliament was not normally so receptive to petitions against ruling oligarchies. This may be one factor to explain why conflict within towns so often resulted in armed rebellion, for there was virtually no possibility for the urban 'commons' to appropriate the petitionary process for its own interests, let alone to secure the Crown's intervention against their social superiors.[113]

To conclude from this, however, that petitioning served only minority interests is to risk oversimplification. It is true that one will struggle to identify parliamentary petitions in the name of towns which could be said explicitly to serve the needs of the urban poor, but then this was not really the function which parliamentary petitions served. Fundamentally, petitions from towns engaged in a relationship with the Crown that was to a great extent defined (and constrained) by the town's own liberties and franchises, so the likelihood of petitions inviting the Crown to intervene in matters which ordinarily were the responsibility of civic government was extremely unlikely. In this regard, it is interesting to note that when the commons of York wished to hold their city's ruling elite to account in 1380, for certain financial irregularities, they

[111] Reynolds, 'Medieval Urban History', *passim*; S. H. Rigby, 'Urban "Oligarchy" in Late Medieval England', in J. A. F. Thomson (ed.), *Towns and Townspeople in the Fifteenth Century* (Gloucester, 1988), pp. 62–86, esp. pp. 67–70. For recent endorsement of Reynolds' views see L. Attreed, *The King's Towns: Identity and Survival in Late Medieval English Boroughs* (New York, 2001), p. 44.

[112] N. Saul, 'Local Politics and the Good Parliament', in A. J. Pollard (ed.), *Property and Politics: Essays in Late Medieval English History* (Gloucester, 1984), pp. 156–71.

[113] There are surprisingly few petitions, even from individuals, against the actions of mayors in TNA series SC 8, though it seems that such cases were more common in chancery in the fifteenth century: Attreed, *The King's Towns*, pp. 48–9.

did not seek the intervention of the Crown but petitioned the mayor and aldermen directly.[114] Even the disenfranchised recognized that the most appropriate course of action to resolve their grievances lay not in an appeal to the king but in their own efforts to change the status quo locally. Fundamentally, urban petitions articulated grievances or requests on behalf of the town as a unit of government, seeking the intervention of the Crown on matters such as defence, finance, and commerce which, despite their self-government (and often because of it), still needed the consideration and approval of the king. The petitions concentrated on these matters because they formed the essence of a town's external relationship with the Crown, and because they were framed by individuals who had the responsibility to exploit and promote this relationship to the best of their abilities.

It should come as no surprise, then, to find that it was the towns that had the closest relationship with the Crown which also tended to make the most of petitioning in parliament. These were predominantly the chartered boroughs, the largest and most prosperous urban centres in the kingdom which also happened to enjoy the greatest element of self-government. These towns formed the core of urban representation at parliament. Two of the largest categories of urban request were generated by the specific relationship between chartered towns and the king: one group of petitions sought the renewal or modification of the town's liberties; and the second group drew attention to the financial problems a town could face as a result of its obligation to pay the annual fee farm. A fairly typical example in the first category was the petition of the burgesses of Wells in 1341 asking not only for the renewal of their original charter of 1290, but for additional liberties which further aimed to consolidate the town's commercial interests and ensure the immunity of its merchants from the jurisdiction of local courts outside the town's limits.[115] An excellent example of a petition relating to a town's fee farm was presented by the mayor and citizens of Lincoln some time in the 1430s in which the petitioners asked for the city to be freed of its obligation to pay direct taxation so that it would be able to raise sufficient money for the fee farm.[116] The petitioners also suggested, as an alternative, that the king resume all the liberties of the city in return

[114] C. D. Liddy, 'Urban Conflict in Late Fourteenth-Century England: The Case of York in 1380–1', *EHR* 118 (2003), 1–32 (pp. 14–15).

[115] SC 8/151/7517; *C.Ch.R. 1341–1417*, pp. 6–7.

[116] SC 8/122/6083. Exemption from direct taxation was granted on a partial basis (to the laity of the city only) in 1434 and 1436, and full exemption was granted in 1440,

for the cancellation of the farm. All this was justified on the pretext that the great financial burdens imposed on Lincoln had impoverished the city to the extent that most of its citizens had fled, leaving it desolate and empty.

Perhaps the most surprising aspect of the petitions relating to town charters is how few of them exist. Weinbaum noted that 235 English towns had their charters renewed or confirmed, often on many different occasions, between 1307 and 1660,[117] and he also speculated that a large proportion of these confirmations had been initiated by parliamentary petition.[118] But the relatively small number of petitions on this matter suggests that in fact only a few charters were solicited in this way. The impression is strengthened when we note that under Edward II only a small proportion of confirmations enrolled on the charter rolls were authorized *per peticionem de Consilio* at times when the request might feasibly have been presented in parliament.[119] Large numbers were issued at other times and with other warranty notes.[120] Most towns petitioning for the confirmation of charters also sent MPs to parliament and so had an obvious and easy route to follow in order to secure the king's grace;[121] but as a general rule parliament does not seem to have been considered to be any more effective in securing confirmation as approaches made to the king at other times.[122] Requests for reduction in fee farms have been discussed in detail elsewhere and need only concern us briefly. To A. R. Bridbury's important corrective, that such requests must be treated with extreme caution since they were often little more

1441, 1445, 1446, 1449 (twice), 1453, 1465, and 1472: J. W. F. Hill, *Medieval Lincoln* (Cambridge, 1948), p. 272.

[117] *British Borough Charters 1307–1660*, ed. M. Weinbaum (Cambridge, 1943), pp. xxx–lv.

[118] Weinbaum, *Incorporation of Boroughs*, p. 63.

[119] For discussion of the significance of this clause see Ch. 3, pp. 61–3.

[120] For example, *C.Ch.R. 1300–1326*, p. 206, Portsmouth (11 February 1313); p. 236, Great Yarmouth (28 March 1314); pp. 238–9, York (25 September 1316); pp. 340–1, Southampton (4 June 1317); and p. 459, Coventry (10 July 1323). Typically, these confirmations were authorized 'by king and by fine of [sum]', but in the case of Southampton, the confirmation was warranted 'by king at the instance of the bishop of Winchester'.

[121] E.g. Dorchester, SC 8/43/2122 (*c*.1337); Huntingdon, SC 8/83/4121 (?1320); Gloucester, SC 8 114/5679 (1312); Hull, SC 8/119/5924 (1377–99); Lostwithiel, SC 8/123/6111 (*c*.1324).

[122] A point illustrated in a broader sense by the surprisingly infrequent use made of parliament by London, petitioning as a corporate entity: see C. Barron, 'London and Parliament in the Lancastrian Period', *Parliamentary History* 9 (1990), 343–67, p. 343. Londoners petitioned parliament as individuals extensively.

than attempts 'to defraud the king of his meagre dues'[123]—a charge that can be levelled with some justification against petitions presented by the city of Lincoln[124]—we need only add the caveat that we should not assume that *all* urban claims of poverty were fraudulent. When the burgesses of Bamburgh, for example, asked the king to pardon them of their fee farm in 1318, because of the devastation caused by Scottish raiding, this claim probably had a significant ring of truth to it, in light of the well-documented devastation caused to northern England at this time.[125]

The remaining petitions from towns are a fairly miscellaneous collection. A number are requests to levy local tolls, including murage, pontage, pavage, and quayage, the proceeds from which were to be used to build or repair, respectively, town walls, bridges, pavements, and harbours.[126] The right to tax the king's subjects belonged to the king alone, as part of his inalienable sovereign power, so it was incumbent upon towns to seek licences if they wished to raise money for these sorts of corporate enterprises. A typical petition of this type was presented by the burgesses of Cockermouth in 1305, asking for pontage to repair the three bridges of the borough which had been swept away by floods.[127] A licence was issued for five years. A petition presented in Edward II's reign from the burgesses of Ravenser Odd asked for quayage to keep their harbour from silting up and to ensure that merchants came to their town.[128] Besides local levies, other types of petition presented by urban communities included pleas to be excused from military obligation (for example, the petition of 1377–8 from the burgesses of Coventry asking to pay a fine in place of building a balinger of 40–50 oars because no one in the area knew how to build one—not an unreasonable request to make given that Coventry was the largest town in England not to be located on a navigable waterway);[129] requests for the Crown to protect a town's commercial interests (for example, a petition from the

[123] A. R. Bridbury, 'English Provincial Towns in the Later Middle Ages', *Economic History Review* 34 (1981), 1–24, p. 16.

[124] Ibid., pp. 8–10.

[125] SC 8/34/1652. See C. McNamee, *The Wars of the Bruces: Scotland, England and Ireland, 1306–1328* (East Linton, 1997), p. 76.

[126] On these tolls see E. T. Meyer, 'Boroughs', in J. F. Willard and W. A. Morris (eds.), *The English Government at Work 1327–1336*, 3 vols. (Cambridge, MA, 1940), iii. 117–18; C. M. Fraser, 'The Pattern of Trade in the North-East of England, 1265–1350', *Northern History* 4 (1969), 44–66; H. L. Turner, *Town Defences in England and Wales* (London, 1971), pp. 24, 30–1.

[127] SC 8/1/22. [128] SC 8/68/3380 (*c*.1312–30). [129] SC 8/41/2018.

burgesses of Grimsby in 1321–2 complaining that the inhabitants of surrounding villages had set up a market within two leagues of the town in breach of their rights);[130] and complaints against the actions or agents of the Crown (such as the petition of the burgesses of Portsmouth in *c*.1319 complaining about the king's butler).[131] Parliament could also become the venue for inter-town rivalry, so that the Crown was called upon to settle or arbitrate in disputes between competing urban centres. This occurred in 1307 when the citizens of York complained that the people of Hull were preventing merchants from sailing upriver to York because of the heavy customs and inconvenience imposed on them at Hull.[132] A better known example is the running dispute between Yarmouth and Lowestoft in the 1370s and 1380s over rights to levy customs on the sale of herring. In this case, the Crown did not so much adjudicate as procrastinate, as first one town and then the other secured a temporary advantage by having their petition accepted in parliament, only for it to be superseded a few years later by a counter-request.[133]

Could these petitions be said to have promoted the common interests of the town? Were the civic elites fulfilling their obligation to the broader urban population by raising matters that benefited the whole community and not just the small number of wealthy citizens who were probably responsible for compiling the petitions? If we accept that petitioning was to a considerable degree defined by the corporate relationship that existed between town and Crown, and that the subject-matter of such petitions was therefore restricted to the administrative and financial dealings of the town as a corporate entity, we should indeed view these requests as broadly representative of the interest of the urban communities. The petitions do not, as a general rule, appear to promote only the narrow sectional interests of the urban elite: requests for better walls, bridges, or harbours, or for reduced fee farms or greater liberties or greater commercial protection, whilst clearly in the interests of the elite, also had benefits that would have filtered down to the wider population in the form of better defence, enhanced commercial activity, or an improved urban 'infrastructure'. In the final analysis, petitions are not in themselves the best medium with which to assess the quality of urban government for the simple reason that they existed outside the normal framework of the internal workings of the town.

[130] SC 8/7/322. [131] SC 8/135/6748. [132] SC 8/46/2267.
[133] See Saul, 'Local Politics', p. 159 n. 20.

Perhaps there is something inherent in the term 'community' that lends itself so easily to misapplication and deception. Certainly, what made it such a powerful and useful rhetorical device in the medieval period was that it carried hugely significant political and cultural weight and yet was singularly ill-defined and ambiguous. It is ironic, but also very revealing, that of the three case studies discussed in this chapter the most easily recognizable and verifiable 'communities' to present petitions in parliament—monastic houses—almost never used this term to describe their collective identity. Yet it was employed almost as a matter of course to describe the distinctly more problematic communities said to exist in shires and towns. There is a sense in which the term was used in these contexts to describe an abstract concept rather than a discrete body of men and women who were fully concordant with the sentiments being voiced on their behalf. The term community was employed most consistently in petitions from shires, perhaps because this was the most ill-defined of the three groups to claim a collective identity. 'Community' was invoked most, it seems, when it was least in evidence. We need not necessarily see this as a sinister development, for the emphasis that is often placed in the modern day on defining a community in terms of the participation of its members had rather less importance in the late medieval period. This was because of the inseparability of the concept of community from the principle of representation. When petitioners submitted complaints to the Crown in the name of a community it was assumed and accepted that they did so not because they had consulted this community for its views, but because they were this community's natural and legitimate leaders whose position enabled them to identify and truthfully represent collective interest. To this extent, the term community designated an elite whose political and social position allowed them to act (or claim to act) in the interests of those whom they represented.

9

Writing and Presenting Private Petitions

This chapter completes our consideration of the late medieval private petition by considering the mechanics of the petitioning process itself. Throughout the book, discussion has rested on the unstated assumption that private petitions created a crucial interface between the king and his subjects, and that for the most part they enabled individual men and women, and local communities, to initiate and shape this interface on their own terms. Petitions not only made possible, but also gave expression to, a remarkable degree of initiative on the part of medieval people seeking to improve their individual or collective fortunes. They helped establish the principle of 'self-help' as an important facet of late medieval English political and judicial culture. In general this appraisal holds true. But whilst the underlying purpose of a petition lay in conveying the particular circumstances of a petitioner's needs to the Crown, it does not follow that the petition itself represented the authentic voice of the supplicant him or herself. Petitions enabled the king's subjects to approach the king on their terms, but on whose terms were the petitions themselves actually written and presented? The question is vital to understanding the particular characteristics of petitioning in the late medieval parliament. It is a question that invites a consideration of the form in which petitions were written, of the language used in compiling them, and of the authorship of petitions and the way in which petitioners had their cases viewed at parliament. In short, how *were* private petitions written and presented?[1] The basic aim of the chapter is to demonstrate that private petitions were just as much products of the 'centre', reacting and responding to a political discourse determined by the functionality and principles underlying government action, as they were products of the localities, articulating

[1] Some of these questions are addressed in A. R. Myers, 'Parliamentary Petitions in the Fifteenth Century', *EHR* 52 (1937), 385–404, 590–613, esp. pp. 386–91, 401–2, but not in any great detail.

the problems and grievances faced by men, women, and communities living within the orbit of English royal authority. In the course of this discussion, readers may wish to consult Appendix 2, which contains full transcriptions of a selection of private petitions which illustrate the principal stages of development in petitionary form and diplomatic between the thirteenth and mid-fifteenth centuries.

9.1 STRUCTURE AND FORMULAE

Apart from some very early examples of petitions presented to parliament in the 1270s and 1280s, which often stated little more than that 'Petitioner [name] wishes to have a particular grant or form of justice',[2] the structure of private petitions very quickly assumed a standard format. Petitions presented in parliament adopted a general form which can be found in most written supplications presented in England in the late medieval period. In all likelihood, this was because as new institutions which handled petitions came into being, the practice and techniques already established were drawn upon as a point of reference for the new types of request. Thus, clear comparisons can be drawn between the form of the early petitions presented in parliament at the end of the thirteenth century and the bills handled, concurrently, in the general eyre; the same can be said of early chancery bills and the petitions presented in parliament at the end of the fourteenth century.[3] Much of the detailed work that has been done by T. S. Haskett on the drafting of bills for consideration in the fifteenth-century chancery can be applied to parliament;[4] but in the case of private petitions a structure rather more simplified to those suggested by Haskett can be used to identify the key stages in the writing process. J. F. Baldwin suggested a three-stage division of petitions into, firstly, the address; secondly, the statement

[2] For e.g. see SC 8/144/7185 (1278–83).

[3] *Select Bills in Eyre, A. D. 1292–1333*, ed. W. C. Bolland, Selden Society, 30 (London, 1914), *passim*; and *Select Cases in Chancery A.D. 1364–1471*, ed. W. P. Baildon, Selden Society, 10 (London, 1896), *passim*.

[4] T. S. Haskett, 'The Presentation of Cases in Medieval Chancery Bills', in W. M. Gordon and T. D. Fergus (eds.), *Legal History in the Making: Proceedings of the Ninth British Legal History Conference, Glasgow 1989* (London, 1991), pp. 11–28. See in particular the breakdown Haskett makes of chancery bills in the Appendix, in the first case to 11 parts, and in the second to 9 parts.

of grievance or complaint; and finally, the prayer for remedy.[5] This is a sensible framework and has the advantage of applying, with almost no exceptions, to all the petitions presented in parliament from the late thirteenth to the late fifteenth centuries. Some refinement, however, can be made. The first stage is better separated into the address and *then* the identification of the petitioner—all petitions, by their nature, specified the name or identity of those whom the Crown was to help. At the end of the petition, the prayer for remedy was very often preceded by an explicit exposition of what the petitioner wanted, which was very obviously separate from the statement of grievance, as well as the final flourish at the end of the petition where a more explicit and formulaic appeal was made to the king's justice or grace. The five main stages of a parliamentary petition can be summarized as follows:[6]

1. address
2. identification of the petitioner
3. statement of grievance or difficulty
4. request for redress
5. appeal for remedy

These stages, and the words used to introduce them, represented the most obviously formulaic aspect of the private petition. In the early fourteenth century, the standard form of address to a petition read: (e.g.) *A nostre Seign[eur] le Roi et a soen conseil*.[7] Addresses in later petitions adapted to fit a changing political culture in which parliament and its members now began to assume a recognizable and distinctive role in the petitionary process. From the 1370s the council began to be substituted by the Lords in the address: (e.g.) *A nostre Seign[eur] le Roy et as touz les Seignours du P[ar]lement*. And from the late fourteenth century and into the fifteenth century, an increasing proportion of petitions began to be addressed directly to the Commons, when the practice of intercession by MPs emerged: (e.g.) *A t[re]ssages Co[mmun]es de cest p[re]sent P[ar]lement*, or (to give an English example) *To the right*

[5] J. F. Baldwin, *The King's Council in England during the Middle Ages* (Oxford, 1913), pp. 282–3.

