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Addendum.

Identification of Certain Place-Names
Mentioned in the Text.

Horsley: Horsley in Gloucestershire.

Wheatenhurst: Wheatenhurst or Whitminster, Gloucestershire.

Rongeton: Runcton, Sussex.

Langammarch: Llangammarch, Brecon.

Middelton Chenduyt: Middleton Cheney, Northants.

Seyton: Seaton, Rutland.

Iftelde: Iffley, Oxfordshire.

Mathersay: Mattersey, Nottinghamshire.

Steresburgh: Stourbridge, Cambridgeshire.

Stoke by Clare: Stoke by Clare, Suffolk.

Warton in Kendal: Warton, Lancashire.

Llanroust: Llanrwst, Denbighshire.

Yevele: Yeovil, Somerset.

Tallachram: Laugharne, Carmarthenshire.

Aure: Awre, Gloucestershire.

Ilkeston: Ilkeston, Derbyshire.

Warfeld: Warfield, Berkshire.

Waynflet: Wainfleet, Lincolnshire.

Garthprengy: Garthprengy, Shropshire.

Chabham: Chobham, Surrey.

Thorp: Thorpe, Surrey.

Egeham: Egham, Surrey.

Coveham: Cobham, Surrey.

Paynlathes Croft: Painley Croft (lost), Yorkshire (E.R.).

Staynburn: Stainburn, Yorkshire (W.R.).

Rigton: Rigton, Yorkshire (W.R.).

Harewode: Harewood, Yorkshire (W.R.).

Iseldon: Islington, Middlesex.

Mynty: Minety, Wiltshire.

Hextildisham: Hexham-on-Tyne, Northumberland.

Wolvey: Wolvey, Warwickshire.

Wrauby: Wrawby, Lincolnshire.

Mepal: Mepal, Cambridgeshire.

Whitford: Whitford, Flintshire.

Kilkein: Kilken, Flintshire.

Symondburn: Simonburn, Northumberland.

Hemyngburgh: Hemingbrough, Yorkshire (E.R.).

Coleworth: Culworth, Northamptonshire.

- 0 Llanraeadir: Llanrhaiadr, Denbighshire.
Chorleton Ottemore: Charlton-on-Otmoor, Oxfordshire.
Deverellangbrugge: Longbridge Deverill, Wiltshire.
Monkton: Monkton, Wiltshire.
Buddeclegh: Budleigh, Devon.
Baltesbergh: Baltonsborough, Somerset.
- 1 Mynstreworth: Minsterworth, Gloucestershire.
- 2 Jakesley: Yaxley, Huntingdonshire.
Baddeby: Badby, Northamptonshire.
Newenham: Newnham, Northamptonshire.
- 3 Great Stockton: Great Staughton, Huntingdonshire.
- 4 Relye: Thurleigh, Bedfordshire.
- 5 Payneswyk: Painswick, Gloucestershire.
Prestebury: Prestbury, Gloucestershire.
Wynkaulton: Wincanton, Somerset.
Croft: Croft, Lincolnshire.
- 6 Croft: Croft, Lincolnshire.
Thorpe: Thorpe, Lincolnshire.
Liskyret: Liskeard, Cornwall.
Lankynhorn: Linkinhorne, Cornwall.
Tallan: Talland, Cornwall.
- 7 Ayskarth: Aysgarth, Yorkshire (N.R.).
- 8 Aldrichesgate: Aldersgate, London.
Alneton: Alton, Staffordshire.
- 9 Neweton: Newton, Cambridgeshire.
- 0 Clee: Clee, Lincolnshire.

- 7 Tylgersley: Tilgarsley (lost), Oxfordshire.
- 7 Portland: Portland, Dorset.
- 9 Wolveleghe: Woolley, Yorkshire (W.R.).
Bradefeld: Bradfield, Yorkshire (W.R.).
Whistan: Whiston, Yorkshire (W.R.).
- 1 Fordynsburgge: Fordingbridge, Hampshire.
- 4 Tudenham: Todenham, Gloucestershire.
- 5 Craule: Crawley, Buckinghamshire.
Chicchele: Chicheley, Buckinghamshire.
- 5 Burton: Burton, Dorset.
- 9 Harmondesworth: Harmondsworth, Middlesex.
Tingewick: Tingewick, Buckinghamshire.
- 2 Letcombe Regis: Letcombe Regis, Berkshire.
Offord Cluny: Offord Cluny, Huntingdonshire.
Tixover: Tixover, Rutland.
Manton: Manton, Rutland.
- 7 Cretyng: Creeting, Suffolk.
Everdon: Everdon, Northamptonshire.
- 0 Coppeston: Copston, Warwickshire.
- 0 Staynclif Wapentake: Staincliffe Wapentake, Yorkshire (W.R.).
Frendles Wapentake: Ewcross or Frendeles Wapentake, Yorkshire
(W.R.).
- 0 Llanpadernvaure: Llanbadarn-fawr, Cardiganshire.

- P.489 Trenelemill: Trivel Mills (lost), Gloucestershire.
- P.495 Boutham: Bootham, Yorkshire (N.R.).
- P.499 Rudstane: Rudston, Yorkshire (E.R.).
- P.501 Adyngham: Addingham, Cumberland.
Frethorn: Fretherne, Gloucestershire.
- P.503 Threnguston: Thringstone, Leicestershire.
Whitewyk: Whitwick, Leicestershire.
- P.504 Wodeford: Woodford, Woodford Green, Gloucestershire.
- P.506 Bykelegh: Bickleigh, Devon.
- P.515 Heslyngton: Heslington, Yorkshire (E.R.).

CLERICAL PETITIONS 1350-1450

A Study of some Aspects of the
Relations of Crown and Church
in the later Middle Ages

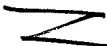
by

John. H. Tillotson

This thesis was submitted in partial
fulfilment of the requirements for the
degree of Doctor of Philosophy in the
Australian National University.

January 1969

This thesis is my own original work.

John H. Tillotson


John H. Tillotson.

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ABBREVIATIONS

<u>C.C.R.</u>	<u>Calendar of the Close Rolls Preserved in the Public Record Office.</u>
<u>C.Ch.R.</u>	<u>Calendar of the Charter Rolls Preserved in the Public Record Office.</u>
<u>C.F.R.</u>	<u>Calendar of the Fine Rolls Preserved in the Public Record Office.</u>
<u>C.I.M.</u>	<u>Calendar of Inquisitions Miscellaneous - Chancery - Preserved in the Public Record Office.</u>
<u>C.P.L.</u>	<u>Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Papal Letters.</u>
<u>C.P.P.</u>	<u>Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Petitions to the Pope.</u>
<u>C.P.R.</u>	<u>Calendar of the Patent Rolls Preserved in the Public Record Office.</u>
<u>D.N.B.</u>	<u>Dictionary of National Biography.</u>
<u>P.R.O.</u>	Public Record Office.
<u>R.P.</u>	<u>Rotuli Parliamentorum; ut et Petitiones, et Placita in Parlamento.</u>
<u>V.C.H.</u>	<u>The Victoria History of the Counties of England.</u>

INTRODUCTION

'A tresredoute tresexcellent et trespuissant
seigneur notre le Roy. Suppliant ses humbles
lieges et trespoures chapeleins et oratours....'

The nature of medieval kingship ensured a constant stream of suitors seeking the royal grace and favour. By far the greatest fund of patronage in the realm lay in the hands of the crown, and the king was ultimately the source of justice in society. The petition was the channel by which subjects were able to reach the king's ear with their wrongs and requests. The development of the written petition in the thirteenth century had responded to the need for a formal and recognised method of approaching the crown that all subjects might use. In the fourteenth and fifteenth centuries a suit to the crown normally meant a written petition. From the large number of these petitions that have survived almost every aspect of medieval life, public or private, may be illustrated.