[6] A five-stage division of a petition's structure was first suggested in J. H. Fisher, M. Richardson, and J. L. Fisher, *An Anthology of Chancery English* (Knoxville, TN, 1984), p. 21.

[7] There is important discussion of the formulaic language used in petitions presented in Edward I's reign in P. Brand, 'Petitions and Parliament in the Reign of Edward I', in L. Clark (ed.), *Parchment and People: Parliament in the Middle Ages* (Edinburgh, 2004), pp. 24–31.

sage and full wise Comunes of this present parliament. It also became common in the fifteenth century to separate the address from the main body of the petition, a convention which may have been introduced as an administrative aid to help distinguish those petitions which had been submitted to the Commons from those which were handled direct by the king and Lords.

The next stage of the petition—the identification of the petitioner—began with a verb to describe the supplicatory nature of the document: *monstre/monstrent*; *se pleinte/se pleynent*; and *prie/prient* were all terms commonly used in early petitions. The word *supplie/supplient* was used more frequently in petitions presented after the middle decades of the fourteenth century. In the fifteenth century, as more petitions began to be written in English, petitioners were commonly said to beseech (*besecheth*) the support of the Commons or the grace of the king. Another increasingly common opening address adopted a rather different, and perhaps bolder, semantic device by *inviting* the king or Commons to consider the supplicant's grievances: *please hit your wyse discrecions to considre* . . . . Often *supplie/supplient* was followed by the adverb *humblement* to emphasize the deferential nature of the supplicatory act. In earlier petitions little space was wasted to describe the state or condition of the petitioner, but it became common as the fourteenth century progressed for petitions to draw on more elaborate vocabulary to emphasize the worthy qualities possessed by the supplicant. These most frequently included an association of the petitioner with poverty (e.g. *Supplie treshumblement v[ost]re pov[er]e chapeleyne et Orato[ur]* [name of petitioner])[8] or his/her possession of humility and/or loyalty (e.g. *Supplient voz humbles et liges* [name of petitioner]).[9] In the later petitions written in English, supplicants were frequently said to be beseeching the king, Lords or MPs meekly or 'lowly' (e.g. *Most loweli be sechithe un to youre most gracious and heigh lordship*).

The next two stages—the statement of grievance/complaint and the suggested remedy—incorporated the greater part of a petition's prose, and together can be classified as constituting the substantive narrative of the petition. It was here that the petitioner explained what was wrong and what was needed from the Crown. The stages were usually introduced with standard formulaic phrases: the statement of grievance typically began (after the petitioner's name) with the words *q[ue] come*, and the suggested remedy was generally introduced with

[8] E.g. SC 8/146/7251 (?1383). [9] E.g. SC 8/146/7252 (1383).

the link phrase *que plese a v[ost]re seigneur*. In the petitions addressed to the Commons in the fifteenth century, the suggested remedy was directed in the first instance to MPs who were asked to support the supplicant's case before the king: (e.g.) *Que please a voz . . . discressions de considerer* [petitioner's grievance] *Et de supplier au Roy . . . et a lez S[ire]s Esp[iritu]elx et temp[or]elx*.[10] The greater proportion of suggestions for remedy then normally ended with a final, formulaic appeal: *pur dieu et en oev[re] de charite* or *for the loue of god and in wey of charitee*. In general, then, petitions were written in accordance with a relatively narrow set of formulaic and diplomatic conventions. There was certainly scope for petitioners to make supplications their own—primarily in the narrative part of the request—but the stories which these documents relayed to the king were constructed within what appears to have been a broadly recognized petitionary canon which acted as a template into which the specific details of a particular case were inserted.

To explain the remarkable consistency in the construction and compilation of private petitions one is inevitably drawn to the question 'Who drafted the petitions?' This is addressed below, but for the present purposes it is worth considering how the uniformity of petitionary diplomatic may also have been one of the products of a common set of assumptions about the way in which the king ought to be approached with requests from his subjects. It was this broader political culture which helped create a standardized body of language which the drafters of the petitions could readily (and perhaps unthinkingly) draw upon. In studying the language of petitions, and the formulae used to fuse the requests together and give them shape and coherence, it becomes evident that there were two very clear political discourses which petitions engaged with. One was religious; the other was feudal. There are very clear religious overtones in the relationship posited between the petitioner and the king.[11] The overall tone and construction of a petition reinforced a sense of deference and humility on the part of the petitioner, whilst at the same time upholding the supreme and unquestioned authority of the king. The petition was an appeal to royal grace, it was not a request demanded as of right, even if the petitioner had strong grounds to expect redress. The word 'grace', with

[10] SC 8/147/7349 (1432–*c*.1440).

[11] For an excellent discussion of this theme for early medieval petitions see G. Koziol, 'The Early History of Rites of Supplication', in H. Millet (ed.), *Suppliques et Requêtes: Le Gouvernement par la Grâce en Occident (XII^e–XV^e Siècle)* (Rome, 2003), pp. 21–36.

its obvious religious connotations, was frequently used in petitionary diplomatic. Often, and particularly in petitions from the earlier period, supplicants 'prayed' to the king to have a remedy for their grievance. In the first petition in Appendix 2, the petitioner 'prayed for God' that the king would grant him land. Moreover, as we have seen, most petitions ended by equating the king's power with the wishes and interests of God (i.e. petitions should be granted '*for God* and as an act of charity'). To conclude that petitions were, in essence, prayers to the king is not to make a judgement based upon the clear parallels that exist between petitioning and the liturgy, but is to describe how contemporaries actually perceived their petitions, for a request made of the king as God's representative on earth was as much an appeal to heavenly rulership as it was to earthly rulership.

In one of the few contemporary visual depictions of petitioning in the English parliament the religious connotations attached to the act of petitioning are brought out very clearly. An illumination from the foundation charter of King's College, Cambridge, dating to 16 March 1446, shows the Commons and the Lords kneeling before the king, presenting their request for the endowment of the new college.[12] From the mouth of the leading member of the Commons—perhaps the Speaker, William Burley—are the words 'prient lez communes', and from the leading member of the Lords—most probably the chancellor, John Stafford, archbishop of Canterbury—are the words 'Et nous le prioins ausi'. The dialogue accords with the process likely to have taken place in parliament: on the parliament roll, it is recorded that the petition was presented in parliament by the Commons on behalf of the provost and scholars of the college.[13] The petition itself, which was likely to have been drawn up initially by the provost and scholars, because it was addressed to the Commons, asked the latter 'to pray our said sovereign lord' to enact the terms of their charter 'with the advice and assent of the lords spiritual and temporal'. The depiction of the king, kneeling before an altar praying for the college, suggests the idea of the sovereign acting as a conduit bringing divine judgement and sanction to the requests of his people. In this particular case, the petition appears to have been a formality because the foundation of King's College was

[12] A good reproduction of the image is in R. Horrox (ed.), *Fifteenth Century Attitudes: Perceptions of Society in Late Medieval England* (Cambridge, 1994), p. 23.

[13] *PROME*, parliament of February 1445, item 22. The petition was presented in the fourth session of this parliament which was held between 24 January and 9 April 1446.

a project very much driven by the personal motivation of the king himself.[14] The petition probably served more to register the approval of the Commons and political community for this grand (and expensive) royal project than it did to win the backing of the king. But the imagery illustrates the contemporary perception of the monarch enjoying unique and privileged access to the Divinity. It shows him acting as intercessor on behalf of petitioners in a way which the petitioners were apparently unable to do themselves. And it demonstrates in very graphic terms the link that existed in contemporary minds between petitioning and praying: the Lords and Commons prayed to the king; the king prayed to God. Petitioning was a way of making material changes to a supplicant's earthly fortunes by appealing to God through the king. It was precisely this that made the process so special, for a petition provided the king's subjects with the opportunity to access a 'purer' form of justice far more closely aligned to a moral imperative than the 'ordinary' justice offered in the king's lower courts, which appeared to be governed more by earthly processes and which (at least in the minds of contemporaries) were often sullied by the flawed and corrupt judgements of the king's justices.[15] A petition to the king was an appeal to the king's sense of equity and fairness—to his conscience—and this, more than any formalized legal doctrine, was intrinsically linked to the sovereign's personal role as the vessel of God's grace.[16]

The language of lordship can be found in numerous petitions where the supplicants described themselves as the king's lieges, but in *all* petitions the connection is made absolutely explicit in the common form of opening address in which petitioners began their request with the words: 'A nostre *Seigneur* le Roy'. The language of lordship, like the religious connotations, fundamentally underlined the subservient relationship which existed between the petitioner and the king. But it also carried other meanings, for lordship cut two ways and the petitioner's affirmation of the feudal relationship could also be construed as a reminder that the king had an *obligation* to provide justice and grace, for

[14] For discussion of the founding of King's College, and Henry VI's twin project, Eton College, see R. A. Griffiths, *The Reign of King Henry VI* (Stroud, 1981; repr. 1998), pp. 242–8.

[15] For an introduction, see A. Musson and W. M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke, 1999), pp. 171–5.

[16] Note the common petition of 1373 which urged Edward III to expedite the 'petitions of individual right' presented in that assembly 'in salvation of the laws of the land and *in discharge of the conscience of our said lord the king*': *PROME*, parliament of 1373, item 14.

the sake of good lordship. The same sense of reciprocation might also, indeed, be read into the religious imagery: the king was God's vicar on earth, therefore he had a duty and an obligation to see that God's will was fulfilled. Presumably, one of the purposes behind the final flourish at the end of petitions was to align the petitioner's cause with God's wishes in order to exert moral pressure on the king to perform his special role as intermediary. Similarly, the exhortation to the king to grant a petition 'as an act of charity', whilst carefully avoiding any suggestion that a successful outcome to the petition was taken for granted, nevertheless placed a moral imperative on exactly this outcome. Charity was one of the key virtues associated with good kingship:[17] by invoking this attribute, a petitioner was presenting the king with an opportunity to demonstrate his qualities. The fact that charity, rather than mercy, was called on in the petitions is particularly worthy of comment,[18] for it can be argued that charity induced a much greater sense of the worthiness of the petitioner to have their request resolved successfully. Charity, in the form of alms, was what the king gave to the *deserving* poor—an association which petitioners often explicitly embraced by describing themselves as 'poor' in the opening address to their petition. A plea to charity implied that a petitioner's circumstances were caused by factors outside their control, and therefore the king ought to feel more inclined to bestow his grace. A plea to the king's mercy, on the other hand, implied a greater sense of culpability, and by implication it appeared to make bigger demands of the king's discretionary authority.

It is easy to ignore the formulae of petitions—to 'mistake the routine for the trivial'[19]—but the formulae served a crucial purpose besides simply providing a framework upon which the narrative of a petition could hang. The formulae engaged with some of the fundamental principles which underlay royal authority. Their explicit purpose was to uphold the position of the king as the supreme source of resolution for a petitioner's grievance, but underneath this, on a more nuanced level,

[17] V. A. Cole, 'Ritual Charity and Royal Children in Thirteenth-Century England', in J. Rollo-Koster (ed.), *Medieval and Early Modern Ritual: Formalized Behavior in Europe, China and Japan* (Boston, 2002), pp. 221–43.

[18] Mercy was more closely associated in contemporary writing with the king's intervention in judicial processes. For recent discussion, see H. Lacy, 'The Politics of Mercy: The Use of the Royal Pardon in Fourteenth-Century England', PhD thesis, University of York, 2005, pp. 149–51, 165.

[19] M. Burger, 'Sending, Joining, Writing, and Speaking in the Diocesan Administration of Thirteenth-Century Lincoln', *Mediaeval Studies* 55 (1993), 151–82, p. 151.

was a second layer of meaning which aimed to justify and uphold the petitioner's right to seek and gain redress for their difficulty.

In the third quarter of the fourteenth century, the formulae employed in petitions began to change. In essence, the language used to write petitions became more elaborate, most noticeably in the opening clause. The king now began to be described in terms such as *tresexcellent*, *tresredoubt*, *tresnobles*, *trespuissant*, *treshonourable, tresgracious, tressoveraigne, treshaute*, and so on. The council was now described as *tressage*, presumably reflecting the fact that its members were expected to offer the king wise counsel and advice. And the Lords and Commons, when they began to be addressed in petitions, were accorded such epithets as *tressage* and *tresnobles* (Lords) and *tressages* and *treshonourables* (Commons). When petitions began to be written in English, the Commons were commonly described as 'right wyse and discreet'. Whereas the adjectives used for the king tended to emphasize his power and prestige, the words used for the Lords and Commons (and council) tended by contrast to emphasize dignity and qualification. Some idea of the extent to which these attributes had come to punctuate the prose of a petition can be seen in example 3 of Appendix 2 where there are no fewer than eleven such usages to describe the king (Edward III) and his son (the Black Prince). This example, which dates to 1376, is particularly useful for highlighting how rapidly the custom had taken hold (it is difficult to find many examples which predate the 1350s),[20] and also for demonstrating how well-established the custom had become even before the reign of Richard II when such vocabulary is thought to have first appeared.[21]

There may be external factors to account for the change. It is noticeable that the first recorded case of the parliamentary Commons using such highfalutin language in their common petitions occurred in the parliament of 1362, a date which is sufficiently close to the Treaty

[20] Note, however, a petition of 1321 addressed by the mayor and commonalty of Dublin in the following terms: *A tresnoble e pussaunt Prince e lour tresonurable Seignur Sire Edward* (SC 8/82/4090). As early as 1305 there are petitions which use the phrase 'royal majesty' in their opening addresses (SC 8/96/4775, 96/4781, 96/4782, 96/4798). Interestingly, all these examples were petitions presented by Gascons.

[21] N. Saul, 'Richard II and the Vocabulary of Kingship', *EHR* 110 (1995), 845–77, esp. pp. 856–61. As a result of Saul's discussion, a strong body of consensus has built up which regards Richard II's reign as the point when new ways of addressing the king in exalted and flattering terms first appeared. In fact, the evidence of private petitions suggests that the use of obsequious language at the end of the fourteenth century was simply a development of an already established diplomatic tradition.

of Brétigny as to suggest a connection.[22] Perhaps the introduction of this elaborate and grandiose language was linked to a new perception of the king in which his position as de facto ruler over a significant chunk of Western Europe was now thought to require a more impressive 'European' form of stately vocabulary for the occasions when he was to be addressed by his subjects.[23] On the other hand, factors more pertinent to the developing nature of parliament could explain the new petitionary diplomatic, for it was about this time that the process of expediting private petitions appears to have opened up and involved a much larger proportion of parliament's membership. In the early fourteenth century petitioning was probably regarded primarily in functional terms, as a process that required a petitioner to state his grievance or request as directly as possible to facilitate its speedy dispatch. By the mid-fourteenth century, however, the expansion of the committees of triers, and the greater social and political bearing of those individuals who were appointed to them, suggests that the dispatch of petitions was now also beginning to be seen as providing a benchmark for the status and dignity of the individuals involved in the process. In other words, petitioning was no longer merely a judicial and administrative process: now, it said something important about the political dignity of the people responsible for making judgements on the cases. Perhaps the introduction of obsequious terminology in the addresses of petitions was in some way a product of this shift in petitionary culture, and the emphasis now placed on the special position occupied by the king and the political elite in processing the nation's complaint.

But it was not just the language that changed in the fourteenth century: parliamentary petitions also became noticeably lengthier. In the early fourteenth century, it was not uncommon for petitions presented in parliament to be written out in no more than three or four lines. Examples 1 and 2 in Appendix 2 provide good illustrations. After Edward III's reign, however, it became far less common for short

[22] *PROME*, parliament of 1362, item 8. The common petitions were introduced with the following words: 'To their most dread and most gracious lord the king; his poor and simple commons petition: that it may please him, of his gracious and kind lordship, to consider'.