Three general types of petition may be distinguished. A large proportion are simply requests for favour, and seek grants of the benefices, privileges, exemptions, and licences in the king's gift. A second group seek remedy for the wrongs committed against the suppliant by the king and his officers. A third group seek relief against other subjects, the complainant being unable to find it under the established legal system.

It was a general rule that if the king wronged one of his subjects, relief could be secured only by petition to the king himself. Writs could not be brought against the crown in the common law courts, for it was a dictum there that the king could do no wrong.¹ Nor could royal officers be sued at common law for their official acts unless the king waived their privilege in this respect. Moreover, wherever the interests of the crown were involved in disputes between subjects, the king had to be consulted and his permission secured for suits to proceed at common law.²

The petition might prove no less essential to secure redress against another subject. The rigidity and weakness of the common law system were responsible for numerous appeals to the crown. Suitable actions were not always available to would-be litigants. Even when an original writ could be, and had been secured, the technicalities of procedure might lead to delay and injustice. The age was a violent one, and those responsible for maintaining law and order were often unable to cope adequately with the problems which faced them. The weak were compelled to petition for aid against those who were too powerful, or who had the support of lords too powerful, to be sued by the normal process of the

1

See Sir F. Pollock and F.W. Maitland, The History of English Law before the Time of Edward I, 2nd edition (2 vols., Cambridge, 1952), I, pp.515-8.

2

For a full discussion of the problems of proceedings against the crown, see L. Ehrlich, 'Proceedings against the Crown (1216-1377)', in Oxford Studies in Social and Legal History, ed. Sir Paul Vinogradoff, VI, (Oxford, 1921).

common law. If the course of justice had been perverted by lordship and maintenance, injured parties might have no other means of securing redress than to petition to the chancellor, the council, or parliament, for remedies outside the scope of the common law courts.¹

This study is an attempt to consider in detail a small section of the large numbers of petitions laid before the king, the king and council, parliament, and certain officers of state, namely those petitions which were presented by ecclesiastics in the period 1350-1450. It is concerned with the contents of petitions, the complaints and demands which were brought to the notice of the crown by the clergy through petitions, rather than with the machinery of petitioning itself.² It seemed to me that new and significant evidence concerning the problems and needs of the clergy in the later middle ages might be gained, if an examination of clerical petitions was undertaken with a view to discovering what they could add to our knowledge of the Church in England in the fourteenth and fifteenth centuries.

1

See J.F. Baldwin, The King's Council in England during the Middle Ages (Oxford, 1913), pp.65-6, 242-61, 281-306, and 338-43.

2

Many aspects of the procedure of petitioning and the machinery for dealing with petitions are discussed in H.C. Maxwell Lyte, Historical Notes on the Use of the Great Seal of England (London, 1926), passim; H.G. Richardson and G. Sayles, 'The King's Ministers in Parliament, 1272-1377', English Historical Review, 46 (1931), pp.529-50, 47 (1932), pp.194-203 and 377-97; D. Rayner, 'The Forms and Machinery of the "Commune Petition" in the Fourteenth Century', English Historical Review, 56 (1941), pp.198-233 and 549-570; and A.R. Myers, 'Parliamentary Petitions in the Fifteenth Century', English Historical Review, 52 (1937), pp.385-404 and 590-613.

A number of aspects of the history of the period 1350-1450 made it seem a promising field for research. The period opened in the year following the first visitation of the Black Death to England, and closed with the English on the point of final expulsion from France and with the realm slipping into the chaos of civil war. Both the Plague and the French war had important consequences for the Church, evidence of which might be expected in petitions. Severe economic difficulties for many landlords followed on the catastrophe of the Black Death and lasted well into the fifteenth century.¹ Churchmen as great landowners were not less affected by the agricultural problems of the later middle ages than were laymen.

As a result of the long continuance of the war with France all classes were burdened with regular demands for subsidies, the clergy as well as the laity.² Moreover, the war weakened ties between the English Church and the Continent, and led ultimately to the dissolution of the cells of French houses in England and the dispersal of their property amongst English religious foundations.³

1

For a discussion of the difficulties of landowners in the later middle ages, see M.M. Postan, in The Cambridge Economic History of Europe, ed. M.M. Postan, I, 2nd edition (Cambridge, 1966), pp.595-600.

2

During much of the fourteenth century, the archbishops summoned their convocations almost entirely for the grant of taxes. See E.W. Kemp, Counsel and Consent (London, 1961), p.115.

3

See M.M. Morgan, 'The Suppression of the Alien Priories', History, 26 (1941-42), pp.204-12.

From 1378 to 1409 the Great Schism further disrupted relations between churchmen in England and France, for the French were adherents of the Avignon popes, the English of the Roman pontiffs. The centralised orders like the Cluniacs and the Cistercians, and all English religious who were dependent upon mother-houses situated in the dominions of the French king, found these years a time of disturbance and difficulty.¹

One of the most notable features of the first half of the period under review in this study is the criticism of the Church, and especially of the religious, which was publicly voiced.

During the latter half of the fourteenth century the religious orders, and in particular the friars, were subjected to attacks both public and literary, to which an earlier parallel can only be found in the simultaneous assaults by a group of bishops and by the court circle of writers upon the monks in the last years of Henry II.²

Anti-clericalism manifested itself in the parliaments of the 1370s and 1380s. The accepted doctrine of the voluntary basis of ecclesiastical grants of taxation to the lay power was openly challenged, and the title of ecclesiastics to their endowments questioned.³ The first

¹ See D. Knowles, The Religious Orders in England, (3 vols., Cambridge, 1950-59), II, pp.167-70.

² D. Knowles, The Religious Orders in England, II, p.90.

³ See M. McKisack, The Fourteenth Century 1307-1399 (Oxford, 1959), pp.289-91.

important heretical movement in English history also made its appearance in the late fourteenth century.¹ What effect such developments had on the relations of Crown and Church might, it seemed, be reflected in petitions.

Anti-clericalism, reinforced by the growing nationalism of the times, resulted in a potentially formidable anti-papalism in the fourteenth century, though this was not yet pressed to its logical extreme. Even the pope's spiritual supremacy was for the first time challenged by one group, Wycliffe and the lollards; and anti-papal feeling repeatedly made itself felt in parliament, where legislation such as the statutes of Provisors and Praemunire was passed to loosen the pope's control over the English Church and its benefices.² For much of the fourteenth and fifteenth centuries the papacy was beset by troubles both internal and external, and its power was declining. The Avignonese captivity was immediately followed by the Great Schism. As the pope was increasingly unable to exercise direct control over the Church, there was a corresponding growth in direct secular control.³ Again, petitions might be expected to provide some evidence of these developments.

¹ See K.B. McFarlane, John Wycliffe and the Beginnings of English Non-Conformity (London, 1952).

² See M. McKisack, The Fourteenth Century, pp.272-86.

³ See G. Leff, 'Heresy and the Decline of the Medieval Church', Past and Present, 20 (1961), pp.37-8.

After I had decided on a study of ecclesiastical petitions presented in the period 1350-1450, my first task was to compile a list of clerical petitions put forward during this time. Since large numbers of petitions have survived from the later middle ages, a time-span of this length allowed a suitably large and varied sample to be secured. A search of the classes of records in the Public Record Office known as 'Ancient Petitions' (S.C.8) and 'Council and Privy Seal Records' (E.28), and of the printed Rolls of Parliament, produced a list of approximately 1,000 petitions, all of which were presented by churchmen. Only about one fifth of this total are printed in the Rolls of Parliament. All types of ecclesiastics and religious foundations are represented in this sample: bishops and cathedral chapters, secular colleges, the clergy beneficed and unbeneficed, religious houses and hospitals, and the universities. In addition the Rolls of Parliament have yielded a number of lay petitions on questions raised by clerical suppliants, which provide evidence of the attitude of the secular world towards the Church and its problems in this period.