[23] See Saul, 'Vocabulary of Kingship', pp. 869–70, for a discussion of the wider European context. The Crown (and following its lead, petitioners) had already shown extreme sensitivity to the use of vocabulary following Edward III's formal adoption of the French royal title in January 1340, for which see W. M. Ormrod, 'A Problem of Precedence: Edward III, the Double Monarchy, and the Royal Style', in J. S. Bothwell (ed.), *The Age of Edward III* (Woodbridge, 2001), pp. 133–53.

private petitions of this ilk to be submitted. The convention, from the late fourteenth century onwards, was for petitions to elaborate both their detail and their formal written style. In the fifteenth century it was not unusual for petitions of almost encyclopaedic proportions to be presented before parliament, a phenomenon particularly noticeable in the petitions written out in English.[24] There are several possible reasons to account for this change. In the first instance, it may have indicated a tendency on the part of the drafters of petitions to make the process more sophisticated and more specialized, perhaps as a way of enhancing their professional standing. Some impetus may have come from the petitioners themselves, perhaps because they believed that greater levels of explanation would afford them a better chance of gaining a successful outcome to their request. But equally, the elaboration of petitions may have been symptomatic of a broad shift in the type of petitionary business entering parliament, as the large quantities of 'proceedings against the crown' which characterized the early fourteenth century, and which involved relatively straightforward requests for correction, diminished, leaving litigious petitions against third parties and other complex cases predominant—these petitions tended, by their nature, to demand greater levels of explanation and detail.[25]

But whilst all these factors played a part, the most important consideration probably lay with parliament itself, and the changing context in which petitions were handled within the institution. Arguably, petitions were relatively tightly focused in the early fourteenth century because they entered a process that was fundamentally administrative in nature: petitions outlined the case, the majority were scrutinized by a small and highly qualified body of men (i.e. the triers, members of the king's council, senior judges, or senior Crown officials) and most were dispatched without making any further demands on the personnel attending the assembly. The relative brevity of petitions might also be seen to have been a consequence of the volume of petitions parliament handled at this time, and of the need to bring speed to the reading and channelling of the cases as they passed through the administrative framework. From the late fourteenth century, as we have seen, petitioning became a more inclusive process, as first the committees of triers expanded, and then the Lords and Commons as a whole came to play an important part in the process. As petitioning became less wholesale in nature and more elitist, and as the outcome of a petition now began to depend

[24] For e.g. see SC 8/199/9901 (1445). [25] See Ch. 7, pp. 231–2.

more heavily on persuading large sections of parliament to lend their support to a case, it was perhaps inevitable that petitioners began to pay more attention to what was contained in their petition and whether more detail could strengthen their hand. Whereas previously petitioners probably assumed that the details of their case could be provided at a later time, once the petition had mobilized the Crown into granting a commission or special hearing, in later periods there was more onus on the petitions themselves laying bare the full extent of the petitioner's grievance. This was because the petition often formed the basis of a quasi-judicial hearing within parliament and because very often the petitioner needed political support from the outset in order for his or her case to be carried forward.

9.2 LANGUAGE AND RHETORIC

Apart from a small minority of petitions written in Latin, which were mostly presented by the clergy, the overwhelming majority of supplications presented in parliament up until the middle decades of the fifteenth century were written in Anglo-Norman French; from the mid-fifteenth century onwards petitions were usually written in English. Two main factors may be cited in order to explain the predominance of French. Firstly, until the late fourteenth century, French was the spoken (and written) language of the ruling elite, as represented by the royal family, nobility, and the senior judges and bureaucrats of central government.[26] Since petitions were directed towards, and processed by, the members of this elite it made obvious sense that they should adopt French as the language to communicate a petitioner's difficulties. The second factor, however, was even more important. This was the tradition, which had emerged in the course of the thirteenth century, whereby French had become a language inextricably linked to legal process.[27] French had become the language par excellence of oral pleading in the

[26] For the most recent discussion of the relationship between the English and French languages in late medieval England, see W. M. Ormrod, 'The Use of English: Language, Law, and Political Culture in Fourteenth-Century England', *Speculum* 78 (2003), 750–87. Footnote 20 (p. 754) provides exhaustive references to the survival of French as a spoken language until the end of the fourteenth century.

[27] See P. Brand, 'The Languages of the Law in Later Medieval England', in D. A. Trotter (ed.), *Multilingualism in Later Medieval Britain* (Woodbridge, 2000), pp. 63–76, esp. pp. 65–7.

royal courts and since petitioning was a form of written pleading it was a logical and natural step for cases presented in parliament to be written in this way. In this, parliament was simply following the lead of the general eyre which had been dealing with large numbers of plaints, written in French, since the 1270s.[28]

That legal and administrative tradition should take precedence over the comprehension of the parties involved in explaining why petitions were written in French is suggested by the length of time it took for French to be superseded by English as the principal language of parliamentary petitioning.[29] Figure 13 shows the results of a survey of private petitions presented in the key decades of linguistic transition between 1425 and 1449 when French petitions in parliament finally came to be outnumbered by petitions written in English.[30] Not until the 1430s, its seems, was it more common for petitions to be written in a language which we can presume the king and his nobles would have more readily understood.[31] This was at least thirty years after French had been abandoned in favour of English as the language of the royal court and it was at least a hundred and fifty years after French had ceased to be regularly spoken by the lower ranks of the polity: the gentry and urban elite.[32] This latter point is particularly worth emphasizing when we consider that the gentry and urban elites were not only the largest social grouping who presented private petitions, but that it was to their representatives in parliament that an increasing number of petitions were directly addressed in the course of the fifteenth century. Figure 13 demonstrates that no obvious distinction was made between the recipients of petitions (i.e. the Lords and Commons) and the language in which the petitions were written: just as many petitions

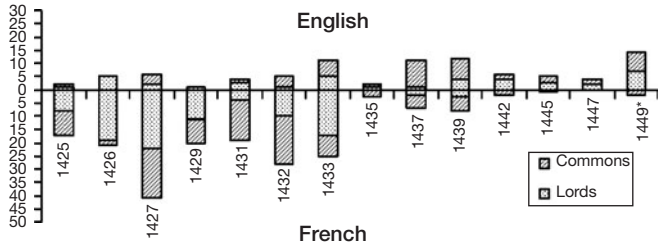
[28] For an analysis of the language used in the bills presented to the eyre, see *Select Bills in Eyre,* ed. Bolland, pp. xxx–xxxiv.

[29] I have explored further aspects of this transition in a paper to be published shortly, entitled 'Thomas Paunfield, the "heye Court of rightwisnesse", and the Language of Petitioning in the Fifteenth Century'.

[30] The survey has included all petitions in TNA series SC 8/1–8,000.

[31] Significantly, this chronology directly mirrors the emergence of English as the principal language of bills submitted into chancery: M. E. Avery, 'Proceedings in the Court of Chancery up to c. 1460', MA thesis, University of London, 1958, p. 7.

[32] For references see Ormrod, 'Use of English', fn. 21. It should be noted, however, that French continued to be used for correspondence and other forms of writing by the gentry right up to the end of the fourteenth century, a point substantiated by the evidence of the Stonor letters and papers (*Kingsford's Stonor Letters and Papers 1290–1483*, ed. C. Carpenter (Cambridge, 1996)). I have benefited from discussion with Dr Richard Ingham on this topic.



* 2 parliaments met in this year.

13. The Language of Petitions Addressed to the Commons and Lords, 1425–49

written in French were sent into the Commons as were sent to the upper house.

On the other hand, such emphasis on the *written* language of the petitions could be misplaced, for we should not assume that the way in which the petitions were committed to parchment necessarily reflected the processes involved in their adjudication. Almost certainly, the initial function of the written petition was to provide a point of reference in proceedings that were conducted orally, and it is perfectly feasible to suppose that as part of this process the contents of a supplication written in French were loosely translated into English (probably by parliamentary clerks) for the purposes of quick and easy aural comprehension. Petitions were 'read' in parliament, which almost certainly meant that they were read 'aloud' to the individuals who formed judgements on their contents.[33] It should be remembered that this was still an era in which political and legal culture was shaped above all by oral discourse, so to suggest that the language in which petitions were written was not the language most conducive to comprehension by the political elite is not to say that the petitioning process suffered as a result or that the king, Lords, or Commons were not fully apprised of all the details which such documents contained.[34] In this, private petitions presented in

[33] Evidence to prove this is very hard to come by, but note the endorsement to the petition of Roger Comyn (SC 8/4/188 (1322)) which read: 'The king has heard this petition, and is to be advised upon it'. There is also an endorsement to a petition, possibly dating to 1315, which specified that it had been 'read and heard in the presence of the great council': SC 8/3/102, printed in *SCCKB*, ii, ed. G. O. Sayles, Selden Society, 57 (London, 1938), p. cxxvi.

[34] For general discussion, see J. M. Gellrich, *Discourse and Dominion in the Fourteenth Century: Oral Contexts of Writing in Philosophy, Politics, and Poetry* (Princeton, NJ, 1995),

parliament were no different to the rolls of parliament themselves which (in the fifteenth century) employed a mixture of Latin, French, and English. The language of the parliament roll bore no direct relationship to the language in which the actual proceedings of parliament were conducted: the language of the roll was instead determined by the particular preferences or priorities of the parliamentary clerks who wrote it up.[35] Exactly this point can be made of private petitions.

Petitions were written in French in essence because this was the language that was considered most appropriate for the written record. Recent discussion has demonstrated that the Statute of Pleading of 1362, far from inaugurating a period in which English was now expected to be the official language of the law, actually only had significance for oral proceedings. The position of French as the formal authoritative language of written process (both legal and administrative) remained unchallenged throughout the fourteenth century and for much of the first part of the fifteenth century.[36] French had distinct practical advantages over Latin and English: it was more accessible and more easily disseminated than Latin and it could be applied with more precision and a greater degree of standardization than English, which was still, by the fifteenth century, quite varied in pronunciation and structure. There is also the point, not to be underestimated, that French was the language for internal communication within government itself, particularly for the writing of writs and other forms of royal authorization. This becomes much more of an issue from the mid-fourteenth century onwards when it was customary to 'answer' petitions by attaching writs of the privy seal to them, in place of the earlier custom of writing endorsements straight onto the back of the petitions themselves. Privy seal writs were written in French. It can therefore be readily seen that it was in the interests of both the petitioner and the clerks who processed petitions to have the information contained within them transferable into royal commands in the most straightforward and efficient manner possible, and the obvious way to ensure this was to have the language of the request mirror the language of the instruction.[37]

pp. 28–9. For discussion relating specifically to parliament, see C. Given-Wilson, 'The Rolls of Parliament, 1399–1421', in Clark (ed.), *Parchment and People*, pp. 67–9.

[35] A. Curry, '"A Game of Two Halves": Parliament 1422–1454', in ibid., pp. 98–100.

[36] Ormrod, 'Use of English', *passim*.

[37] It was only natural for clerks to write out writs and letters by drawing on the details contained within the petition in front of them. The results of this can be seen in

Petitions presented in parliament, then, should not be regarded as documents produced solely to convey a petitioner's case to the Crown in the most straightforward and accessible way. In sofar as they were written in a language which would not have been immediately familiar to many petitioners, petitioning was not quite as 'user-friendly' as it has sometimes been portrayed. If the overriding priority was to compile requests that had the widest appeal and the most immediate connection with their intended audience then a majority of petitions would surely have been written in English long before the 1430s. That they were not suggests that parliamentary petitions were written in a very controlled environment in which administrative and legal convention was actually more important in determining the form taken by the petition than any consideration to have the petition 'speak the language' of those in whose name it was written or who would make judgements upon its contents. This is why parliamentary petitions should be seen in a very different light to petitions produced outside a formal government context. The twelve articles of the 1395 Lollard manifesto, for example, thought to have been written for the consumption of the Commons and Lords in parliament (it was nailed to the doors of St Paul's cathedral and Westminster Abbey), was nevertheless compiled in a way that was very different to the formalized, formulaic, and administrative-oriented documents produced in a parliamentary setting.[38] This was a petition, in the sense that it was presenting a case and it aimed to gain the support of its audience, but rather than present its demands as a series of conventional requests, it listed them as a series of authoritative assertions. Significantly, in its original form the document was almost certainly written in English. On the other hand, the fact that appeals to popular support were often made in such a way as to emulate the form of 'official' requests to the king shows the extent to which the written supplication underpinned the political culture of the period. Parliamentary petitions may have been products of a very formalized and rigid set of linguistic and diplomatic conventions, which meant

the numerous letters enrolled in the chancery rolls whose substantive narrative bears a very close resemblance to the contents of the original petition. Occasionally, the Crown explicitly ordered a writ to mirror the contents, or 'tenor', of a petition: see, for example, SC 8/3/140 (1320); 159/7932 (*c*.1327); 180/8971 (1332).

[38] For the text of the articles see *English Historical Documents, 1327–1485*, ed. A. R. Myers (London, 1969), pp. 848–50. For discussion of the articles, see M. Aston and C. Richmond, 'Introduction', in idem (eds.), *Lollardy and the Gentry in the Later Middle Ages* (Stroud, 1997), pp. 1–6.

that they could not realistically be replicated in a popular context, but they and their counterparts presented in other governmental contexts nevertheless provided a framework on which less formal (but more subversive) appeals to the king could be based. The petition represented a legitimate and readily understood method of approaching the king with a grievance; it was therefore, potentially, a very useful mechanism for the politically disenfranchised to legitimize their more revolutionary demands for reform.[39]

The question of how far the subjugation of the petitionary process to a broader set of legalistic and administrative conventions extended to the content of the petitions themselves brings us to the related issue of the use of language. How much rhetoric was employed? How did the drafters of petitions construct the most compelling case? Did what was written in a petition actually matter when much of the petitionary process appears to have been conducted orally? To the last of these questions the answer is quite evident from those cases where the Crown responded to petitions by asking for more information. In 1330, for example, Robert Walkefare made complaint against the king's bailiff for usurping his rights to view of frankpledge in the manor of Isleham, only to receive the reply that he should declare at what time he or his ancestors were previously seised of the custom, and by whom, and in which king's reign they were ousted, and how, and in which manner.[40] To the petition of Walter Rodney in 1348, asking to be reinstated as patron of the church of West Harptree, the Crown responded, 'He is to explain his petition'[41] and in 1334 Thomas Bernardeston was instructed to sue by a more specific petition after requesting to be reinstated to a manor that had been granted by the king to a third party.[42] The examples show that it was extremely important for a petition to contain enough information for the Crown to be able to form an initial judgement on the case. It was not enough for a petitioner simply to state that he had a grievance to be resolved; he had to provide enough detail to make it incumbent upon the Crown to pursue the case and reach a judgement. In most instances this meant naming those persons who were responsible for the petitioner's difficulties (in fact petitioners were often remarkably well-informed about the identity of their opponents/oppressors); providing

[39] A point developed to greater depth in relation to the rebels of 1381 in G. Dodd, 'A Parliament Full of Rats? *Piers Plowman* and the Good Parliament of 1376', *Historical Research* 79 (2006), 21–49, pp. 41–5. For the role of bills in Cade's Rebellion, see I. M. W. Harvey, *Jack Cade's Rebellion of 1450* (Oxford, 1991), pp. 80, 104–6, 186–91.

[40] SC 8/2/85. [41] SC 8/13/623. [42] SC 8/11/547.

some form of chronological context for the event or dispute (all too often though without giving the year); identifying pertinent geographical locations; and/or specifying details relating to land transactions, claims to ownership of manors, or legal processes that had resulted in the petitioner finding him or herself at a disadvantage. Attention to detail evidently mattered because the responses given here not only suggest that the petitioners were not themselves immediately present when their requests were first read before the triers or the king and council (when they could have made good their omissions), but also that they were not then given a second chance to present an amended petition in the same assembly.

It was not in the interests of petitioners to bring false claims or slanderous accusations into parliament. There is no reason to suppose that malicious suits were tolerated any more in parliament than they were in the king's common-law courts.[43] Such instances were covered in legislation passed in the 1360s, against those 'who make grievous complaints to the king himself', which was intended to have a universal application, including cases of false accusation brought before parliament. In an amendment to the original statute passed in 1363 it was ordained that 'if the person who makes his complaint cannot prove his intent against the defendant by the process specified in the same article, he shall be sent to prison, to remain there until he has made satisfaction to the party of his damages and of the slander that he has suffered for such reason; and after, he shall make fine and ransom to the king'.[44] That sanction was widely understood to follow malicious complaint is suggested by the petition of Alexander Neville, archbishop of York, in the early 1380s in which he requested that if the allegations made against him in parliament by Thomas de Beverley and Adam de Coppendale were found to be untrue they should have 'the accustomed judgement'.[45] Occasionally, the full weight of Crown retribution could fall on an injudicious supplicant. This was the fate to befall the London fishmonger John Cavendish in April 1384 when he complained to parliament that he had been unable to secure justice from the chancellor, Michael de la Pole, in an action he was pursuing against a group of

[43] See discussion in *Select Cases on Defamation to 1600*, ed. R. H. Helmholz, Selden Society, 101 (London, 1985), pp. xlviii–lxxii.

[44] *PROME*, parliament of 1365, item 27; *Stats. of Realm*, i. 384 (item 9). For the earlier common petition and statute, see *PROME*, parliament of 1365, item 37; *Stats. of Realm*, i. 382 (item 18).

[45] SC 8/225/11204 (1381–2).

London merchants who had allegedly stolen his goods.[46] Cavendish alleged that de la Pole had accepted a backhander he had passed his way, but had not then acted on the case. It is interesting to note that part of de la Pole's sense of outrage against his accuser stemmed from the context in which the accusation was made: the chancellor complained bitterly about 'the defamation and grievous slander of his person which the fishmonger had now perpetrated so fraudulently *and horribly in parliament, which is the highest court of the realm*'. There is a real sense in which Cavendish had violated a fundamental moral tenet by bringing a malicious accusation into the highest court of the land. For his misdemeanours, Cavendish was fined 1,000 marks and dispatched to prison. Without question the case was highly unusual: not every petitioner was rash enough to incur the wrath of one of the most senior officials of government. But the episode no doubt served as a warning to petitioners to be sure of their accusations before committing them formally for parliamentary adjudication.