In order to put the petitions of the clergy into perspective and to amplify the often brief statements made by suppliants, other sources of information were essential. The circumstances surrounding a petition, and on many occasions the result of an application to the crown for a grant or for redress, had to be sought elsewhere than the bill itself. The printed calendars of the records of the English Chancery (the Calendars of Patent, Fine, Close, and Charter Rolls, and of

Miscellaneous Inquisitions) have been invaluable in supplying details of at least the immediate outcome of many petitions. The plea rolls of the common law courts preserved in the Public Records Office have yielded much valuable information concerning particular petitions seeking justice from the crown. The printed records of the convocations of the clergy have been examined for the purpose of ascertaining how far the problems raised by ecclesiastics in their petitions to the crown also formed the subject of discussion in the clerical assembly. The Calendars of Papal Letters and of Petitions, and the monastic cartularies and episcopal registers in print, have also provided much useful additional material.

A complete survey of clerical petitions presented over a period of one hundred years could not be undertaken within the bounds of a thesis of the prescribed length. The diversity of subjects revealed by even a small group of petitions was too great. However, although almost every aspect of the life of the Church was occasionally mentioned in petitions, there were many matters to which reference was made only rarely, whilst other matters constantly recurred in the petitions put forward by ecclesiastics. I therefore concentrated my attention on those topics concerning which petitions gave the fullest information, and explored those subjects in detail which appeared particularly important because of the emphasis laid on them by clerical petitioners. Seven topics have been chosen, and each has been made the subject of a separate chapter.

Such a work is necessarily somewhat lacking in unity, since the chapters of which it is composed are held

together mainly by the fact that they are all based on petitions presented by ecclesiastics. On the other hand, each of the seven topics has been studied with a view to discovering what new light could be thrown by petitions on the relations of Crown and Church in the later middle ages. It is hoped that significant evidence may be derived from these petitions on the subject of the power of the Crown over the Church in the fourteenth and fifteenth centuries. The extension of royal control over the Church and intervention in ecclesiastical affairs will form an important theme in the chapters which follow. Attention will be drawn to the contrast between the autonomy and independence claimed for the Church by the clergy as a body, and the readiness of individual ecclesiastics to seek royal interference in its affairs. Indications of the effects of pressure on the king from the laity in parliament to increase royal control over the Church, and of changes in the balance of power over the English Church maintained by the Crown and the Papacy, will also be sought in petitions.

The dual character of the king's relationship with the Church as revealed by petitions will form another theme. This relationship was at the same time both exploitative and protective. Whilst churchmen looked to the crown to provide them with aid and protection in time of need, the king expected to draw a return for his help in the form of contributions to his financial necessities and of the support of his clerical servants by Church benefices. It may be possible to strike some sort of balance between the demands made on the Church by the Crown, and the assistance sought from the king by the clergy.

The essential function of the petition as a means of securing justice will also be examined. As petitions were the channel by which subjects could obtain redress for royal acts, proceedings against the crown by churchmen will form a substantial part of the cases discussed in several chapters. These will provide evidence of how far the king was willing to go in giving redress for injuries caused by the exercise of royal prerogatives, and to what extent the preservation of royal interests was placed before the solving of the difficulties of ecclesiastics injured by the acts of the crown and its servants. Finally, evidence will be sought of the effectiveness of petitions in securing justice for the clergy against other subjects, when the ordinary judicial processes could not supply this.

Chapter I

ROYAL PATRONAGE OF RELIGIOUS HOUSES

'Del patronage nostre Seigneur le Roi
et del fundacion de ses nobles
progenitours Rois Dengleterre'

The patron of religious foundations in post-Conquest England was primarily the founder's heir and the acknowledged feudal lord,¹ and the king was only one of many patrons, both lay and ecclesiastical. Royal rights as patron had been circumscribed and reduced in scope since the days when William Rufus could declare that 'abbatias suas esse, de his se facturum quod liberet, perinde ut ipse faceret de villis suis quod sibi in mentem veniret'.² Nonetheless, the king's patronage still had two facets. Whilst royal houses looked to the crown for aid and protection, the king expected a return from his position as their patron. The dual character of the king's relationship to houses in his patronage will be examined here, and evidence sought from petitions of the nature and extent of the changes in this relationship which were taking place in the later middle ages.

1

See S. Wood, English Monasteries and their Patrons in the Thirteenth Century (Oxford, 1955), p.2.

2

William of Malmesbury, De Gestis Pontificum Anglorum, ed. N.E.S.A. Hamilton (Rolls Series, 1870), p.85.

In the fourteenth and fifteenth centuries, as in earlier periods, the king was the greatest single patron in the realm, whose patronage included the complete range of types of foundation, great and small, rich and poor. It has been calculated for the thirteenth century from a total of 425 monastic houses whose patrons have been found for a substantial part of the period (excluding cathedral priories), that 106 were of royal patronage, including most of the greatest.¹ There is no reason to suppose that the situation had radically changed by the time of the period under review. Certainly the claim to royal foundation and patronage is frequently made in petitions. I have found that fifty houses make this assertion in their petitions during the hundred years 1350-1450.

The period is a promising one for an examination of the advantages and disadvantages of royal patronage to the houses concerned, since economic difficulties for all lords and lay hostility towards the religious were both prominent at this time. Most landowners of the late fourteenth and early fifteenth centuries were faced with the problem of adjustment to an adverse economic situation, which had followed on the Black Death and large-scale depopulation. In addition the religious had largely ceased to be the object of pious endowment, encountering rather a novel degree of criticism in the literature of the period. Demands for the disendowment

1

See S. Wood, English Monasteries, p.6.

of the 'possessioners' were heard in parliament.¹ These problems are reflected in the petitions made to the king, and in the increasing dependence on his help and protection of the houses in the royal patronage. On the other hand, the financial position of the crown throughout this period was embarrassed, as the Hundred Years War dragged on and revolts followed a change of dynasty.² The king was under some pressure to exploit his rights over these houses where he could. A study of the patronage relationship may be expected to cast interesting light on one aspect of the relations of crown and Church in the later middle ages.

A part of the great movement of the late eleventh and twelfth centuries to free the Church from lay dominance and control had been the long struggle for free elections of the heads of religious houses by their own chapters. During most of the twelfth century the king of England had played a decisive role, when he so wished, in the choice of prelates of Benedictine and Augustinian

1

In 1371 two Austin friars appeared in parliament to present 11 articles arguing for the disendowment of the monastic orders in time of great need. The friars arguments have been printed by V.H. Galbraith, English Historical Review, 34 (1919), pp.579-82. In 1382 Wyclif is alleged to have submitted his conclusions to the lords in parliament, including the proposition 'Quod regni communitas non oneretur tallagiis insuetis, antequam totum patrimonium, quo clerus dotatur, deficiat'; Chronicon Anglie, 1322-88, ed. E.M. Thompson (Rolls Series, 1874), p.336.

2

See A. Steel, The Receipt of the Exchequer 1377-1485 (Cambridge, 1954), pp.359-60.

houses which held of the king in chief. Canonical election in the sense approved by reformers had not been unknown, but it had not been the rule. Although this system of royal control had not been necessarily wholly bad in its effects,¹ the authority over the Church which it had placed in the hands of laymen had been anathema to the reformers of the day. In 1214 King John had at last made free election of the heads of religious houses a reality. By his grant royal houses were still obliged to secure licence from the crown before proceeding to an election, but such was not to be refused or deferred. Likewise, royal assent remained essential before the elect could be installed in a house, but this was no longer to be refused without good and demonstrable reason.² Formal acknowledgement of the patron's rights was retained in the election procedure, and his financial interest in vacancies, the custody of temporalities, also remained intact.