Between fact and fiction, however, lay an extensive hinterland in which the petitioner's case could be embellished or exaggerated in order to catch the Crown's attention, but which did not risk compromising the petitioner's position if his/her circumstances became the subject of a more detailed and thorough enquiry or parliamentary hearing. The object was to present the petitioner's case in the best possible light, not to fatally harm the case by peddling untruths. This meant, in practice, offering value judgements on circumstances often presented as facts but which were nevertheless understood not to be taken as anything but contextualization for the main points of the complaint/request. These formed the more subjective elements of the petition. Broadly speaking there were three areas in which petitioners could put a positive 'spin' on the deserving nature of their request: firstly, by emphasizing the gravity of the situation they faced; secondly, by drawing attention to the power and unscrupulous behaviour of the petitioner's oppressor; and thirdly, by stressing the common cause which existed between the petitioner's complaint and wider interests. Some petitions tried to make capital in all three areas; others placed the emphasis on just one or two. Much depended on what the petition sought to gain: a grant of patronage or a correction to an administrative error, for example, did not generally give petitioners the opportunity to castigate the incorrigible actions of a third party (especially if this was the king!).

[46] *PROME*, parliament of April 1384, items 11–15.

In the first place, then, it was common practice to emphasize the plight facing the petitioner. Emphasizing the seriousness of the ordeal which the supplicant had endured, and the difficulties they now faced in consequence of these experiences, not only helped justify the recourse being made to parliament, it also helped generate a favourable climate in which the Crown might feel more readily disposed to provide a positive answer to the request. It added to the sense of moral obligation on the part of the king to remedy the suffering of his subjects. Fairly typical of the strategies employed were claims of poverty and destitution. A good example is the petition from the people of Appleby, presented at some point in Edward II's reign, which claimed that the town was at the point of ruin because a full fee farm was being demanded when most of its inhabitants had left and the town had been burnt three times by the Scots.[47] Claims of destitution or ruin could just as easily be made on an individual basis: John Punge and his wife, Catherine, claimed that they had been wrongly disseised of a free tenement in Cheshunt by Aymer de Valence, earl of Pembroke, as a result of which they and their seven children were now reduced to beggary.[48] A variation of this theme can be seen in the petition from the burgesses of Llanfaes who asked to be secured in their position in the town in order that they did not *fall* into a state of beggary or worse.[49] In other petitions involving assault or injury there were advantages to detailing the full extent of the miseries allegedly inflicted on the petitioner. The widow Joan de Burwey, for example, petitioned in 1322 against Warren de Bassingburne and his companions, claiming that, having beat and wounded her husband until he was dead, they now threatened her and her household to such an extent that she did not dare live anywhere nearby.[50] In 1400, Thomas Culverhous, a bailiff of two hundreds in the county of Middlesex, made complaint against a number of named individuals who he claimed had defecated on him and beaten, wounded, and maimed him;[51] and in 1320 Gilbert de Lutegarshale, a notary public, claimed to have been wounded so badly that he was now maimed for life—he asked the king for a pension in relief of his poverty and ill-health.[52]

Stressing the power of one's opponents could evidently be as effective as emphasizing the petitioner's helplessness and vulnerability. Invoking

[47] SC 8/81/4042 (1312–20). [48] SC 8/17/850 (*c*.1327).
[49] SC 8/57/2803A (1295). [50] SC 8/7/321.
[51] SC 8/100/4988. [52] SC 8/95/4724.

the image of serious disorder or subversion in the localities naturally and implicitly aligned the petitioner's interests with the desire of the Crown to ensure that the rule of law remained intact locally. It was often in the interests of petitioners to 'talk up' the extent of this lawlessness both as a way of showing how reliant they were on the king's intervention to have a remedy and in order to show the extent to which the king's peace and laws had been transgressed by their opponents. If stressing victimhood constituted a call on the king's conscience, emphasizing the enormity of wrongdoing was a way of testing the king's rule and authority. Thus, it was not unusual for petitioners to say that they had been accosted by armed gangs who often (and perhaps improbably) numbered many hundreds of men. In 1321–2, for example, the poor people of Laughton en le Morthen (Yorks.) claimed to have been attacked by five named individuals together with eighty men-at-arms and 400 foot soldiers who robbed them and their church and took all their livestock, goods, and chattels.[53] In 1378, James de Pykering claimed that his men and tenants had been attacked by Thomas de Roos of Kendal and his four sons, with 300 armed men, in the town of Heslington.[54] In this case Pykering made a point of specifying that he had been serving in parliament at the time of the assault, a detail which suggests that the special protection accorded to knights of the shire during their time at parliament was also thought to extend to their interests at home. Subversion of the legal process was just as useful an accusation to make as breaking the king's peace. Claiming not to be able to secure redress through common-law process was of course a very common assertion to make, because of the need to justify the petitioner's recourse to parliament; but to couch this in terms of being *prevented* from drawing on the king's justice could give the petition particular potency. Typical of this type of petition was the complaint of William Skele in 1381, who claimed to have been expelled from his lands by James de Peckham and had not been able to recover them because Peckham was so feared and strong in the country that Skele had not been able to have justice.[55] In the same year, Sir William Burcestre and his wife, Margaret, petitioned parliament, claiming not to be able to recover three manors that were Margaret's inheritance because of the great maintenance in the country of Thomas de Hungerford.[56] The accusation of 'maintenance' was frequently levelled against a petitioner's opponents, especially in the

[53] SC 8/7/301.
[54] SC 8/67/3308.
[55] SC 8/20/958.
[56] SC 8/19/929.

later fourteenth century when it had become a very contentious and widely publicized issue.[57]

Finally, aligning oneself to broader interests could be a useful way of disguising what was very often a request which simply aimed to promote the narrow, selfish interests of the petitioner. The most obvious and natural focus of this wider association was the king himself, and the commonest and most straightforward link to be made in this way was to imply that the king was just as much wronged by an attack or violent assault on the petitioner as the petitioner himself. Nicholas au Pount of Pickering, for example, complained in 1322 of having been wrongly arrested by the earl of Lancaster's bailiff, John de Dalton, who had extorted a false deed from him 'against the *king's* peace, and to his harm to the amount of £40'.[58] Sometimes petitioners made the link between private and royal interests more explicitly. In the reign of Henry V, for example, the mayor and burgesses of Bristol asked for permission to build a common hall in the town to receive foreign cloth merchants and also to hold a weekly market because, as they pointed out, the king was currently losing customs as a result of the secret selling of cloth.[59] A similar strategy—of aligning the petitioner's economic misfortunes with the Crown's—presumably lay behind a petition of the late thirteenth century by Robert Rose, who, 'on the king's behalf', made complaint against the abbot of St Benet of Hulme who was accused of wrongfully distraining the people of Flegg (Norf.) for exacting a toll on a river crossing when the rights for such a levy actually belonged (so Rose asserted) to the king.[60] A petition with wider application was presented by the Lombard merchants of England in October 1382, claiming that an ordinance made in the previous parliament, restricting the exchange of goods between merchants, 'seems to them to be to the great prejudice and harm of the king and his realm'.[61] Finally, some petitioners 'incentivized' their requests by pointing out the advantages to be had if the Crown granted their wishes. Thus, in 1421, the people of Oxfordshire, Berkshire, and Buckinghamshire complained about the misdeeds of the scholars of Oxford University, suggesting that the latter

[57] See discussion on this theme in N. Saul, 'The Commons and the Abolition of Badges', *Parliamentary History* 9 (1990), 302–15.

[58] SC 8/5/249. [59] SC 8/96/4789 (1415–21).

[60] SC 8/69/3407 (1275–1300).

[61] SC 8/20/966. The petition was adopted by MPs and presented as a common petition: *PROME*, parliament of October 1382, item 13 (36). The resulting statute is *Stats. of Realm*, ii. 28 (item 10).

should pay a fine of £100 to the king if found guilty of their crimes;[62] and in 1305 Roger Morewood helpfully pointed out that the Crown would gain a lot of land in escheats if the convicts imprisoned in Nottinghamshire were finally convicted, as he requested.[63]

The other common 'alignment' made by petitioners was with the broader community. It was a particularly common tactic for towns to adopt, as shown by the petition of the burgesses of Hull in 1327, asking for aid and a licence to enclose their town because Hull 'does much good for the surrounding countryside by its trade', which would be improved if the town enjoyed increased security;[64] and the petition from the people of King's Lynn in 1337 asking for a commission to collect rents to support their military expenditure, justifying this on the pretext that the 'port is for the defence of all Norfolk'.[65] Individuals could also make such claims, as did John de Thornton and Alexander de Eggeburgh, who requested to have John Sturmy, receiver of writs to the sheriff of Yorkshire, removed from his office because of his maintenance and his 'threats [which] have affected the whole country'.[66] Similarly, William Thorntoft asked to have remedy 'for God and for the common profit of the realm' in his complaint against the prior of the Hospital of St John of Jerusalem who had allegedly failed to pay him his annuity for eight years.[67] As with so many of these claims, such a proposition or statement was essentially window dressing, but it served a useful purpose in drawing attention to the complaint and furnishing it with due gravity and seriousness.

The manipulation of language to present petitioners in a favourable light was common practice. The fact that it was done, however, does not necessarily mean that it made any difference to the outcome of a petition; instead, portraying petitioners as poor and weak, their opponents as unscrupulous and out of control, and their cause as the king's cause probably constituted the accepted norm of late medieval petitionary culture. Historians do not take the claims of petitions at face value; we can be fairly sure that neither did the king, his council, or senior justices. It did mean, however, that petitioners—and petitions—were invariably cast within a rigid straightjacket of social and legal convention. Helen Cam once remarked that petitions can be distinguished by their 'freedom from set forms' and by the opportunities

[62] SC 8/24/1158. [63] SC 8/9/418.
[64] SC 8/14/693. [65] SC 8/57/2838.
[66] SC 8/75/3740 (1316–35) [67] SC 8/75/3738 (1325–50).

they presented 'for the spontaneous expression of opinion', but this section has shown that the opposite was the case.[68] By their nature, petitions presented a very stereotyped and one-sided summary of a dispute or local problem. Petitioners themselves were cast in a familiar and predictable light. Petitions relating to financial or economic matters were invariably presented by 'poor' supplicants; petitions seeking justice or compensation were invariably presented by 'weak' and 'vulnerable' supplicants. How many petitioners acknowledged that their opponents might have had legitimate cause to seize their property or assault their servants? Opponents were only ever said to have been motivated by malice, greed, and evil intent. Similarly, how many petitioners admitted to seeking redress in parliament because this offered them the most promising and direct route for resolution? Petitioners only ever depicted their recourse to parliament as a last ditch attempt to secure relief, having exhausted all other avenues. This was not spontaneous expression nor the authentic voice of the petitioner writing out his/her case *as it happened*: a petition was a carefully crafted document, containing enough information and an appropriate level of positive embellishment to induce the Crown to take the case forward and offer a resolution or answer.

9.3 WRITING AND PRESENTATION

Enough has been said to indicate that writing a petition not only required some skill and knowledge of the petitionary form, but also an awareness of how parliament and, indeed, the broader structure of government actually worked. In the vast majority of cases, this meant that petitioners necessarily had to draw on the services of a professional in order to have their supplication drafted in a suitable way for presentation in parliament. An understanding of the workings and processes of medieval government was particularly important because petitions not only explained a problem or grievance to the Crown, they also invariably proffered a specific resolution for the Crown to take up. This element of the petition gained in importance as the period progressed. In the petitions presented to the late thirteenth- and early fourteenth-century parliaments, the scope of the solution offered in petitions matched the

[68] H. M. Cam, 'The Legislators of Medieval England', in E. B. Fryde and E. Miller (eds.), *Historical Studies of the English Parliament*, 2 vols. (Cambridge, 1970), i. 179.

general brevity of the petition itself and was often little more than a single line asking—in fairly general terms—for the Crown to act in the petitioner's favour. These suggestions, where they related to the actions of central government, might include a request for an inquisition to be examined and for justice to be done;[69] for the king to have the case brought by the petitioner reviewed before the council;[70] or for the king's justices to hear and determine a process.[71] It was not uncommon in early petitions for the supplicant to leave the solution entirely up to the king, by finishing an account of his or her grievance with the simple phrase 'so he requests a remedy'.[72] Over the course of the fourteenth century there are signs that the growing elaboration of a petitioner's circumstances in the 'statement of grievance' went hand in hand with an increasingly sophisticated understanding of how the petitioner's individual problem could fit into broader governmental or legal processes in order that the most effective and favourable outcome to the petition could be achieved. The development can be seen in the petition from the commons of the Wirral (example 3, Appendix 2), who requested to have their charter and confirmation of disafforestation confirmed 'by statute with the common assent of parliament', notwithstanding the fact that their charter had been issued without taking due stock of legal process. Their appeal to have their case confirmed by statutory legislation, whilst undoubtedly a bold and ambitious request, nevertheless demonstrated an impressive understanding of, and sensitivity to, the complicated constitutional problem that their petition posed, for an appeal to the authority of parliament in 1376 was probably the most sensible strategy to adopt at a time when the king was politically inactive and no other authority which could readily override normal legal custom presented itself.

The levels of expertise involved in drawing up the petitioner's favoured outcome to his/her grievance or request reached new levels in the fifteenth century. An enrolled petition from Lewin le Clerk, burgess of Ghent, in 1431 typifies the exhaustive detail which now became commonplace in petitions presented to parliament.[73] In this case, le Clerk presented a complaint against William Brampton of Chesterfield, who had entered into an agreement whereby the latter undertook to supply wool to le Clerk worth 1,215 nobles. Brampton reneged on the

[69] SC 8/144/7152 (1324). [70] SC 8/144/7153 (1317–27).
[71] SC 8/145/7209 (1319).
[72] E.g. SC 8/144/7194 (?1312); 7196 (1305); 147/7317 (*c*.1327)
[73] *PROME*, parliament of 1431, item 21. The original petition is SC 8/25/1238.

deal and, with the money, removed himself to a 'privileged position' to avoid accounting for his actions to the council. Le Clerk's petition outlined in a very clear and precise way what the Crown ought now to do: the chancellor should issue a writ of proclamation to the sheriff of Derbyshire ordering Brampton to appear in chancery by a certain day; if Brampton appeared, the chancellor should proceed to judgement and ensure that the original sum of money and damages were awarded to the petitioner by *fieri facias*, *elegit*, and *capias ad satisfaciendum*; if he did not appear an *exigent* should be issued, and the same reimbursement and damages should be awarded by default; if the sums of money could not be raised, le Clerk should be reimbursed with the goods of Brampton up to the sum owed. Whoever drafted the petition knew what they were doing, for the Crown's reply was unequivocal: 'Let it be done as it is desired by the petition'. Such a response reveals something of the purpose behind submitting longwinded but well-informed solutions in petitions, for it provided the petitioner with the opportunity to determine more precisely how their case was to be dealt with.

To an extent this had always been the case, insofar as the drafters of petitions probably compiled their supplications with one eye to influencing any resulting action ordained by the Crown. Successful petitions could often provide a convenient point of linguistic reference for the clerks copying up writs or warrants issued on the authority of the endorsement,[74] and many petitions were sent in their own right to Crown officials or other individuals to be acted on or pursued,[75] so there had always been an incentive to formulate grievances in such a way that anticipated and perhaps even aimed to influence the Crown's choice of

[74] See, for example, the writ accompanying a petition presented by Agnes de Valence in 1305, in which the clerk evidently drew upon some of the key emotive phrases employed by Agnes in her supplication. The Justiciar of Ireland was ordered by this writ to investigate the circumstances which led Agnes to be 'maliciously' deceived by John FitzThomas, with 'force and arms', and 'against the king's peace', and in 'violation' of the royal protection Agnes enjoyed: SC 8/145/7242–3. It was not uncommon for an endorsement to ordain explicitly that a petition should have a writ 'according to the form of the petition'; see for example SC 8/82/4082 (?1320). Earlier in the fourteenth century the wording of many special commissions of oyer and terminer closely mirrored the diction of their originating petitions. In some instances this was explicitly ordained in the endorsement to the petition (e.g. SC 8/149/7402 (1321); *CPR 1321–1324*, p. 54).

[75] See, for example, the writ attached to the petition presented by the prior of Hexham in 1305, which ordered the chancellor, 'in the presence of yourself and other members of our council . . . to have the [enclosed] . . . petition examined carefully'. For the petition, see SC 8/812/9077. For a translation of the original writ (C 81/48/4758), see *PROME*, Edward I, Roll 12, Appendix, no. 5.

action. But increasingly, petitioners sought to offer solutions directly. It was a development that the Crown must surely have welcomed, for it relieved the king's ministers and the parliamentary peers of some of the burden they had to shoulder themselves in formulating responses and processes on petitions. In effect, even more initiative was passing from the Crown to the petitioner. Whereas in the thirteenth and fourteenth centuries the detail of how petitions were to be proceeded on was generally left to the king, council, and triers, by the fifteenth century, very often all that was required of them was a brief indication of assent. Over time it became increasingly common for petitioners to separate their request from the proposed solution to their grievance, so that a petition now effectively comprised *two* separate documents: one, the request itself, and the other a 'schedule' containing the draft warrant or grant which the petitioner hoped the Crown would adopt. Even more so than previously such practice must have required on the part of the drafter of a petition an unbridled familiarity with the form and layout of Crown instruments.[76]

An example of this type of petition is provided in Appendix 2 (example 5), where Isabel Warter attached draft letters patent for the Crown to adopt in her bid to be granted denizenship. Other examples include a letter patent drafted by William Brocas, master of the king's buckhounds, to accompany his petition asking for confirmation of his rights to fees;[77] a draft letter patent proposed by John Talbot, earl of Salisbury, in which he was granted the right to ship wool and retain the resulting customs revenue to recoup money owed to him by the Crown;[78] and a 'draft clause', accompanying the petition of Sir John Popham, to be inserted as an exception into the Act of Resumption passed in 1455.[79] These examples provide good evidence for the first step in a process that would eventually lead in the Tudor period to the content of petitions or 'bills' forming the basis of parliamentary 'acts'—petitions drafted in the form of a grant or mandate which were subject to amendment before being formally ratified by parliamentary mandate.[80]

[76] For example, see the petition of Anne, duchess of Bedford, in 1423 who attached to her petition a draft letter patent granting her denizenship: *PROME*, parliament of 1423, item 32.

[77] SC 8/27/1346 A & B (1449).

[78] SC 8/28/1359 (1453). In this case the letter was set out below the petition.

[79] SC 8/28/1364 A & B (1455). For the enrolment of this clause, see *PROME*, parliament of 1455.

[80] For a description of bill procedure under the Tudors see G. E. Elton, *The Parliament of England, 1559–1581* (Cambridge, 1986), pp. 88–130.

All this considerably reinforces the premise that few, if any, petitioners could have possessed the knowledge or practical skills to write petitions themselves. It is certainly possible in the first decades of large-scale parliamentary petitioning to identify a minority of petitions whose written hand was so unrefined and whose diplomatic so clumsy as to suggest the work of an amateur,[81] but as the petitionary canon crystallized and as the remit of the writers of petitions expanded so that a knowledge of legal and governmental processes acquired increasing importance, few petitioners are likely to have risked jeopardizing their chances of gaining redress by entrusting their case to anyone who did not possess the requisite skills for writing out their petition properly. Who, then, is most likely to have been employed in the writing of these documents? The only scholar explicitly to have addressed this question is Tim Haskett, who examined the morphology and orthography of fifteenth-century chancery bills written in English to establish whether they were products of the regions or whether they were written at Westminster by members of the royal secretariat.[82] Of course, such a survey has only limited application in a parliamentary context, because the vast majority of parliamentary petitions were written in French and were presented in the thirteenth and fourteenth centuries. Nevertheless, the methodology is useful in pointing towards possible trends in the earlier period. Haskett's conclusion was that chancery bills were overwhelmingly written locally, by members of a large body of 'county' lawyers who made their living by giving legal advice and by providing a 'writing service' for legal and other forms of official documentation. If we accept and apply the same criteria as Haskett to a selection of petitions from the TNA series SC 8, in order to distinguish between 'chancery' English and 'regional' English, then it is clear that some parliamentary petitions could similarly be considered to be products of the localities.[83]

In some ways this should come as no surprise: it is widely recognized that large numbers of professional scribes working as private or public

[81] See, for example, SC 8/83/4108B (1320); 83/4113 (*c*.1320).

[82] T. S. Haskett, 'County Lawyers? The Composers of English Chancery Bills', in P. Birks (eds.), *The Life of the Law: Proceedings of the Tenth British Legal History Conference, Oxford 1991* (London, 1993), pp. 9–23.

[83] Haskett used a set of indicators devised by J. H. Fisher in 'Chancery and the Emergence of Standard Written English in the Fifteenth Century', *Speculum* 52 (1977), 870–99. An example of a 'regional' parliamentary petition is SC 8/144/7180 (1432), which uses the thorn and the participle *n*, employs *hem* for the third person plural, and doubles consonants and/or vowels (e.g. *doo* for do).

scriveners in the regions received their initial training at the Inns of Chancery, or as an apprentice in one of the houses of a master of chancery, where they no doubt became very familiar with the forms and canon of the formal written petition.[84] In fact, petitioning was such a ubiquitous activity in late medieval England that we should not assume that formal training at Westminster was necessarily needed for a capable clerk to become proficient in writing out such documents—reference to a well-written formulary[85] or to good examples of past petitions was probably sufficient in itself for a locally based scrivener to write supplications to an acceptable standard. It is worth remembering in this regard that petitioning in parliament was to a great extent founded upon an established custom of presenting bills in eyre, and these requests were not only presented locally, they were compiled there too.[86] At the very start of the period when petitions began to be presented in parliament, there was already a strong tradition of local bill or petition writing: it would therefore be injudicious to disregard the possibility that many private petitioners exploited the services and know-how of local clerks and scribes (and possibly men of law) who already had considerable experience writing out this type of document. The point may carry particular weight when applied to the earlier periods of petitioning in parliament, when the form and content of supplications tended to be more straightforward than in later periods.

On the other hand, if we return to the original hypothesis advocated by Haskett, we should perhaps not look to draw too rigid a distinction between 'regional' and 'chancery' English, at least in the first half of the fifteenth century. John Fisher himself, the original exponent of the two-language system, was noticeably reluctant to identify the petitions he examined (taken primarily from TNA series SC 8) as having a local origin.[87] Significantly, in comparing one of these petitions dating to

[84] T. F. Tout, 'Literature and Learning in the English Civil Service in the Fourteenth Century', *Speculum* 4 (1929), 365–89, pp. 368–9; Fisher, 'Chancery and the Emergence of Standard Written English', pp. 891–4.

[85] An obvious example is All Souls MS 182, published in *Anglo-Norman Letters and Petitions*, ed. M. Dominica-Legge (Oxford, 1941). Examples most obviously parliamentary in provenance are nos. xv, xvi, and xviii, though several of the other petitions have the hallmarks of a parliamentary petition. John Stevenes, the compiler of this formulary, was a notary public; no direct connection with any of the departments of central government is known.

[86] *Select Bills in Eyre,* ed. Bolland, pp. xxx–xxxiii.

[87] Fisher, 'Emergence of Standard Written English', pp. 875–6 and n. 19. Note also the comment in Fisher, Richardson, and Fisher, *Anthology of Chancery English*, p. 22,

1431 with its enrolment on the parliament roll, Fisher showed not only that the enrolling clerk had 'modernized' or 'standardized' some aspects of the English used in the petition, but that he had also 'regressed' parts of the original petition, so that in some regards the enrolled version of the request was actually more 'regional' than the petition itself.[88] This suggests that the standardization of English was not at this point particularly advanced and therefore that no great store should be placed in detecting the regional characteristics of the language used in individual petitions as a method for determining whether they were written in the localities or in the capital.[89] In fact, in terms of the majority of parliamentary petitions written in Anglo-Norman French, the argument could be turned on its head, for the relatively uniform way in which these supplications were written could be used to suggest authorship at the centre, where standardization of language and form was more easily achieved. In the subgroup of parliamentary petitions whose use of language and vocabulary was perhaps most susceptible to regional variation—petitions from Gascony—it may be significant that the vast majority appear to have been written by drawing on the conventional 'chancery French' employed in the greater part of the remaining body of extant petitions.[90]

More detailed analysis of the linguistic forms employed in parliamentary petitions will doubtless shed further light on this problem, but in the meantime, perhaps a more fruitful avenue lies in asking what priorities the petitioners themselves are likely to have observed in having their cases brought to the attention of the Crown. The emphasis in past scholarship has been on the service performed by the knights of the shire and burgesses who are thought to have been charged with the responsibility of taking the petitions of their constituents up to parliament where they laboured and lobbied on their behalf.[91] But this,

that 'the style and language [of chancery and parliamentary petitions] are so uniform as to suggest the work of a group of clerks trained and working in the same environment'. The authors summarize the views of those historians who have considered the role of chancery clerks in drafting petitions on p. 58 n. 7.

[88] Fisher, 'Emergence of Standard Written English', pp. 882–3.

[89] It is interesting in this regard that Fisher suggests that chancery bills may have been more prone to local authorship than cases in TNA series SC 8 (ibid., p. 888).

[90] I have benefited from conversation with Shelagh Sneddon and Guilhem Pépin on this topic.

[91] J. R. Maddicott, 'Parliament and the Constituencies, 1272–1377', in R. G. Davies and J. H. Denton (eds.), *The English Parliament in the Middle Ages* (Manchester, 1981), p. 70. Maddicott does, however, acknowledge that MPs were probably not concerned

as we have seen, raises difficulties, for at the beginning of the fourteenth century petitioning appears to have thrived even in parliaments not attended by representatives. There is also the point that a significant proportion of the petitions presented in parliament came from outside England's borders, from regions which did not enjoy parliamentary representation. The inhabitants of Wales, Ireland, and Gascony made extensive use of parliament, particularly in the late thirteenth and early fourteenth centuries, but MPs were not available to these petitioners to have their grievances forwarded on their behalf to the assembly. But perhaps the most important difficulty to be raised by assigning such a role to MPs is this question: are the best interests of a petitioner likely to have been served by his/her entrusting such important business into the hands of a third party? If petitioners could meet the costs of travelling up to parliament and residing there for some time, surely it was better for them to press their case personally? Indeed, if they travelled to parliament in person, surely it was better to have the petition written centrally, by individuals very familiar with parliamentary processes, than to have it written in advance by a local scribe or clerk? These are pertinent questions to ask if we accept that in many instances a petition was intended simply to act as an initial point of contact between the individual and the Crown. If the petition was accepted, this is when a petitioner's presence at parliament could make a real difference as it was not uncommon for the Crown to seek further clarification on the circumstances raised by the complaint or request. This is one reason why there is very little evidence to show that petitioners employed the services of attorneys at parliament, as litigants often did in a common-law context: a petition's freedom from the set forms of legal process meant there was no need or requirement to have a case represented by a trained lawyer.[92]

A petition precipitated a direct relationship between the Crown and the king's subjects in which it was in the interests of the Crown to deal directly with the petitioner, just as it was very much in the interests of the petitioner to put their case in person. This much can be shown by the

with the transmission of petitions at the start of the fourteenth century (p. 62). See my discussion of this pp. 77–8.

[92] Distance *may* have been one factor that persuaded some petitioners to send attorneys to parliament in their place. This is suggested by the response to a petition presented in January 1290 in which the king allowed the petitioner, Adam de Fulbourn, the possibility of sending an attorney to the following parliament to represent his case (presumably because Fulbourn was in Ireland): *PROME*, Edward I, Roll 3, item 14.

petition of William Fishide in 1385 who requested that he might be able 'to show and be heard in the king's presence at parliament concerning the various outrages he had suffered at the hands of his enemies': here, the written petition was being presented as a preliminary to what the petitioner hoped would be a favourable oral hearing before the king.[93] Some indication of the advantages to be had for a petitioner to attend parliament in person is provided by the petition of William de Whithurst in 1331.[94] He complained that he was being unfairly distrained by the exchequer to make account for the goods and chattels of the earl of Kent for which he had been assigned keeper. He had no remembrances or evidence in his favour, but the endorsement of the petition recorded that Whithurst was to have respite from these demands because 'he has shown before the council a letter of the privy seal' which exonerated him from the debts. Similarly, the benefits of being on hand to answer queries or uncertainties that a petition might raise was shown in 1421 when, in response to a request by the Dean and Chapter of Salisbury cathedral to have permission to distrain for their rents and annuities, which had been withdrawn because their muniments had been lost, the endorsement recorded that the parliamentary Lords individually examined the supplicants and granted the request, having presumably satisfied themselves of the veracity of their case.[95] Numerous examples of petitions can be found in which petitioners refer to their own presence at parliament, very often in the context of a case they had brought against a rival petitioner presenting a complaint in the same parliament. A good example is the petition of Ivo Fitz Warren, presented at some point in the middle of the fourteenth century, in which Fitz Warren asked to be excused because John Umfrey, rector of Marnhull, had made complaint against him in the present parliament.[96] Umfrey had alleged that Fitz Warren had illegally entered his property and seized his goods; Fitz Warren's petition countered that Umfrey was his neif and he therefore had the right to take this action. A petitioner's presence at parliament, as this case demonstrates, could be not only advantageous but also highly advisable where there was a need to counteract, limit, or otherwise respond to a petition submitted by a rival.

Meetings of parliament not only involved the attendance of large numbers of local men representing their constituencies but also, in all likelihood, large numbers of petitioners hoping to enhance their chances

[93] SC 8/111/5516.
[94] SC 8/77/3835.
[95] SC 8/72/3551.
[96] SC 8/93/4607 (*c*.1325–*c*.1375).

of securing redress by being on hand at the assembly to lobby or agitate in support of their request. The understandable concentration of past scholarship on the recorded proceedings and membership of parliament has created an impression that medieval parliaments were relatively orderly and well-managed affairs; the reality was almost certainly very different, as scores of petitioners flocked to the assembly for a chance to obtain the Crown's intervention in their personal affairs. The atmosphere was likely to be extremely chaotic. Exactly how far the commotion of a parliamentary session was caused by petitioners seeking the intercession of a powerful patron to have their petition heard is, unfortunately, one of the areas of parliamentary activity almost totally hidden from view. There are certainly references in civic records to expenditure on parliamentary lobbying; royal clerks, senior noblemen, MPs, and the parliamentary Speaker were all apparently the focus of ingratiation by London livery companies hoping to improve their fortunes in the mid-fifteenth century.[97] In other contexts it is clear that intercession was practised on an extensive basis by petitioners hoping to secure the king's grace;[98] and, of course, from the late fourteenth century intercession became an important and formalized parliamentary process when petitioners began addressing their supplications to MPs to have them forwarded into the upper house.[99] Intercession was a key part of the political dynamic of late medieval England and there is no reason to doubt that it was not also a normal part of the petitionary experience in parliament. This was another important reason for petitioners to attend parliament in person. On the other hand, we should be careful not to assume that the only path to success for a petitioner was the good word of a powerful patron. If this had been the case, one might expect to find an overwhelming concentration of well-connected supplicants converging on parliament, whereas in reality parliament often attracted those individuals whose misfortune had been caused precisely because they lacked connections or protection. It is important to acknowledge the key role which intercession might have played in the petitionary process, but it is equally important to recognize the strength of the principle that redress was available to those who deserved it—a principle that

[97] M. Davies, 'Lobbying Parliament: The London Companies in the Fifteenth Century', in Clark (ed.), *Parchment and People*, pp. 136–48.

[98] Lacy, 'Politics of Mercy', pp. 40–1 and Appendix 5. See also my discussion 'Patronage, Petitions and Grace: The "Chamberlain Bills" of Henry IV's Reign', which I hope to have published shortly.

[99] See Ch. 6, pp. 166–70.

seems particularly to have been associated with parliament.[100] Lobbying and intercession might help a petitioner; its absence did not necessarily consign a request to failure.

When parliament was held at Westminster, petitioners could draw on the services of a large group of professional scribes, or scriveners, to have their petitions written.[101] More research is needed in the area before we can measure the true extent and impact of a secretarial class in London, but it is already clear that the capital contained a large, amorphous, and for the most part, anonymous group of writing clerks who made their living by offering ad hoc secretarial services to individuals hoping to mobilize government on their behalf.[102] Although not directly employed by the Crown, many of these clerks, like their counterparts in the localities, would have received their initial training in the Inns of Chancery and other departments of state. At the time of parliament, one can well imagine such clerks congregating in the vicinity of Westminster to ply their trade. We know that London-based scriveners were employed to write petitions from the survival of accounts detailing the expenditure incurred by corporate bodies in having their cases brought before the Crown: in 1399–1400, for example, 40*d*. was paid by the city of Norwich to have four petitions written by a Common Scrivener (*scriptori*) of London for presentation to the king;[103] and in 1487–8 the Pewterers' Company of London paid 13*s*. 4*d*. to the London scrivener John Pares for drawing up two supplications on their behalf.[104] It is difficult to tell how representative these references are. Possibly, bill or petition writing did not occupy a significant proportion of the scriveners' time, for it is noticeable that when they achieved guild status in 1373 their ordinances specified only the writing of

[100] Cf. *Fleta*, ed. H. G. Richardson and G. O. Sayles, Selden Society, 72 (London, 1955), ii. 109. See also discussion in Ch. 6, p. 250.

[101] See N. Ramsay, 'Scriveners and Notaries as Legal Intermediaries in Later Medieval England', in J. Kermode (ed.), *Enterprise and Individuals in Fifteenth-Century England* (Stroud, 1991), pp. 118–31.

[102] Some of the best work on this topic is to be found in studies examining the textual dissemination of *Piers Plowman*, for which see J. H. Fisher, '*Piers Plowman* and the Chancery Tradition', in E. D. Kennedy, R. Waldron, and J. S. Wittig (eds.), *Medieval English Studies Presented to George Kane* (Woodbridge, 1988), pp. 267–78; K. Kerby-Fulton and S. Justice, 'Langlandian Reading Circles and the Civil Service in London and Dublin, 1380–1427', in W. Scase, R. Copeland, and D. Lawton (eds.), *New Medieval Literatures* 1 (Oxford, 1997), pp. 58–83, esp. pp. 64–70.

[103] *The Records of the City of Norwich*, ed. W. Hudson and J. C. Tingey, 2 vols. (Norwich, 1906), ii. 53.