Although the king had gradually ceased to interfere with the actual choice of abbots and priors of royal foundations,³ the formal rights left to him in the election process were tenaciously protected, for these

1

See D. Knowles, The Monastic Order in England (Cambridge, 1949), p.401.

2

Select Charters and Other Illustrations of English Constitutional History from the Earliest Times to the Reign of Edward the First, ed. W. Stubbs, ninth ed., revised throughout by H.W.C. Davis (Oxford, 1913), p.284.

3

See S. Wood, English Monasteries, p.41.

were a symbol of his authority and a guarantee that his custody of the temporalities during vacancies would not be infringed. Thus, when in 1315 a double election took place in the abbey of St Mary Elstow, the king recognised the jurisdiction of the ordinary in such a matter by turning over to the bishop of Lincoln for examination the whole dispute. However, before the bishop confirmed either elect, he was to certify the results of his inquiry to the king 'so that royal assent may be signified to him and that what the king has done therein as a grace may not be to the prejudice of him or his heirs'.¹ By 1369 the king's attitude may have hardened in this matter, for he asserted his right to give assent to an election before the diocesan had any cognisance or jurisdiction over it. The canons of Wellow had presented their abbot elect to the bishop without obtaining the customary royal assent, although before proceeding to an election they had secured a royal cong  d' lire. The diocesan had proceeded to quash the election on the canonical grounds that the elect was illegitimate, and had appointed another canon as abbot himself, signifying his proceedings to the king. After deliberation with the council, the king annulled the bishop's appointment. He ordered a new election, so that his rights in the process would be preserved.² The fact

¹ Calendar of the Patent Rolls Preserved in the Public Record Office 1216-1485 (52 vols., London, 1891-1916), 1313-17, p.218.

² C.P.R., 1367-70, p.319.

that the bishop's nominee was now elected under royal licence and with the king's assent satisfied all parties.¹

The roles of laymen and papacy in their attitudes to free election were oddly reversed in the second half of the fourteenth century, for the principle came to be maintained by parliament in its fight against papal provisions. As popes had formerly championed free elections to oust lay authority over the Church, the commons now petitioned for legislation to protect this principle as part of their attack on papal control over the disposal of English benefices. They were motivated more by dislike of foreign appointees and the filling of English benefices by a foreign pope than by a care for the principle itself. One result of the legislation passed at this time was to increase lay supervision over the Church. The rights of the patron in elections were abrogated by papal provisions along with those of the chapters of monks; but armed with the new statutes the king was in a strong position to resist any invasion of his own rights wherever he chose.² Hence when the pope

1

Restitution of the temporalities of the house to the new prior was ordered by the king; C.P.R., 1367-70, p.336.

2

The commons petitioned on this subject in 1347, 1352, 1376, 1381, and 1407. Rotuli Parliamentorum; ut et Petitiones, et Placita in Parlamento, ed. J. Strachey and others (6 vols., 1767 + Index, London, 1832), II, pp.171, 243 and 339, III, pp.117 and 621. The statutes enacted are 25 Edward III, statute 5, c.xxii; 38 Edward III, statute 2, c.i; 3 Richard II, c.iii; 7 Richard II, c.xii; 16 Richard II, c.v; and 9 Henry IV, c.viii (Statutes at Large, from Magna Carta to the End of the Last Parliament, 1761, by Owen Ruffhead, I, [London, 1763], pp.267, 321-2, 346-8, 368, 406-8, and 474).

attempted to provide a candidate to the important Benedictine house of Bury St Edmund's, a long struggle from 1379 to 1384 ultimately resulted in the elected candidate retaining the abbey through royal support.¹

The rights of the patron over elections had become largely formal, and there is no evidence from petitions that the king was attempting to increase his power in this regard. However, when disputed elections occurred, the house might suffer loss to its possessions by the struggles between the contenders. Thus such disputes were commonly followed by the seizure of the house into the king's hands and the appointment of custodians to prevent waste.² A long struggle for the office of prior of St Frideswide's, Oxford, demonstrates not only the extent to which the contestants looked to the king for aid, but also the willingness of the king to take control of the situation. The discord seems to have had its origins about 1365, for a petition of that year from the Prince of Wales to the pope was concerned with a simoniacal transaction in which Nicholas de Hungerford,

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Memorials of the Abbey of St Edmund at Bury, ed. T. Arnold (3 vols., Rolls Series, 1890-6), III, pp.113-37. A.H. Sweet, 'The Apostolic See and the Heads of English Religious Houses', Speculum, 28 (1953), pp.468-84.

2

In 1324 Llanthony by Gloucester was taken into royal custody; C.P.R., 1321-4, p.419. In 1397, at Beaulieu (a Cistercian house where the king enjoyed no rights to grant licence and assent or to custody of the temporalities during vacancies), the custodians were to attempt to bring the disputants to an agreement; C.P.R., 1396-9, p.93.

prior of St Frideswide's, had given the priory to one John de Dodeford, a canon of Carlisle, in return for a certain vicarage. The pope was asked to absolve Nicholas from his offence in this matter and to restore him to the office of prior.¹ This he must have done, for in 1370 Hungerford's death necessitated the issue of a royal licence for the election of a new prior.²

John Wallyngford was elected prior under this royal licence and received the royal assent.³ He was immediately faced with a challenge from Dodeford, who had evidently been active at the court of Rome in procuring bulls in his favour. A royal mandate ordered the arrest of Dodeford and his abettors and their appearance before the king or council in accordance with the terms of the second statute of Praemunire.⁴ Wallyngford succeeded in maintaining his position in the priory for three years; but in 1373 he was ousted by Dodeford, armed with bulls from the Roman court.⁵ The king reacted against the

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Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Petitions to the Pope, I, ed. W.H. Bliss (London, 1896), p.509.

2

C.P.R., 1367-70, p.337.

3

C.P.R., 1367-70, p.379.

4

C.P.R., 1367-70, pp.423-4. Statutes 38 Edward III, statute 2, c.i.

5

Wallyngford made this allegation in a petition presented by him to the king early in the reign of Richard II; Public Record Office, Ancient Petitions, S.C.8/146/7261.

intrusion by seizing the priory into his hands and committing it to keepers,¹ whilst a further commission was issued to have Dodefurd arrested and brought before the king or council as before.² For reasons which are nowhere stated, Wallyngford resigned the office of prior at this time, and in November 1374 licence was granted by the king for the election of a new prior.³

Up to this point the king had been at pains to maintain the duly elected prior in office. When the convent proceeded to elect Dodefurd as prior, thus regularising his intrusion without derogation from the king's rights, his election was confirmed by the king and the temporalities restored.⁴ On the other hand, the new prior had not yet made his peace with the king on all scores, for in April 1376 his release was ordered from prison, to which he had been committed at the king's command.⁵ Moreover, it was not until December 1376 that the king, for a fine of £20, pardoned the prior and convent of St Frideswide's all profits pertaining to the crown from the time that the house had been taken into his hand in 1373 and from the vacancy which had followed.⁶

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C.P.R., 1374-7, p.407.

2

C.P.R., 1370-4, pp.480-1.

3

C.P.R., 1374-7, p.27.

4

C.P.R., 1374-7, p.74.

5

Calendar of the Close Rolls Preserved in the Public Record Office, 1272-1509 (47 vols., London, 1892-1963), 1374-7, p.304.

6

C.P.R., 1374-7, p.407.