[104] Myers, 'Parliamentary Petitions', pp. 387–8.

charters and deeds as the principal duties with which their members were occupied.[105]

It is worth speculating that the main burden of writing petitions in the capital instead lay with royal clerks who were able to offer supplicants a commercial writing service as a way of supplementing the income from their employment by the Crown. Here was a large pool of men who not only possessed the requisite training and experience to know exactly how to frame petitions (it was, after all, the job of chancery clerks to write up the official record of parliament, and clerks of the exchequer and central courts handled parliamentary petitions on a regular basis), but who also possessed an almost unrivalled insight into the workings and processes of central government. At every stage in the secretarial processes of central government, royal clerks took a cut of the fees which clients paid for records to be made of their transactions: why should they not also have been active in the first stage of this process, when the initiating petitions were first drawn up ready for presentation? There is sufficient evidence to show that 'moonlighting' by royal clerks was not only widespread, but was an established aspect of the administrative culture of the late medieval English royal bureaucracy.[106] Perhaps the most telling aspect of this phenomenon is the extent to which clerks, and especially chancery clerks, appear to have been sought after for retention in the service of wealthy private clients.[107] In many cases, this entailed acting as the client's attorney in cases brought before the central courts. Indeed, chancery clerks appear to have been a popular choice for senior clergy who did not wish to attend parliament in person and who required a proctor to go in their place: clerks who acted as receivers of petitions seem particularly to have been targeted in this regard.[108] The clear inference is that clerks were considered to have a sufficient presence in parliament to be able to act as effective

[105] *Scriveners' Company Common Paper 1357–1628*, ed. F. W. Steer (London, 1968), p. 2.

[106] Ramsay, 'Scriveners and Notaries', pp. 121–2; M. Richardson, *The Medieval Chancery under Henry V*, List and Index Society, 30 (Chippenham, 1999), pp. 42–9.

[107] C. W. Smith, 'A Conflict of Interest? Chancery Clerks in Private Service', in J. Rosenthal and C. Richmond (eds.), *People, Politics and Community in the Later Middle Ages* (Gloucester, 1987), pp. 176–91.

[108] A. K. McHardy, 'Some Patterns of Ecclesiastical Patronage in the Later Middle Ages', in D. M. Smith (ed.), *Studies in Clergy and Ministry in Medieval England*, Borthwick Studies in History, 1 (York, 1991), pp. 23–5. I am grateful to Dr Alison McHardy for allowing me access to an unpublished paper in which she shows how prevalent the receivers of petitions were as proctors in the reign of Henry IV.

representatives of these clergymen within the upper house. All this suggests that royal clerks, and particularly those in chancery, possessed an expertise that extended well beyond simply an ability to draft documents in the appropriate style. They were not merely pen pushers: royal clerks were highly trained and highly educated individuals; they had an intricate knowledge of government processes, legal technicalities, and the prevailing administrative culture; and large numbers of them had considerable business acumen, borne out of the basic fact that their livelihood depended on the amount of service they could render to those of the king's subjects who wished to access royal government. Writing petitions was an obvious and very straightforward source of additional income for these men.

This chapter has demonstrated that whilst the initial impetus behind a petition lay with the petitioner, the finished product was the result of a much more complicated set of interrelated influences. Petitions allowed the king's subjects to access royal grace directly and/or to gain justice at the king's personal command, but the peculiar challenges generated by the twin processes of writing and presenting petitions meant that petitioners almost always approached the king on terms determined, in the first instance, by a clerk, lawyer, or professional scribe. This drafter of petitions, for his part, fulfilled the terms of his contract by writing a petition that almost always conformed to a very narrowly defined set of linguistic conventions. Petitions did not articulate the voice of local people direct to the king; instead, they communicated requests or grievances that had first passed through a prism of social, legal, and rhetorical convention. The result is a type of document that *appears* to convey information unique to the particular circumstances of the individual petitioner, but which, if compared with a sufficiently large number of other cases, assumes a rather predictable and stereotyped form. The way in which petitions identified their author in the third person and 'spoke' for them in the third person considerably increases this sense of separation. The convention can probably be attributed to the custom whereby petitions were considered separately from their authors, thus making the use of the first person singular impracticable; but it was also a convenient reminder that the petition itself was not the creation of the petitioner but of a third party acting on the petitioner's behalf.

The chapter has necessarily focused on the conventions that dictated the form and content of parliamentary petitions, but we should not

assume that the way in which a petition was written was the single most important determinant of its outcome. To be sure, petitioners could never be guaranteed that they would achieve a successful conclusion to their case, but if a request or grievance was demonstrably justified, then the language, rhetoric, and structure of the petition became a secondary issue. These aspects would probably have counted for far more had the outcome to a petition rested simply on the personal whim of the king. In a majority of cases, however, what determined how a petition was handled was the extent to which the Crown acknowledged its moral and legal obligation to provide resolution to the king's subjects. In a sense, when a supplicant petitioned the king, they did not appeal to the particular preferences of the monarch as an individual but to a set of political, legal, and moral imperatives which every king was expected to observe in dealing with his subjects. This is why private petitions were classified by the Commons in 1373 as 'petitions of individual *right*':[109] the MPs were articulating an underlying sense of expectation that parliament ought to offer resolution where a legitimate grievance was brought to the attention of its members.

The more reciprocal nature of petitionary culture explains why some supplicants could be remarkably frank in justifying their supplication. In 1315, for example, Hugh Courtenay presented a petition in parliament in which he claimed to have had a fee unduly withheld from him from the county of Devon, for which Courtenay complained that he was 'being oppressed by the king'.[110] Isabel Cleterne presented a petition early in Edward III's reign in which she asked that her abductors should not be granted a pardon, a request no doubt prompted by her stated belief that 'charters of pardon are so commonly granted by the procurement of those close to the king'.[111] And, in 1385, William Ashton, parson of the church of Swanscombe, made complaint against an endorsement the king had given to a petition presented in the same parliament by the prior and convent of St Mary Overy of Southwark.[112] The endorsement had allowed the prior to have a writ of consultation to negate a writ of prohibition which Ashton had been awarded in a case the prior had wrongfully brought before the Court of Arches: in his petition, Ashton objected that the 'endorsement is completely against the law' and asked for it to be reversed 'in salvation of the king's royal jurisdiction'. Such forthright attacks on the actions of the Crown, and

[109] *PROME*, parliament of 1373, item 14. [110] SC 8/3/101.
[111] SC 8/39/1937 (1338–42). [112] SC 8/20/985.

the assuredness with which the petitioners outlined their position, are indicators of the inherent soundness of the justice which contemporaries could hope to enjoy when they petitioned at parliament. In each of these cases, the Crown's reaction was not to reprimand the supplicants for their impudence, but to take practical and apparently genuine steps to redress their grievances.

Conclusion

The starting point for this study was the desire to restore the private petition to its rightful place in our considerations of the late medieval English parliament. It will now be clear, I hope, that this aspect of parliamentary activity was not confined to a brief transitory phase in the late thirteenth and early fourteenth centuries, but represented one of its most enduring and constant features. This is justification in itself to regard the reception of grievances or requests which promoted the private interests of the king's subjects to have been absolutely intrinsic to the make-up and functioning of the institution. From the very beginnings of its existence, in the first half of the thirteenth century, parliament had been conceived as a court that should exercise extraordinary jurisdiction on exceptional cases brought to it by individuals or communities; it never (permanently) ceased to discharge this special function.

Longevity, however, does not necessarily equate with significance. In fact, the significance of private petitioning—both for parliament and in more general terms—changed over the course of time. In a period roughly corresponding to the reigns of Edward I and Edward II the parliamentary petition made a significant quantitative contribution to the routine government of the realm. This was a period when broader institutional developments had not kept pace with the precocious appetite of contemporaries to access the grace and authority of the king. Petitions were presented en masse in parliament because this was the one principal forum to offer remedial action of this kind. They were brought into parliament not because they demanded a specifically parliamentary consideration, but because no other suitable forum for the hearing of petitions presented itself. In later years, however, the volume of parliamentary complaint was comparatively small. Other venues, especially chancery and council, now existed to mop up more straightforward petitionary business, leaving parliament to deal with a modest number of truly exceptional cases that could not be handled anywhere else. The significance of private petitioning roughly from the

mid-fourteenth century onwards therefore lay in its exclusiveness, and in the fact that parliament was beginning to articulate its own distinct form of authority to deal with the complaints brought to its attention. The story of private petitioning is thus, in brief, the story of how parliament changed from an institution which served some basic administrative and governmental needs of the Crown, to a superior court that exercised its own highly specialized sovereign jurisdiction.

Since parliament was the king's parliament, and therefore the king's superior court, the reception there of grievances and requests from his subjects tells us much about the nature and scope of medieval kingship. The study of private petitioning is particularly helpful for the light it sheds on the projection and reception of royal authority in the localities. Petitioning, in general terms, provided the Crown with the opportunity to give practical expression to one of the basic tenets of sovereign power: that no justice superior to that offered by the king existed. This was manifested particularly clearly in parliament because of the facilities which the institution offered to the inhabitants of the English dominions (especially Ireland, Wales, and Gascony) to secure redress from the king. The petition theoretically allowed each of the king's free subjects a chance to override local power structures and/or established legal convention by appealing directly to the special authority which the king alone could wield. Recognition of this authority was implicit in the common appeal petitions made to the king's grace—that unique form of jurisprudence which placed the king outside the normal boundaries of legal diktat and enabled him to pass judgement on cases on the basis of his royal prerogative. In practice, of course, the English parliament rarely subverted existing legal custom, and in parliamentary time petitions which appealed to the king's grace were more often than not dispatched by delegation (by the triers or council), but it was the perception of parliament as an omnipotent and omnicompetent royal court which provided it with its unique status in the English polity. To a great extent, both this perception and the reality of parliament's power derived from the flexibility it exercised in handling the cases brought to its attention. The presence of the king during most parliamentary sessions transformed parliament into an organ of the royal will and as such its authority was not, and could not, be bound by regulation or ordinance. Flexibility was the key hallmark of the English parliament's jurisdiction. It gave expression to a broad consensus felt by both the king and his subjects that neither wished to be bound by the straitjacket of established processes and, correspondingly, that there ought to be

some outlet to resolve matters that could not be adequately addressed conventionally within the existing legal and political apparatus.

One of the most significant aspects of the development of petitioning was the fact that the projection of royal power into the localities came about by specific invitation from the king's subjects. The petitions submitted to parliament highlight how contemporaries depended on the strong and decisive application of royal authority to ensure stability and security in their lives. They also demonstrate how any sentiment that may have existed to preserve local independence from royal interference was quickly abandoned when individual or collective interests could be enhanced by soliciting the intervention of the Crown. More than any other device, the petition exposed the fundamental principles of mutuality and reciprocity upon which medieval government was founded. Petitioners appealed to the king's authority because they needed it to protect their land, livelihood, and person. Edward I turned parliament into a forum for mass petitioning, and his successors were generally happy to retain this function, because this was an efficient and cost-effective mechanism that allowed the Crown to pinpoint local difficulties and focus its resources into resolving them. Perhaps more than anything, the parliamentary petition demonstrates how the reach of royal authority could be led as much by local 'consumer demand'—driven by the imperative to have a supreme authority to arbitrate in disputes and coordinate government processes—as it could be determined by more narrow policy-making imposed from the centre.

Whilst petitioning in parliament gave practical expression to the notion of the inalienability of royal authority, it also, paradoxically, provided a platform from which royal authority itself could be scrutinized and, where necessary, subjected to correction. Parliament was a royal court; but it occupied a unique standpoint by placing its head in a position where his actions, and those of his representatives, could themselves be the subject of complaint and judgement. Thus, the many cases that were brought to parliament by supplicants who wished to challenge decisions taken by the king or his ministers provides a very tangible illustration of the principle articulated by Bracton, and later in the *Mirror of Justices*, that the king was both above and subject to the law.[1] Many of the complaints brought into parliament highlighted an

[1] *Bracton on the Laws and Customs of England*, ed. S. Thorne, 4 vols. (Cambridge, MA, 1968–77), ii. 33; *The Mirror of Justices*, ed. W. J. Whittaker, Selden Society, 7 (London, 1895), pp. 7, 11, and 155. For a good summary, see E. H. Kantorowicz,

underlying assumption that the king, and more generally the Crown, should act in accordance with a broadly agreed set of conventions which aimed to safeguard the rights, and especially the *property* rights, of the individual. The king was the source of sovereign power, but the legitimacy of this power rested on the expectation that he should act within the strictures of a broadly accepted moral and legal code. As Susan Reynolds put it, 'the ruler, even the king, was not sovereign; the law was sovereign, and the law prescribed harmony'.[2] Petitions which sought the reversal of decisions that had been made in the Crown's interests, but which were nevertheless alleged by the petitioner to be 'against right or reason', reveal how central the principle of accountability was in the implementation of late medieval English government. Both the Crown and its subjects were bound by a legal code; if the former transgressed this code, parliament offered the opportunity for the latter to gain redress. In this sense, parliament occupied a very special position in the polity, for it empowered the king's subjects and provided a measure of institutional normality to the act of challenging royal action (or inaction) in the localities. Parliament *was* the king's parliament, but it was also an institution which made particular demands of the king himself, providing an important test for the integrity and effectiveness of his kingship. Pressure to do justice would have emanated not just from the king's own sense of his responsibilities to his subjects, or the views of his closest advisers and senior judges, but also by the presence in parliament of a large proportion of the political community. More so, perhaps, than any other forum in which petitioners might approach the Crown, parliament generated a sense of obligation on the part of the king to attend to the needs of his subjects. This would have been an immensely powerful incentive for individuals to turn to parliament for redress.

But *did* they gain redress? The contradiction inherent in Bracton's formula, of a king who was both above and at the same time below the law, is revealed in a parliamentary setting by the fact that petitions complaining of actions taken by the Crown were also subject to the judgement of the Crown. Indeed, as we have seen, those petitions which

The King's Two Bodies: A Study in Mediaeval Political Theology (Princeton, NJ, 1957), pp. 143–92.

[2] S. Reynolds, 'Medieval Urban History and the History of Political Thought', *Urban History Yearbook* (1982), 14–23, p. 4 (repr. in idem, *Ideas and Solidarities of the Medieval Laity: England and Western Europe* (Aldershot, 1995), Ch. 4).

pertained specifically to the king's interests, which included complaints about royal impropriety, were reserved for the personal attention of the king himself. It is a situation that reveals the inherent fragility of the medieval polity, dependent as it was for the security of individual rights on the self-regulation and integrity of the king and his ministers. The evidence of petitioning in parliament suggests that the Crown generally used its power in a responsible way. There is no evidence to suggest that the Crown's interests were routinely placed above the proper and correct implementation of the law. By and large, the actions of the king's ministers in expediting petitions appear to have been grounded in a strong conviction of the inviolability of due legal process. Without a doubt it would be easy to identify cases that were likely to have been resolved in parliament as a result of the personal connections of the petitioner or behind-the-scenes lobbying, but we should not underestimate the importance of fair dealing as the overriding factor in determining the outcome to a complaint or request. A considerable number of cases are likely to have secured redress simply because it was recognized that the petitioner had suffered a genuine injustice and deserved a full and proper remedy.

It should be clear, then, that petitioning in parliament both expressed and, in many ways, fostered a highly integrated political system that gained its cohesion by a set of widely held assumptions concerning the scope and limitations of royal authority. The fact that parliament provided an opportunity for supplicants to address the king directly, and in some cases actually to appear before the king in person, provides a very practical illustration of this integration at work. Petitions to the king, both within parliament and outside it, allowed the king's subjects to forge a direct relationship with their monarch. Petitioning encouraged those who felt aggrieved to identify with the king. The very process of petitioning implied that the king and petitioner were allied against injustice and wrongdoing—some petitioners explicitly made the link in an attempt to enhance their chances of securing redress. Psychologically, if not in reality, petitioning brought the king much closer into the lives and aspirations of a significant body of people who never went, and would not have been allowed to come, anywhere near the royal court. For sure, some petitioners would have sought the intercession of a powerful patron to have their case brought to consideration, but the singular advantage to presenting a petition was the way it allowed a supplicant direct access to the very heart of royal government *without* the need to act through a middle party. This was

one of the principal attractions to petitioning in parliament, particularly in the late thirteenth and early fourteenth centuries, when few other alternatives presented themselves.

For the king's subjects, petitioning in parliament made the Crown accessible, but it also opened parliament up to a broader public. It is easy to assume, from the neat published lists of MPs returned, and lords summoned, that parliament was a 'closed shop', and that its activities really only involved those who were its official members or those who waited anxiously in the constituencies for news of fresh grants of taxation and legislation. But the facility that parliament offered, of providing relief to individuals or communities who found themselves in difficulties with no other chance to secure redress, inevitably meant that its impact and relevance was felt more widely. This should be measured not just in terms of the number of petitioners who actually made use of the process, but also in less tangible ways—in the broader sense of security it provided to the population at large that there was always the option of appealing to the institution if no other means of resolving local difficulties presented itself. In this way, the parliamentary petition not only furnished parliament with a greater sense of inclusiveness, it also helped contemporaries accept, and identify more closely with, the processes of central government.

The opportunity petitioning in parliament provided for direct contact between the king and his subjects also played to the distinct advantage of the Crown, particularly when it wished to address the misdemeanours of unscrupulous royal officials or disruptive members of the aristocracy who might otherwise try and block the course of justice locally. Petitions provided the king with the opportunity to shape policy and guide government action as a result of 'counsel' from his 'ordinary' subjects. Just as the petition allowed supplicants direct access to the Crown, so too they provided the king with direct access to information on conditions in the localities, without his necessarily having to rely on the counsel of his nobles. It was a situation which demonstrated the extent to which the exercise of late medieval kingship depended on a dialogue between the monarch and the broader spread of his subjects. Petitions (in parliament) may have represented the more formal manifestation of this dialogue, but then this was partly the function of having the requests written down, for it allowed the Crown to pick and choose those cases it wished to engage in from a much larger range of potential suitors. More informal (oral) dialogue tended to be the preserve of those who had the status and rank to access the king's person directly. Petitioning

in parliament, as distinct from elsewhere, provided a particular context for political integration because from the late fourteenth century, as we have seen, the consideration of petitions increasingly became the joint responsibility of the whole parliamentary community. Indeed it was the *public* nature of the trying of parliamentary petitions which was to give parliament, by the fifteenth century, its unique and enhanced position in the political and judicial structure of the kingdom. The decisions taken on petitions now entailed the full and active participation of the broader political community of the realm.

The focus of this book has been the petitionary business which the late medieval parliament handled, but it should be stressed that the intention is not to revive an exclusively 'judicial' interpretation of parliament's function and purpose. For one thing, it is not at all clear that the term 'judicial' adequately or appropriately describes the nature of the business which private petitions generated. In many cases, private petitions did not ask for justice at all. Petitions brought before parliament asking the king for a favour or for a reward are more appropriately classified as requests for royal largesse or patronage. Even those petitions more obviously requesting some form of legal redress might be better described in terms other than 'judicial', for what gave parliament its special status was the fact that it was not, strictly speaking, a part of the judicial structure of the kingdom: it existed outside the normal legal channels and its 'justice' was based not on codified legal doctrine but on the prerogative authority of the king and discretionary powers of his ministers. Labelling private petitions as 'judicial' business is undoubtedly very convenient shorthand, but it also has the unfortunate effect of suggesting a clear separation between petitioning and the other business which parliament attended to. In reality, private petitioning (i.e. parliament's 'judicial' function) can be no more easily separated from the 'political' business of parliament, as the political business can be separated from the financial, diplomatic, or administrative considerations of the institution. This blurring of functioning and purpose is nowhere better illustrated than in the interconnection between private petitions and common petitions, and the fact that a large proportion of the common petitions that shaped the political discourse between the Crown and community actually originated from local grievances that had initially been submitted as private concerns. From the early fifteenth century, it is possible to measure the proportion of common petitions generated in this way, but even without the clues offered by the enrolling clerks, it is very

likely that the subjects raised in private petitions went far in helping the Commons to formulate their collective opinion on local matters. From the late fourteenth century private petitions were addressed direct to the Commons for precisely this purpose—the system of private petitioning now contained a mechanism within it that allowed local people to make an open bid to define and articulate public opinion on their own terms. To pigeonhole the private petition as the 'judicial' business of parliament is therefore to ignore the much larger impact which it had on the political and administrative life of the kingdom. To this extent, parliament fulfilled a vital function of government in the late medieval period and the private petition had a particularly important contribution to make in defining this government as something in which the king's subjects were themselves actively involved.

The fact that private petitioning remained a constant feature of parliament throughout the late medieval period is a measure both of the need to have a forum in which extraordinary cases could be brought to resolution and of the success with which parliament discharged this function. Individuals and communities would soon have stopped going to the expense and trouble of presenting petitions in parliament had the institution failed to live up to the broad expectation that it should provide a remedy in deserving cases. It is rare indeed to find contemporary reflection on the purpose and value of parliament, but one such elucidation, ascribed by the chronicler Henry Knighton to Thomas, duke of Gloucester, and Thomas Arundel, bishop of Ely, in 1387, is extremely illuminating. As part of their rebuke against Richard II for his self-imposed absence from parliament, the pair are reported to have reminded the king of the importance of the assembly for the well being and stability of the kingdom. Their entreaty began with a description of parliament as

> the highest court in all the land, in which without doubt or quibble all equity ought to shine like the morning sun in his ascent, and to which both rich and poor can resort, for the refreshment and tranquillity of peace, and the redress of injuries, as to an unfailing refuge.[3]

If any significance can be attached to the order in which the two peers outlined the attributes of the parliamentary system, then it was parliament's role in providing redress for the king's subjects that took

[3] *Knighton's Chronicle 1337–1396*, ed. and trans. G. H. Martin (Oxford, 1995), p. 357.

precedence. Seventy-five years earlier the Ordainers had articulated almost exactly the same point of view, as had the author of *Fleta* approximately twenty years before this.[4] In the fifteenth century, the conception of parliament as the 'highest court of the realm' was to become firmly and irrevocably established in the constitutional make-up of the kingdom.[5] Parliament may have fallen short of fulfilling the ideals outlined by the opponents of Richard II in 1387 (a point hinted at by the use of the phrase '*ought* to shine' in Knighton's account), but it was the perception that this is what made parliament what it was that is really important. For what consistently made parliament an indispensable part of the political and administrative structure of the late medieval English kingdom was the conviction that it provided a crucial outlet for the satisfaction and resolution of private interests and conflict. Perhaps this, more than any other factor, explains why parliament endured in the late medieval period.

[4] *English Historical Documents, 1189–1327*, ed. H. Rothwell (London, 1975; repr. 2001), pp. 527–39 (article 40); *Fleta*, ed. H. G. Richardson and G. O. Sayles, Selden Society, 72 (London, 1953), ii. 109.

[5] S. B. Chrimes, *English Constitutional Ideas in the Fifteenth Century* (Cambridge, 1936), pp. 70–6.

APPENDIX 1

Rolls and Files

This appendix considers the two principal administrative systems employed by the Crown to keep a record of the petitions presented in parliament. Understanding how and why rolls and files of petitions were compiled takes us to the very heart of the bureaucratic processes employed by the Crown to handle private petitions.[1] The discussion will help not only to make sense of how parliament 'worked', but also shows something of the nature of the sources available to historians of the medieval parliament. Readers should note that a separate discussion of the enrolment of private petitions in the late fourteenth and fifteenth centuries is in Chapter 6.

1. ROLLS

Until the 1330s parliamentary clerks enrolled petitions either as full, unedited transcripts written in Anglo-Norman French or as brief Latin abstracts summarizing the main points of the original petition. Enrolment was often indicated by the clerks themselves who marked the original petition with the abbreviation 'Irr' (*Irrotulatur*),[2] presumably in order to prevent any mishaps in the enrolling process. Up until the 1320s, the rolls were kept in the exchequer; thereafter chancery took responsibility.[3] Although the earliest extant rolls of petitions survive from 1290,[4] there are memoranda dating to 1279 and 1283 which closely resemble later enrolments, and Richardson and Sayles noted that a petition presented as early as 1278 was endorsed with the words: *Responsum est in Rotulo*.[5] Enrolment was therefore probably as old as petitioning itself. Such a convention, which involved the copying out or summarizing of a large proportion of the petitions that had been placed in files, was, in the words

[1] A useful introduction to recordkeeping methods of chancery is provided by R. F. Hunnisett, 'English Chancery Records: Rolls and Files', *Journal of the Society of Archivists* 5 (1974–7), 158–68.

[2] *Memoranda de Parliamento*, ed. F. W. Maitland (London, 1893), p. lxiii.

[3] H. G. Richardson and G. O. Sayles, *The English Parliament in the Middle Ages* (London, 1981), Ch. 19.

[4] *Rot. Parl.* i. 46–65; SC 9/2–4.

[5] *Rotuli Parliamentorum Angliae Hactenus Inediti*, ed. H. G. Richardson and G. O. Sayles, Camden Society, 3rd ser., 51 (1935), pp. 1–7, 12–25; Richardson and Sayles, *English Parliament*, Ch. 19, p. 78 n. 1.

of Maitland, 'somewhat of a luxury'.[6] Nevertheless, there were logical reasons why the enrolment of petitions should have taken place, not least the fact that a consolidated list of petitions provided a very convenient point of reference for officials needing to look up what petitions had been presented—and what answers the Crown had provided—in previous parliamentary sessions. Enrolment also provided a measure of ministerial accountability by ensuring that a record was made of the instructions and orders passed on to government officials in response to a petition. Perhaps the most straightforward explanation, however, is that until the end of Edward II's reign it was customary to keep the records of parliament in two separate places—the rolls in the exchequer and the files in chancery—so duplication may simply have been the product of bureaucratic expediency and the need to furnish the two most important departments of central government with a record of what judicial business parliament had dealt with.[7] It may be significant in this regard that the phasing out of the enrolment of petitions in the early 1330s more or less coincided with the abandonment of this dualistic system and the concentration of all records connected with parliament in chancery.

The changes to the way in which petitions were dealt with in parliament between 1270 and 1327, from their dispersal to the various branches of central government to their wholesale consideration within parliament itself,[8] were reflected in the headings used to describe the content of the early parliament rolls. In the very early years, the diversion of many petitions away from parliament was reflected in the memoranda of 1279 and 1283 which provided rather diminutive lists of petitions that appear to have been dealt with only by the king and council.[9] The heading to the earlier document simply stated the place and date of the parliament, whilst the later document was headed: 'Responses to petitions at Acton Burnel . . . and certain other business transacted and ordered there'. The roll of English petitions dating to 1290 further highlights the restricted nature of the (English) petitionary business handled in parliament, for the heading specified that the roll contained 'Pleas before the lord king himself and his council, at his parliaments after the feast of St. Hilary, and also after Easter'.[10] By contrast, the rolls of Irish petitions presented in the early 1290s reveal the two-tier system which apparently now existed for the expediting of foreign petitions in parliament. One roll, dating to April 1290,

[6] *Memoranda de Parliamento*, ed. Maitland, p. lxv.

[7] For a consideration of the compilation and custody of the early records of parliament see Maitland's discussion in *Memoranda de Parliamento*, pp. lxii–lxvi; Richardson and Sayles, *English Parliament*, Chs. 19 and 20; and *Rotuli Parliamentorum Anglie*, ed. Richardson and Sayles, pp. xiii–xviii.

[8] See discussion above, Ch. 3, pp. 50–5.

[9] *PROME*, parliament of April 1279, C 49/1/13; parliament of September 1283, C 49/2.

[10] *PROME*, parliaments of April and October 1290, SC 9/1.

was headed 'Petitions from Ireland delivered to Stephen of Penchester, Peter de Champaigne and Robert of Hereford [Hertford] deputed for this purpose by the king in parliament at Westminster three weeks after Easter 1290.'[11] Two other rolls comprised petitions handled by the king and council: one, dating to the Hilary parliament of 1290, was described as 'Petitions and complaints from Ireland made to the lord king Edward in his parliament',[12] and the heading on the roll of October 1293 read: 'Pleas before the lord king and his council at his parliament at Westminster'.[13] The rolls of English petitions dating to 1305 reflected the special arrangements the Crown had implemented in the parliaments of this year whereby English petitions came to be expedited by a group of councillors working in conjunction with the heads of the principal departments of state. No mention was made of the fact that the petitions had come before the king and council, merely that (to give two examples) these were 'more petitions from England in the king's parliament', or 'more memoranda from the parliament at Westminster'.[14] However, we know that large numbers of these petitions had been seen by the king and council because of the telltale endorsements *coram rege* or *coram consilio*. This suggests that the enrolments of 1305 incorporated a mixture of supplications that had been handled by both the king himself with his advisers and the delegation of king's officers.[15]

When private petitions were next presented in parliament in significant numbers—in the parliament of January 1315—the enrolment of English petitions followed the earlier practice of foreign petitions by the separation into distinct categories of those cases handled by the king and council, on the one hand, and those dealt with by the triers, on the other. Twenty-three membranes of enrolled petitions survive for the parliament of January 1315: the first fifteen membranes are typically described as 'Answers given before the king and Great Council in the King's Parliament', or 'Pleas before the Great Council in the king's parliament'; whilst the remainder comprise membranes with the single heading 'Answers given to English petitions by their auditors in the king's parliament'.[16] As far as can be ascertained, there are only two further examples of parliament rolls which contained petitions that had been dealt with by triers, namely, the

[11] *PROME*, parliament of April 1290, SC 9/4. These individuals have been identified as triers and their backgrounds given in Richardson and Sayles, *English Parliament*, Ch. 6, p. 546.

[12] *PROME*, parliament of October 1290, SC 9/3.

[13] *PROME*, parliament of October 1293, SC 9/8.

[14] *PROME*, parliaments of February and September 1305, SC 9/12.

[15] Some of these endorsements are noted by Maitland in *Memoranda de Parliamento*, nos. 6, 7, 77, 85, 86, 129, 148, 176, 193, 216, 236, and 247.

[16] *PROME*, parliament of January 1315, *passim*.

rolls of 1318[17] and October 1320, respectively.[18] Even allowing for the loss of records, this was over a decade before the enrolment of petitions handled by the king, council, and Great Council came to an end (in 1332) and suggests that secretarial resources were already beginning to be channelled exclusively to dealing with the judicial work of the latter bodies.[19] By 1315, parliamentary clerks were enrolling *in full* (rather than in abstract) the petitions expedited by the king and council, and it may well have been the extra time, manpower, and expense[20] that this involved which finally spelled the end of rolls specially devoted to the triers' petitions. The abandonment of enrolment for petitions handled by the triers, if indeed this had occurred by the early 1320s, represented a preliminary stage to the abandonment of enrolment altogether after 1332.

The parliament of 1315 is especially important for the comparison it allows between the petitions handled by the triers and those forwarded for consideration by the king and council. In Chapter 4 discussion of the work of the triers, in relation to the king and council, showed that whilst the remit of the triers was fairly limited, that of the king and council (as one would expect) was far greater. Thus, the petitions handled by the triers tended to be of a routine, administrative character, whilst many of those which came before the king involved complex or controversial legal matters or else they demanded the exercise of royal grace. In 1315 this differentiation is, in many

[17] A comparison between the 1318 list of petitioners (*PROME*, parliament of October 1318, E 175/1/22) and the roll for the same parliament (*PROME*, parliament of October 1318, SC 9/21) shows that the latter consists only of petitions included in the 'triers' section of the list, headed: *Peticiones expedite*.

[18] *PROME*, parliament of October 1320, SC 9/23. There is no explicit heading on this roll to indicate that the petitions were expedited by the triers. However, this can be inferred by the fact that the vast majority of responses given to the petitions are of the brief 'administrative' type that was typical of the triers' work. It is also noticeable that very few responses mention the input of the king and council (exceptions are items 142–3). Part of the roll has also been subdivided into sections containing petitions relating to Ireland (items 9–13) and petitions relating to Wales (items 70–5), which presumably conformed to the division of labour within the panels of triers.

[19] Enrolled petitions dealt with by the king and council survive from 1315 (*Rot. Parl.* i. 334–49), 1327, 1328, 1330, and 1332 (*PROME*, parliament of January 1327, BL, Cotton Mss., Titus E.1; parliament of April 1328; parliament of November 1330, E 175/2/216; parliament of September 1332, C 65/3). In addition to the commentaries on these records provided in *PROME*, useful discussion by Richardson and Sayles can also be found in *Rotuli Parliamentorum Angliae*, pp. 104–6, 180–1, 186, and 216.

[20] Maxwell-Lyte has drawn attention to a payment made out of the wardrobe in 1290 where Henry Lichfield, clerk, was paid the not inconsiderable sum of 26 shillings for 25 days work described as *scribenti peticiones et querelas coram auditoribus*: H. C. Maxwell-Lyte, *Historical Notes on the Use of the Great Seal of England* (HMSO, London, 1926), p. 198.

ways, even starker, for a much greater proportion of the king and council's roll was taken up by petitions presented in the name of the community of the realm (10%) or by county communities (9%) or by members of the nobility (7%), than was the case on the triers' roll (where the figures were 1.5, 4, and 1.5, respectively). Conversely, proportionately more petitions from individuals were handled by the triers (62%) than were expedited by the king and council (46%). This offers a plausible explanation for the decision to enrol in full the petitions that had been brought before the king and council, and to retain the practice of enrolment for these petitions after enrolment in general had apparently been abandoned. Enrolment was reserved for the important cases brought into parliament—a practice which very smoothly transferred to common petitions once they emerged at the start of Edward III's reign. For the more straightforward cases handled by the triers, there was not the same need to record every last detail of a case brought to parliament's attention: a summary was sufficient.

2. FILES

The file was the final destination for many, but not necessarily all, the original private petitions presented in the medieval parliament. Although no medieval files remain, the practice of filing has left sufficient evidence to give us a fair idea of what was involved. Normal practice was for the clerk to tie the petitions together by threading string through a small hole in each parchment, and affixing to the top and bottom of the resulting 'bundle' an outer cover with some reference to the parliament to which it related. The covers appear to have been made in a rough and ready fashion, using any parchment that the clerks of parliament could obtain easily.[21] At some point in the course of the fourteenth century this method of tying petitions together may have changed, for it is noticeable that the telltale hole in early fourteenth-century petitions is not evident in the petitions which survive from later periods. The process that led to petitions being considered by the panels of triers, or the king and/or council, has already been elucidated.[22] What happened to the petitions once they had been expedited, but before they were placed into the files, was partially addressed by Maitland, whose description of the procedure in 1305[23] is worth quoting in full:

[21] The cover for the file of petitions presented in 1368 was a draft of the replies the Crown made to the common petitions presented in the assembly: C 49/8/12. The cover for the private petitions presented in 1376 was made simply by using one of the petitions themselves: SC 8/162/8091.

[22] See above, Ch. 3, pp.103–8.

[23] The procedure before 1305 was different; see above Ch. 3, pp. 50–5.