The king's involvement in the affairs of the priory became deeper and deeper. The financial state of the house seems to have been bad for some time,¹ and the situation had doubtless worsened during the Dodeford-Wallyngford dispute. Dodeford's election was speedily followed by a series of royal commissions concerned with these financial difficulties. In February 1375 a commission was ordered to inquire into information that the priory was in a state of ruin due to improvident rule, so that services were not maintained and works of piety were withdrawn.² Presumably as a result of its findings, the priory was taken into the king's custody and committed to keepers responsible for the improvement of its financial state in June of the same year, royal protection being granted for two years.³ A further commission of inquiry followed in December 1375;⁴ and when the protection granted in 1375 expired in 1377, custody and protection were granted for three more years.⁵ Taking into account the period around 1373 when the house was in the king's hands due to the intrusion of Dodeford, royal custodians were in control of the temporalities of the priory almost continuously for seven years.

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It was taken into royal custody and protection for this reason in 1354 and 1368; C.P.R., 1354-8, p.51 and ibid., 1367-70, p.120.

2

C.P.R., 1374-7, p.146.

3

C.P.R., 1374-7, p.121.

4

C.P.R., 1374-7, p.227.

5

C.P.R., 1374-7, p.452 and ibid., 1377-81, p.8.

Meanwhile, the dispute as to the rightful holder of the office of prior had again been brought to life, this time by Wallyngford, who attempted to dispute Dodeford's election and to restore himself as prior. He petitioned to the chancellor alleging that he had been wrongfully ousted as prior after three years in the office, although duly elected under Edward III's licence and confirmed by the diocesan. His appeal was clearly based on the flouting of royal rights which would have been involved by such an intrusion. However, he failed to appear on the day appointed for the hearing of the case, and Dodeford was able to prove from the rolls of Chancery that his own election had been under the king's licence and had received the king's assent. Since no contempt of the king's rights had been shown, the chancellor dismissed the suit with a note that the matter belonged to the ecclesiastical forum if further action were contemplated by the parties.¹ Any irregularity in Dodeford's elevation as prior must have arisen through the circumstances of Wallyngford's resignation or the way in which Dodeford's election had been carried out. These were matters for spiritual, not royal, courts.

Wallyngford persisted in his attempt, leading Dodeford to petition the king and council for aid in restoring and maintaining him in his office as prior. The former prior took advantage of certain indictments

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P.R.O., Ancient Petitions, S.C.8/305/15215.

against Dodeford, which detained him in London,¹ to establish himself as prior in the priory with the assistance of other dissident canons and a force of armed men.² Royal aid was sought on a number of grounds here. The exclusion of the rightful prior from the house was in contempt of the king's rights as patron, and the property of the house was allegedly being wasted by Dodeford's enemies. Moreover, it was incumbent upon the king to use the temporal arm to remove the lay force holding the priory against Dodeford, the presence of which in the house was scandalously in contravention of its religious character. Royal commissioners were ordered to remove the laymen from the house with the help of the posse if necessary, reinstating and protecting Dodeford against his opponents or their abettors. Further, in answer to the prior's petition, they were given authority to intervene in matters of the internal discipline of the house. Dissident canons were to be arrested in the king's name and detained in prison for delivery to the prior for punishment according to the rules of the order. Assistance was to be given to Dodeford when so required, and security taken of all his opponents, canons as well as laymen, for good behaviour in the future. Those

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C.P.R., 1377-81, p.122. C.C.R., 1377-81, p.62.

²

P.R.O., Ancient Petitions, S.C.8/215/10740.

refusing to give security were to be imprisoned until further order.¹

A royal commission had been used to assert the authority of the prior in his own house in a way that thirteenth century churchmen would certainly have frowned upon. A few years later the king intervened once more in a similar fashion. In 1382 two further commissions were issued for inquiries into Dodeford's complaint of assault by his fellow canons and certain laymen within the priory precinct, and of the miscreant canons' wrongful appropriation of the property of the priory. The offenders were to be brought before the king and council.² The spiritual jurisdiction of the ordinary (the bishop of Lincoln) is nowhere mentioned in all this, although so much of the dispute seems to lie rather within his province than in that of the king as patron. Yet the disorder at St Frideswide's was of such a grave nature that the many critics of the regular clergy in the fourteenth century might well find here a ready justification for their attacks. It is to the king that both the contending priors look for aid, and it is he who takes action to restore order in the house.

1

C.P.R., 1377-81, pp.302 and 304. Only two of the commissioners were clerks, the bishop of Hereford and the chancellor of the university of Oxford. The others were Justice Robert Tresilian, Reginald de Malyns knight, Edmund de Stonore, sheriff of Oxfordshire and Berkshire, John de Hereford, king's serjeant at arms, and the mayor and bailiffs of Oxford.

2

C.P.R., 1381-5, p.194.

Where the king had formal rights in the election of the prelates of houses in his patronage, he normally also had custody of the temporalities during vacancies. Here too the king's rights had suffered a long process of diminution. The constitutions of Clarendon of 1164 give a useful statement of the patron's basic rights in the matter: 'Cum vacaverit archiepiscopatus, vel episcopatus, vel abbatia, vel prioratus de dominio regis, debet esse in manu ipsius, et inde percipiet omnes redditus et exitus sicut dominicos'. After the election of a new prelate 'faciet electus homagium et fidelitatem domino regi sicut ligio domino, de vita sua et de membris et de honore suo terreno, salvo ordine suo, priusquam sit consecratus'.¹ The custom of the temporalities of religious houses reverting to the crown in time of vacancy seems to have been introduced by William Rufus, and was dictated by motives of avarice, whatever feudal analogies in respect of other royal tenants in chief might be urged.² However, by the fourteenth century the worst features of the system were in the past. It had been twelfth century practice to keep religious houses vacant for long periods in order that the crown might enjoy their revenues. Hence the grant of Henry II in 1176 that he would not keep sees or abbacies vacant for more than a year except in case of urgent necessity.³ When free election was granted

1

Select Charters, ed. W. Stubbs, p.166.

2

See D. Knowles, The Monastic Order, pp.612-3.

3

Select Charters, ed. W. Stubbs, p.154.

to the religious by King John in 1214 the worst abuses disappeared, for only in exceptional circumstances would vacancies be long.

The Cistercians, Carthusians, and Premonstratensians never fitted into the pattern of patronage described above. They seem invariably to have been free from the specific powers of the patron, both as to election and vacancy rights, in accordance with their normal tenure in frankalmoign.¹ It is interesting, therefore, to find in the fifteenth century that the claim of a relatively new Cistercian house to be free from royal custody of its temporalities during vacancies was not accepted without question. The financial embarrassment of the kings of the later middle ages was a sufficiently pressing reality for the Exchequer to be persistent in exerting royal claims. In 4 Henry VI (1425-26) the abbot and convent of St Mary Graces petitioned to the king in defence of the accustomed right of their order. The officials of the Exchequer had begun proceedings against the house for payment of £6.10s.11d, the issues from certain property of the abbey during the vacancy following the death of the abbot in 7 Henry V (1419-20). The abbey sought writs to supersede the process and to discharge the abbot and convent from payment.²

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See S. Wood, English Monasteries, pp.3-4. On frankalmoign tenure, see E.G. Kimball, 'Tenure in Frank Almoign and Secular Services', English Historical Review, 43 (1928), pp.341-53 and Kimball, 'The Judicial Aspects of Frank Almoign Tenure', English Historical Review, 47 (1932), pp.1-11.

2

R.P., IV, pp.312-3. The suppliants noted that the house had been founded by Edward III (on 20 March 1350. See D. Knowles and R. Neville Hadcock, Medieval Religious Houses: England and Wales (London, 1953), p.111).

However, in 1440 the issue was still alive. An entry in the Calendar of Patent Rolls under that date begins with an assertion of the privilege of Cistercian houses: 'the king and his progenitors have not been used to have these monasteries or their temporalities taken into their hands when void'. Despite this, as a result of inquisitions taken by the escheators after the death of the late abbot, a suit had been brought against St Mary Graces in the Exchequer to answer the king for £566.18s.10d. in respect of property conferred on the abbey by Edward III. On the petition of the abbot and convent, the king granted that in future vacancies of the monastery the convent might have the voidance and the keeping of the monastery and its temporalities without rendering anything for them, and without suing for licence to elect or for restitution of the temporalities. At the same time he released the abbey from the sum demanded at the Exchequer.¹

The Exchequer was inevitably no less persistent in pressing royal claims when the royal right to custody of the temporalities during vacancies was established. The most disastrous effects of custody had long been mitigated by a system which separated the revenues of the head of the house from those allotted to the convent, for it was claimed by the religious that only the former should fall into the king's hands during a vacancy. The practice had become standard in the last

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C.P.R., 1436-41, p.483.

quarter of the twelfth century, seemingly meeting with no formal resistance on the part of the crown, though it may occasionally have been disregarded.¹ The consent of the patron seems to have been necessary in the thirteenth century for the division to be made,² and in the fourteenth the king still exerted his right to nullify such an arrangement if made without his assent. In 1320, a composition made at Abingdon between abbot and convent concerning the division of the goods and possessions of the abbey was annulled because made without the assent of the king or his predecessors.³ The Exchequer officials were similarly alert for any irregularity in the situation. Acquisition of property subsequent to the apportionment of the revenues of the house between head and convent brought Bury St Edmund's into difficulties in the early years of Richard II's reign. The convent presented two petitions on the subject asserting that no increased profit had come to the abbot which ought to come to the king during vacancies. Only the convent's own portion had been increased by these acquisitions, but a suit in the Exchequer had been dragging on against them for four years.⁴

1

See D. Knowles, The Monastic Order, pp.612-5.

2

See S. Wood, English Monasteries, p.78, where certain charters of St Albans (Gesta Abbatum Monasterii Sancti Albani, ed. H.T. Riley (3 vols., Rolls Series, 1867-9), I, pp.370-3) and Bury St Edmunds (Calendar of the Charter Rolls Preserved in the Public Record Office, 1226-1516 (6 vols., London, 1903-27), II, p.259) are cited.

3

R.P., I, pp.365-8.

4

P.R.O., Ancient Petitions, S.C.8/34/1667 and 95/4702.

The grievances of the religious were no longer on the grand scale in this matter, but the care shown by royal ministers to exact the king's full remaining rights still caused disputes on points of detail. The Benedictine house of Hyde near Winchester had to answer claims to custody over a long list of manors immemorially assigned to the convent. Here the accounts of past escheators seem to have been defective. The abbot claimed that he was brought to answer 'a cause que certains eschetours ount feat omissoun en lour acomptez des manoirs susditz issint assignez a porcioun le dit Covent'. The barons of the Exchequer had charged that all the temporalities of the abbey had not been seized into the king's hands in time of vacancy for a period of 25 years. The abbot was brought to petition in the parliament of 1388 for the convent to be allowed to enjoy their portion in times of vacancy as at other times without seizure by the king, and he sought his own discharge from the suit.¹ An inquiry instituted by the king confirmed the details of the division of property between abbot and convent alleged by the abbey. The convent's rights in time of vacancy over the disputed manors were confirmed and the suit against the abbot in the Exchequer dismissed.² The profits from vacancies of religious houses had been reduced over the

¹

P.R.O., Ancient Petitions, S.C.8/170/8480.

²

C.P.R., 1385-9, p.496. The Memoranda Roll for 12 Richard II contains writs to the Exchequer acquitting the abbot from further proceedings; P.R.O., Memoranda Rolls, E.159/no.165.

years, but there was no lack of concern among royal officials to conserve the still valuable rights which remained to the king.

Once free elections had brought long vacancies virtually to an end, the major cause of complaint of the religious in this regard lay in the abusive exercise of their office by royal custodians. This is reflected in legislation. The fifth chapter of the 1216 reissue of Magna Carta promised protection for the property of the religious against waste during vacancies, along with that of minors and other ecclesiastics,¹ and this was reaffirmed in the statute of Westminster I in 1275.² In 1340 the complaints of the clergy at the waste and destruction committed by escheators and other custodians brought a more drastic solution. If deans and chapters, or priors and convents, were willing to render to the king the value of the vacancy which others would reasonably pay, the chancellor and treasurer were given power to lease it to them on good security with preference over other would-be custodians. If they were unwilling to accept this, then escheators or other custodians were to be appointed to answer to the king for what reasonably belonged to him, without waste or destruction of the property.³

¹ Select Charters, ed. W. Stubbs, p.337.

² Statutes 3 Edward I, c.xxi.

³ Statutes 14 Edward III, statute 4, c.iv and c.v.

Many houses had long sought and secured such grants of custody in time of vacancy,¹ often on a permanent basis for a fixed amount on each occasion or for an annual payment in lieu. The sums paid to the king by the greater houses were very substantial. By an agreement of 1304 Bury St Edmund's paid 1,200 marks for a vacancy if it lasted a year or less, and a proportionate additional payment for any period beyond the year. The sheriffs, escheators, and other royal ministers were excluded from meddling with the custody of the abbey, except that simple seisin was taken in the name of the king's lordship, after which the escheator or royal minister immediately retired from the house.² In the changed economic conditions of the second half of the fourteenth century, Bury found payment of this heavy sum difficult. The abbey sought to convert it into payment of an assessed annual farm in the early years of Richard II's reign, and was able to secure a new charter by which £40 a year was substituted.³

Although the statute of 1340 had provided a procedure by which religious houses could avoid the

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See S. Wood, English Monasteries, pp.84-5.

2

C.P.R., 1301-7, p.227.

3

P.R.O., Ancient Petitions, S.C.8/222/11053. See also M.D. Lobel, The Borough of Bury St Edmund's (Oxford, 1935), p.156 n.7 (citing MS. Harl. 638, fols. 261b-2). Bury had a net income of 1535 of over £1,656; D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.61.

effects of custody by royal ministers with its abuses, petitions continued to be made to the king for grants of custody to the convent during vacancies. Such petitions stressed the deleterious effects of the management of their property by escheators and others. Darley abbey petitioned to the king in 1352 for the prior and convent to be granted the vacancy, and urged its case on the grounds that thus the house might be saved from destruction by the escheators, whose activities brought the king no profit.¹ Shaftesbury was even more forceful in denouncing to Richard II the depredations of royal officers,

lesqueux en temps de tieles voidances q' sont acustumez de faire grandes destruccions et wastes, et y prendre grantz et diverses profitz a lours propres oeups, dont rienz ne vient a votre oeups, combien q' mesme la voidance ne dure si petit par temps noun.²

Consequently the abbey³ sought to administer its own affairs during vacancies, rendering profits from the temporalities to the king. The petition was granted.⁴

¹

P.R.O., Ancient Petitions, S.C.8/42/2089. The abbey secured a grant of the vacancy on the same terms as on the death of the abbot before last; Calendar of the Fine Rolls Preserved in the Public Record Office, 1272-1509 (22 vols., London, 1911-62), 1347-56, p.342.

²

R.P., III, p.129.

³

The largest nunnery in England, with a net income of £1,166 in 1535. See D. Knowles and R. Neville Hadcock, Medieval Religious Houses, p.218.

⁴

R.P., III, p.129. In 1394 the king abrogated the grant, because by fraudulent means an election had been obtained of an unfit person, who, with the object of securing confirmation, had repaired with an excessive number of men to places remote, to the waste and desolation of the convent; C.P.R., 1391-6, p.511.