The petition will perhaps in the first instance be endorsed with a Coram Rege [if it was assigned to the presence of the king]; it will then be taken before the king and another endorsement will be made upon it [i.e. the reply or response of the king to the petition]; a note of it will be made upon the parliament roll [hence the abbreviation 'Irr' in the margin of the original petition]; then it will be delivered into the chancery; [and] from the chancery a writ will be sent to the exchequer [or other branch of government such as king's bench or the Wardrobe].

So far so good. As we have seen, on a great number of the enrolled petitions which Maitland printed was another scribal abbreviation: 'Lib in Canc' (*Liberatur in Cancellariam*) or 'delivered in chancery'. Maitland regarded this as the counterpart to the abbreviation 'Irr' on the petitions: whereas the original petition was marked to indicate that it had been written up on the roll, the roll was marked to indicate that the original petition had been delivered into chancery.

What happened to the petitions which passed to chancery raises a complicated and perplexing problem. Richardson and Sayles assumed that once petitions had been expedited in parliament, they were then dispersed to the many and various branches of central (and local) government where action was taken on the petitioners' behalf.[24] Richardson and Sayles correctly reasoned that the most effective way to transmit the details and context of a case to an officer of the Crown who was charged to act on it was to send the petition itself to this officer so he had all the relevant information to hand. However, this raises a problem, for if large numbers of parliamentary petitions were dispersed into the hands, and eventually into the archives, of the exchequer, king's bench, household, and local courts, how many petitions would have remained to be put into the chancery files? At the very least it meant the files of parliamentary petitions contained only a fraction of all petitions that had been presented in parliament. We have seen in Chapter 3 that this may have been the case for petitions presented in the early years of Edward I's reign, but it is not at all clear that the petitions were dispersed in this way after the close of the thirteenth century. The solution to the conundrum, according to Richardson and Sayles, was duplication: 'petitions were not infrequently, and were perhaps usually, in duplicate, and in this way a complete file could be preserved, the duplicates having been handed to the petitioners or, through some other intermediary, having passed to the several courts or departments whose duty it was to give effect to the decisions taken in parliament'.[25] This is an attractive theory, but it founders through lack of supporting evidence. There *are* copies of petitions in the series SC 8; but there are not enough examples to suggest that the practice was employed as a matter of course or on a large scale. One would expect to find a large quantity of duplicate petitions in the series SC 8 (divided

[24] *Memoranda de Parliamento*, p. lxxi.
[25] *Rotuli Parliamentorum Anglie*, p. xv. [26] Ibid.

between those kept in chancery within the range of SC 8 files 1–237, and those brought in from outside chancery, in SC 8 files 238–347) had duplication been practised on anything like a regular basis. Of the copies which do exist, many almost certainly were the result of petitioners submitting identical complaints in successive parliaments.

A more serious objection to the idea of duplication, and one which might at first appear to endorse such a view, are the occasional instructions added to petitions explicitly ordering that copies should be made. Such was the case with a petition presented in 1307 by the minister and brethren of the house of St Robert of Knaresborough in which the Crown instructed that 'This petition is to be copied and given to Miles of Stapelton, so that he in person, or his brother, might be at the exchequer . . . to inform the treasurer and barons about what is contained in the petition'.[26] In the same parliament, Alyna Brereton requested the wardship of her son because she claimed that her late husband had held his land in the honour of Knaresborough for a certain fixed annual farm and not by knight service.[27] The Crown replied that Alyna was to sue her case in the king's bench and that Miles Stapleton was to be warned by writ of chancery to be present to provide advice and information. It was further stipulated that the petition was to be sent to the king's bench, and a copy was to be made 'because one will remain in chancery as a warrant'. There is also an example dating to the parliament of 1315 when a petition from the community of Lincolnshire against the county's office holders was answered 'a transcript of the petition is to be sent to [the justices of assize] and they are to be ordered to do justice in the matter'.[28] These examples beg the question: if the copying of petitions was a matter of routine for cases which were sent out of chancery, why was it necessary for a few individual petitions to contain such explicit and specific instructions?

On the other hand, there is conclusive evidence to show that some petitions either did not go to chancery at all or, if they did go to chancery, were then promptly dispatched with a writ to some other destination with no sign that duplication had occurred. In January 1307, for example, it was noted that a petition from John Ingham and Reginald St Martin, together with other records and inquisitions which had been produced in the parliament of February 1305, had been handed over to Roger le Brabazon and his fellow justices of the king's bench.[29] Two petitions presented in 1307, one from Gilbert de Clare and the other from the bishop of Durham's bailiff, followed a similar route when their endorsements instructed that they should be sent to Brabazon and his colleagues under the king's seal of chancery.[30] A petition presented by John

[27] *PROME*, parliament of January 1307, *Vetus Codex*, item 78.
[28] Ibid., item 58. [29] *PROME*, parliament of 1315, item 19 (14).
[30] *PROME*, parliament of January 1307, *Vetus Codex*, item 18. The petition of 1305 is *PROME*, parliament of February 1305, SC 9/12, item 221 (211).
[31] *PROME*, parliament of January 1307, *Vetus Codex*, items 98–9.

Waldeboef in 1305 was similarly endorsed with a command that the petition should be sent to the king's bench under the king's great seal—the subsequent enrolment was annotated 'Lib in Canc'.[31] Other destinations for petitions included: the wardrobe;[32] the justices of eyre in Meath;[33] the justice of North Wales;[34] the keeper of the peace in the West Riding of Yorkshire;[35] the king's Remembrancer;[36] the warden of the Cinque Ports;[37] and, in 1315, no fewer than twenty-one petitions were endorsed with the order that they were to be forwarded to the treasurer and barons of the exchequer.[38]

The resolution to these disparate strands of evidence lies in an important modification to the original statement made by Richardson and Sayles, for whilst the underlying premise of their assertion on the dispersal of records remains fundamentally true, there are reasons to doubt that this happened on anything like a comprehensive basis in the fourteenth and fifteenth centuries. This is suggested by a careful reading of the chancery writs sent to the exchequer in response to petitions presented in parliament. A writ—or warrant—issued under the Great Seal in chancery was one of the principal methods used by the Crown to mobilize the exchequer for the purposes of making payments, offering special financial dispensation, or having the barons and treasurer investigate the circumstances of a claim or complaint brought before the king in parliament (writs issued by the privy seal constituted the other principal means of initiating action).[39] We have seen already that the writs sent to the exchequer in response to parliamentary petitions tended to be warranted 'By petition of council' in the *Brevia Baronibus* section of the exchequer memoranda rolls. On close scrutiny it is also evident that a significant minority of the entries on the memoranda rolls also included a phrase to the effect that the writ had been sent into the exchequer with its originating petition attached. The printed memoranda rolls of 1326–7 provides a useful basis to illustrate the point: between September 1326 and August 1327—a period that included the 'deposition' parliament of January 1327—a total of 106 writs can be identified as having been sent into the exchequer as a result of a petition presented in parliament.[40] Of these, just thirty-one noted the existence of an enclosed petition.

[32] *PROME*, parliament of February 1305, SC 9/12, item 220 (210)
[33] *PROME*, parliament of July 1302, item 7. [34] Ibid., item 67.
[35] *PROME*, parliament of 1315, item 99 (83).
[36] *Calendar of Chancery Warrants Preserved in the Public Record Office, A.D. 1244–1326* (London, 1927), p. 577 (1326).
[37] *PROME*, paraliament of 1315, item 109 (92). [38] Ibid., item 139 (115).
[39] Ibid., items 21 (16), 29 (23), 83 (70), 94 (79), 105 (89), 106 (90), 107, 133 (109), 135 (111), 137 (113), 152 (122), 158 (127), 168 (137), 179, 186 (150), 189 (153), 200 (162), 206 (168), 232 (194), 247 (209), 261 (223).
[40] A. L. Brown, *The Governance of Late Medieval England, 1272–1461* (London, 1989), p. 56.
[41] *Calendar of Memoranda Rolls (Exchequer) Preserved in the Public Record Office, Michaelmas 1326—Michaelmas 1327* (London, 1968), pp. 32–104.

The obvious difficulty with this methodology is the possibility that the mention of enclosed petitions was entirely dependent on the secretarial practice followed by the clerk who happened to be responsible for the enrolment. But there is a noticeable difference between the writs to which petitions were attached and those which were apparently free-standing. The writs with enclosed petitions tended to place greater demands on the treasurer and barons of the exchequer. It was frequently the case that these writs ordered the barons to undertake due process which would result in a judgement on the petition which had been forwarded to them. These writs frequently begin with phrases such as 'order to do speedy justice', 'order to act', or 'order to deal with'. By contrast, the writs which made no mention of enclosed petitions tended to require action that was more routine or mechanistic: writs of a*llowance*, writs of *certiorari*, or writs directing the respite, attermination, or quittance of a debt. Admittedly, the distinction is not absolute, but there is enough of a pattern to suggest that a petition was usually sent into the exchequer only when it was evident that the treasurer and barons would derive some benefit by having it in front of them for reference. Had the enclosure of petitions been standard procedure for all writs issued by chancery, clerks almost certainly would not have stated this fact on only a proportion of the writs which they wrote out. It seems, then, to have been normal practice for most petitions to remain in chancery once the writ had been issued. The conundrum of the files of petitions can thus be resolved by recognizing that there was no single rule which applied to every petition handled by parliament. In general terms, the situation can be summed up as follows: petitions were not duplicated unless there was a special reason to do so; petitions were sent to, and remained in, various parts of central government other than chancery; but the bulk of petitions, once they had been expedited in parliament, stayed in chancery and were kept in specially designated files of parliamentary petitions.

APPENDIX 2

The Evolution of the Petitionary Form

The petitions in this appendix have been selected to illustrate some of the key stages in the development of private petitions from the late thirteenth to the mid-fifteenth century. The examples have been chosen because they are typical of their age. Summaries of the contents of each petition can be accessed via TNA's on-line Catalogue.

EXAMPLE 1 — ?1278–83

SC 8/144/7185 — Petition from William le Tayllur of Rhuddlan

Wills[elmus] le Tayllur de Rochelan p[ri]e p[ur] deu ke il puisse avoir e tenir ~~ses~~ viij acr[es] de t[er]re les quels il ad eu vij aunz e plus et e les quels il ad asarte e ke il ayt vostre lettre de ceo si v[ou]s plest a sire Robert Giffard e a les altres delivereurs de t[er]re illukes ke a les ayt sicom il les ad eu en gerre e en pees.

EXAMPLE 2 — ?1320

SC 8/88/4358 — Petition from the Tenants of Edmund of Woodstock

A n[ost]re Seign[our] le Roy et a son Conseil seo pleynent les tenaunz mons[ire] Edmond de Wodestoke q[ue] sont delmanoir de Andoevere q[ue] la ou il tenent le maner avandit en fee ferme Rendant Centz et quatre Livres p[ar] an la sont les ditz tenaunz oustes de lour com[m]une p[ar] mons[ire] William de Cleydon lieu tenaunt mons[ire] Aymer de Valence La quele Com[m]une si est appurtenaunt alour terres et arente sanz la quele com[m]une il ne poent lour t[er]res gayner ne la ferme payer. De quei il p[ri]ent remedie.

[endorsement] Soit mostree au Conte de Pembr' et a mons[ire] W' de Cleydon et avisent ent le Roi

EXAMPLE 3 — 1376

SC 8/148/7364 — Petition from the Commons of the Wirral

A t[re]shaute et t[re]sexellent S[eignour] n[ost]re S[eignour] le Roy supplie la povre co[mmun]e de Wyrall del Counte de Cestre q[ue] come ly noble

Prince nadegairs lo[ur] t[re]sreg[ra]ciouse S[eignour] considerantz les g[ra]untz meschiefs damagez et dist[r]ucions q[ue] lez savagyns de sa forest de Wyrall firent de temps en temps a son co[mmun]e poeple illeoq[ue]s et nomement la distruccion et desolacion de seintz esglises p[ar]ochiels en la dit forest p[ar] q[ue] lez divinez s[er]vicez ent acustume firent sustretz a cause dez savagyns susd[i]tes et auxint aut[re]s articles de dit forest p[ar] qeux sa dit co[mmun]e alafoith ad este greve et enpov[er]e en moltez dez man[er]s al rev[er]ence de dieu et de touz seintz et p[ur] sa alme et lez almes de sez nobles p[ro]genitours et en relevement de dit pays et co[mmun]e disaforesta la d[i]te foreste et pays de Wyrall p[ur] luy et sez heirs en touz pointz et articles p[er]petuelment adurer come pluis aplein en sa chartre ent fait a la dit co[mmun]e et lo[ur]s heirs et successours est contenu et outre ceo voillant sa d[i]te pays de Wyrall a touz iours finalment estre disaforeste sanz repell pria humblement a n[ost]re t[re]sexellent S[eignour] le Roy son t[re]sredoute piere de conferm[er] p[ar] sez l[ett]res patentz le dit disaforestement a la dit co[mmun]e et lo[ur] heirs et successours finalment come dit est Et n[ost]re t[re]sreg[ra]ciouse S[eignour] le Roy al hon[our] de dieu et request et prier de son dit t[re]sch[er] filtz en relevation de seintz esglises et amendement de dit pays et co[mmun]e conferma et ratefia le dit disaforestement p[ur] luy et sez heirs a la dit co[mmun]e lo[ur] heirs et successours p[er]petuelment come en sa chartre ent fait est aplein reherce qeux disaforestement chartre et confermement furent faitz et sue sanz p[ro]ces p[ar] ad quod dampnu[m] sue ou en aut[re] man[er] come la ley demandast q[ue] pleise a lo[ur] t[re]sreg[ra]ciouse et t[re]sexellent S[eignour] n[ost]re S[eignour] le Roy de ratefier et conferm[er] lez avantditz disaforestement chartre et confermement p[ar] estatut de co[mmun]e assent de p[ar]lement q[ue] non obstant q[ue] p[ro]ces s[ur] ceo nestoit sue p[ar] ad quod dampnu[m] nen aut[re] man[er] q[ue] lez disaforestement ch[art]re et confermement susditz ne nul de eux soit repelle ou anulle p[ar] ycell cause ou aut[re] q[ue]conq[ue] p[ur] lamo[ur] de Dieu et en oev[r]e de charite en plein acomplisement de la darrein volonte ly t[re]snoble Prince son t[re]sch[er] filtz q[ue] Dieu assoile p[ur] sa pite.

EXAMPLE 4 — (?1431)

SC 8/96/4753 — petition of John, Bastard of Clarence

soit baille a Roy

Plesed un to youre right wysse descreccions of the noble co[mmun]e in þis p[re]sent p[ar]lement assembled to considere the neyenes of the blode and birthe that John Bastard of Clarence knyght touched un to oure sov[er]ayng lordes p[er]son and þe poev[er]e estate and the s[er]vice that the said John have don un to our said sov[er]aigne lord in þe p[ar]ties of Fraunce as in other p[ar]ties in his werres as well in þe tyme of our said sov[er]aigne lord as in þe tyme of his right exellent and noble father the wiche god assoill and atte

altymes sethen and yette is attendyng to parfourme and fulfill aftir þe suffic[e] of his symple poev[er]e the g[ra]cious com[m]aundement and desires of our said sov[er]aigne lord un to the grete costes and hynderyng un to the said John and lesyng of his tyme and that he hathe but lityll to susteyen his said poevre estate sawyng only of tendre g[ra]ce of our said sov[er]aign lord atte his plesire cxviij li the wiche is in þe p[ar]ties of Irland of the wiche he is often and many tymes il paied And here uppon the said John p[ra]yed yow mekely w[i]t[h] all his herte that ye wolde with tendre hertes beseche our said sov[er]aigne lord be þe advis of the lordes bothe Sp[irit]uel and temp[or]el in this same p[ar]lement beyng to sende the same John in to þe p[ar]ties of Fraunce or els where atte the plesire of our said sov[er]aigne lord ther to do hym s[er]vice in suche wysse as hit liked and plesed them best by ther wysse descreccons or other wys to se to þe same John aftir as hit plesed our said sov[er]aigne lord by assent and avys of his wysse counseil in relevyng and supportacion of his poev[re] estate and þ[a]t in þe worke of charete.

EXAMPLE 5—?*C*.1413–1440

SC 8/198/9880—Petition of Isabel Warter. For the accompanying draft letters patent, see SC 8/198/9881

[top margin] Soit bailis as S[eignour]s

Please as t[re]ssages Co[mmun]es en cest p[re]sent p[ar]lement assemblez de prier au Roi n[ost]re sov[er]ain S[eignour] et as S[eignour]s espi[ritu]elx et temporelx en en mesme le p[ar]lement esteantz qil p[ar] advis et assent des ditz S[eignour]s voillet grauntier p[ar] auctorite du ditz p[ar]lement a v[ot]re pov[r]e oratur Isabelle Warter nadgairs femme de John Guy nadgairs de Novel Salisbury p[ar] l[ett]res patentz solonc la tenour dune cedule a iceste bille annexe p[ur] dieu et en oev[r]e de charite.

[endorsement] le Roy le voet

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C 61	Chancery: Gascon Rolls
C 81	Chancery: Warrants for the Great Seal
E 28	Exchequer: Treasury of the Receipt: Council and Privy Seal Records
E 175	Exchequer: King's Remembrancer and Treasury of the Receipt: Parliament and Council Proceedings
E 208	Exchequer: King's Remembrancer: Brevia Baronibus files
KB 27	Court of King's Bench: Plea and Crown Sides: Coram Rege Rolls
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