The keynote of the king's attitude in this matter seems to have been a care to preserve his rights. There is no sign of any attempt to return to the abusive exploitation of the twelfth century. Clerical taxation granted in convocation had placed in the king's hands the means of tapping the wealth of all religious houses, not merely the ones in his own patronage. It was not in his interests for royal servants to impoverish houses during vacancies, leaving them incapable of paying clerical tenths or perhaps in need of royal aid and protection.

The curtailment of royal rights over houses in the king's patronage that has been noted in the preceding pages was to some extent counterbalanced by new demands. The practice of requesting pensions and corrodies¹ from religious houses had quickly developed in the thirteenth century from being a favour granted to the patron by the houses concerned into a right attached to patronage.² On the creation of a new prelate the king had come to have the right to grant a pension in the house concerned to a clerk, until that clerk should be presented to a suitable benefice by the

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While pensions and annuities, generally speaking, implied grants of money, the corrody bore the implication of a grant of a definite supply of goods, chiefly in the form of provisions, from the common store of a religious house. See A. Hamilton Thompson, 'A Corrody from Leicester Abbey, A.D. 1393-4: With Some Notes on Corrodies', Transactions of the Leicestershire Archaeological Society (1925), pp.114-34.

2

See S. Wood, English Monasteries, pp.107-10 and 114-5.

abbot or prior.¹ A petition from 1320 shows that his right to make such a grant was sufficiently recognised in law for cases where it was challenged to be tried in the royal courts.²

Similarly the king's right to demand corrodiess for his servants from houses in his patronage became so firmly rooted that in 1487 the abbot and convent of Malmesbury speak of the king as having it

of right by your Royall fundatory power, and all your noble Progenitours, as Foundours of the said Monastery, have had and ought to have, a Corroddie of certain Bred, Ale, Vettellis and other thinges, to the yerly value of c s.³

In a charter of 1442, the king freed the college of Eton from all demands for corrodiess, pensions, annuities, and other payments which he could exact 'ratione foundationis nostre'.⁴ Indeed the granting of corrodiess became so common a facet of royal patronage that in 1433 one of the articles put forward by the duke of Bedford in parliament was a suggestion that a book be prepared of the names of superannuated royal servants, so that they might receive suitable offices and corrodiess as these fell vacant. His proposal was accepted.⁵

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See the suit brought by the crown against the abbot of St Werbergh's, Chester, in 1291 for his refusal to grant such a pension; R.P., I, pp.89-90.

2

R.P., I, p.381, no.90.

3

R.P., VI, p.388.

4

R.P., V, p.46.

5

R.P., IV, p.424.

Corrodies and pensions provided a useful source of income for royal clerks and a means of pensioning off old servants without cost to the crown, which had little enough resources of its own to spare for this purpose in the later middle ages. The petitions of the clergy in the fourteenth century show that full advantage was taken of this royal right, and that its exploitation was felt as a real grievance. In 1315 the clergy sought to remove this and other burdens laid on the religious by the king and magnates,¹ and in 1327 a bitter complaint was made about the king's activities. The religious and other ecclesiastics were said to have been importuned and menaced to grant to clerks and other servants of the crown great pensions, corrodies and benefices, so that they had nothing to give to their own servants and friends. Royal demands had clearly gone beyond the bounds of the king's rights, for he promised only to make requests where he ought to do so henceforth.²

However, there was considerable pressure on the king to make grants of corrodies and pensions from royal clerks and other servants, who sought the king's favour as a reward for past services.³ Hence royal

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See Statutes 9 Edward II, statute 1, c.xi.

2

Statutes 1 Edward III, statute 2, c.x. See also R.P., II, p.11, no.16.

3

There are numerous such petitions in the classes of Ancient Petitions (S.C.8) and Council And Privy Seal Records (E.28) in the Public Record Office.

grants continued to be made in houses where the king had no rights. The Religious presented a petition to the king circa 1377,¹ in which they complained that through false suggestions made to the king he had granted corrodies in houses not of his foundation and holding nothing of the crown. Such demands on them impoverished their houses, but escape could only be secured at the cost of expensive law suits. Their request for an ordinance in parliament seems to have remained unanswered.²

Two petitions from houses singularly unsuccessful in challenging royal attempts to present to corrodies within their walls reveal the full extent and the arbitrary nature of royal pretensions in this matter. Their difficulties sprang partly from acceding to royal requests in the past, for once a precedent of this nature had been set royal demands were liable to become more imperative. Further corrodians could be expected to arrive armed with royal letters in their favour each time the corrody thus granted became vacant. Yet the conduct of the king was such in the first of these cases that it is hard to see how corrodies could be refused, whatever the legal grounds of refusal. Norwich priory petitioned in 1377. Of its own free will the house had acceded in the past to royal requests to

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The date assigned to the document by the Public Record Office is? 1377.

2

P.R.O., Ancient Petitions, S.C.8/102/5091.

receive corrodiens,¹ until the predecessor of the prior now petitioning had refused in 1347 to receive a royal serjeant, to whom the king had granted a corrody on the supposition that he had a right to do so. Clearly the king had come to regard a favour granted by the priory, even if perhaps under pressure, as a right that could not be denied him. The prior may have felt that the time had come to challenge this before it was too late. The consequence of the prior's action had been that he had found himself summoned to answer for contempt in King's Bench, where he had proved to the satisfaction of the court that he held nothing of the king and that his priory was not of the king's foundation, the two factors which would have provided a basis for royal claims if the reverse had been established. Having secured a dismissal of the suit against him, the prior had made doubly sure for the future by purchasing a charter from the king for a large sum, which allowed that any corrodiens granted in the past should not turn to the priory's prejudice.²

However, the house had not been allowed to escape so easily from the list of foundations supporting royal servants. Edward III had proceeded to send a writ to

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Grants had been made in the past to a serjeant at arms of Henry III, a serjeant of Edward I, and others at the request of Edward II and Edward III; C.P.R., 1345-8, p.542. It is very likely that pressure would have been applied to the house to make these grants.

2

C.P.R., 1345-8, p.542.

the present prior for the reception of one John de Swanton to the corrody, thus reviving his claims over the priory. When the prior had refused to accept him, he had been summoned in his turn to seek the king wherever he was in England to answer for his contempt on pain of £100. There was apparently no attempt to give the prior justice in the law courts, as his predecessor had received. Having waited on the king for two months at Sandwich, and receiving only harsh words but no redress, he had capitulated to this form of pressure and received the corrodian. It is hardly surprising that when, in 1367, Swanton had surrendered the corrody and the king had granted it to William Warner for his life,¹ fear of the king had driven the prior to accept him through apprehension of greater evil otherwise. Ten years later Warner was still in possession, and the prior and convent sought repeal of both the grants made above, on the basis of their charter and the judgment in their favour given in King's Bench in 1347.²

It was nothing less than an abuse of royal power to force corrodians on Norwich priory in the face of the proven lack of basis for the king's pretensions; yet the house seems to have made no headway in ridding itself of the burden. It mattered little to the king if houses received his nominee on each occasion with an assertion that they did so only of their own free will,

¹

C.C.R., 1364-8, p.391.

²

P.R.O., Ancient Petitions, S.C.8/130/6456.

provided that the corrody was granted. A royal charter of 1336 had ostensibly freed the priory of Bath from further such demands, on the grounds that the priory and all its possessions were held in frankalmoign and that Henry III had remitted and quitclaimed all his rights over it to the bishop of Bath and Wells.¹ Here too it was stated that in the past corrodies had only been granted of the free will and grace of the prior and convent, and not through any right that the king had to require them. Nevertheless, both Edward III and Richard II had succeeded in securing grants of corrodies subsequent to the grant of the charter to the house. Whether the king presented by right or by the grace of the prior and convent, the result was the same for the finances of the house. A corrodian sent to Bath in 1398² was still in possession almost 40 years later in 1435, when the prior sought enforcement belatedly of the charter of 1336 freeing his house from such grants. This prior at least received the promise of justice. The council committed the case to the chancellor in association with the justices of both benches.³ I have not been able to discover the eventual outcome of the suit.

These cases indicate that the claim of the king as patron to present to pensions and corrodies in houses

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C.P.R., 1334-38, p.312 and C.P.R., 1429-36, pp.473-4.

2

C.C.R., 1396-9, p.304.

3

P.R.O., Ancient Petitions, S.C.8/346/E.1417.

of his patronage had been extended by abuse of the royal power to include virtually whatever houses he might choose. The rights claimed by the king were forcefully and ingeniously defended on his behalf, and the results of resistance could be disastrous. A case which began in the second half of Edward III's reign and extended into the early years of Richard II began with a prior disputing the king's right to grant a corrody, and developed into a full-blown wrangle over the patronage of the house in which the priory suffered for a period considerable losses. The foundation of Plympton was remote in time and the documentary evidence sparse and ambiguous as first presented; but the onus of proving the injustice of royal claims lay squarely on the defendants, not on the crown and its officers, who could rely on the justices to prevent diminution of royal rights until these could be shown to have no basis in law. Yet the house whose patronage was called into question was no small obscure foundation. It was one of the largest houses of its order in Britain.¹ On any reckoning the crown's claims to the patronage seem weak and based on an exploitation of certain ambiguities in the evidence and the fallibility of human memory. The juries assembled had little hope of basing their pronouncements about the foundation of the priory on anything more than tradition and the

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The Augustinian priory of Plympton in Devon had a net income in 1535 of £912. In 1534 the prior and 20 canons subscribed to the act of supremacy (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.150). Such a priory was an eminently worthwhile addition to the list of houses in royal patronage.

charters presented to them, both of which might prove unreliable guides when construed in opposing senses by the parties. Their genuine ignorance of the facts is obvious, though there was a clear presumption of the hollowness of royal claims in the fact that the bishops of Exeter had already exercised the rights of patron from time immemorial. Nevertheless, the royal claims were at first successfully asserted, and it was only 15 years later that the verdict was reversed through the persistence of a bishop with the advantage of being himself a prominent royal servant.

In 1362 the king claimed the right to present one of his serjeants to a corrody in the house. If the prior of the time had accepted the man, any dispute about the rights of patronage later claimed for the king might have been avoided. Corrodians had evidently been sent thither by the king before and the bishop had continued to exercise his patronage over the house undisturbed. However, the prior refused to receive the royal nominee on the grounds that the bishop of Exeter, not the king, was true patron. Consequently, any right to corrodies lay with the bishop, not with the king. The prior was summoned to answer for his alleged contempt in Chancery.¹ Having raised the issue

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The common law side of Chancery. This was concerned with matters affecting the king or a grantee from the king. See T.F.T. Plucknett, A Concise History of the Common Law, 4th edition (London, 1948), pp.155-6; and A.D. Hargreaves, 'Equity and the Latin Side of Chancery', Law Quarterly Review, 68 (1952), pp.481-499. The details of the case given here have been taken largely from the Coram Rege roll for Hilary 2 Richard II, membrane rex 20 (P.R.O., Coram Rege Rolls, K.B. 27/472/ rex 20).

of the rightful patron, the prior died whilst the plea was still pending. His death raised the question of the king's right to exercise the fundamental rights of patronage during the vacancy, custody of the priory and participation in the election of a new prior. Unwisely the sub-prior and convent proceeded in their customary manner, seeking licence to elect a new prior from the bishop of Exeter and then proceeding to the election itself, while the bishop took formal seisin of the temporalities. As a result the sub-prior and convent were attached to appear in Chancery to answer the king for their actions, which were held to be in derogation of his rights.

The king's claim to the patronage was based on the assertion that there had been a college of chaplains on the site of the priory, founded by the king's predecessors, previous to the foundation of the priory, whose property still included the former possessions of the college. From this it was deduced that the king was lord of the site of the priory and its patron.¹

1

'The patron in the common law sense could...hardly be other than the lord at least of the site' (S. Wood, English Monasteries, p.12). W. Dugdale, Monasticon Anglicanum, ed. J. Caley and others (6 vols., London, 1846), VI, pt. 1, p.51, gives this description of the foundation of the priory, taken from Leland's Itinerary: 'The original beginning of this Priorie was after this fashion: One William Warwist, bishop of Excester, displeasid with the Chanons or Prebendaries of a Fre Chapelle of the fundacion of the Saxon Kinges, because they wold not leve theyr concubines, found means to dissolve their College, wherein was a Deane
(footnote continued on p.42)

The canons produced in support of their case charters of the founder, Bishop William Warelwast (1107-1137), and of King Henry I, which purported to show the bishop's foundation of the priory and the king's confirmation of this act. Unfortunately for the defendants these were sufficiently ambiguous as to allow the crown to impugn their validity by an ingenious interpretation of their wording.¹

The evidence of the canons was not entirely convincing certainly, but no proof of royal claims had yet been produced to support the story of the foundation

(footnote 1 continued from p.41)

or Provost and four Prebendaries, with other ministers.... Bishop Warwist, to recompence the Prebendaries of Plymton, erectid a College of as many as were ther at Bosenham, in Southsax, and annexid the Gift of them to his successors Bishops of Excester. Then he set up at Plymton a Priorie of Canons-Regular, and after was there buried in the Chapitre House.'

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There is no reason to suspect either of these charters of being forgeries. The charter of Bishop William granted 'ecclesiam Sancti Petri de Plympton viris religiosus sub regula sancti Augustini ibidem deo servientibus cum omnibus appendiciis suis'. It was held to prove the contrary of the canon's allegation that it showed the bishop as founder, since the words of the charter made it appear that the grant was made to an existing foundation. Henry I's grant reads: 'Sciatis me concessisse canonicos regulares esse apud sanctum Petrum de Plympton quos Episcopus Exon' ibidem ponit'. It was made to bear the construction that the bishop had been allowed to introduce regular canons into an existing foundation. According to this argument the bishop had merely obtained a royal licence to transform a royal college of secular chaplains into a regular house, and the king had never relinquished his rights as founder and patron. See also Regesta Regum Anglo-Normannorum 1066-1154, II, ed. C. Johnson and H.A. Cronne (Oxford, 1956), no.1958.

of the college. However, the jury¹ assembled to decide the issue repeated the story of a secular college at Plympton previous to the priory, whose property was now included in the priory's possessions. They went on to add that they had no knowledge of any surrender of his rights by the king or his predecessors, although they were wholly ignorant of whether king or bishop was patron. The jury underlined the inconclusive nature of their findings by placing themselves on the discretion of the justices. The justices proceeded to give judgement for the king, indicating perhaps their partiality for royal pretensions rather than a strict regard for justice. The trial is an excellent example of the working of the dictum that time does not run against the king.² The long exercise of the rights of patron by the bishops of Exeter was not allowed to prejudice the claims of the king in the absence of documentary proof of their rights, despite the presumption of title which this would normally have raised for the bishop.

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Cases were sent into King's Bench from the common law side of Chancery, when an issue of fact had been reached and the necessity arose for the verdict of a jury to be taken (see H. Potter, Historical Introduction to English Law and its Institutions, 4th edition by A.K.R. Kiralfy (London, 1958), pp.154-5). Hence this suit was removed into King's Bench, when an issue of fact had been reached as to the circumstances of the foundation of the priory.

2

'In the fourteenth century it is possible to say that the crown, like a church, is always under age and that no lapse of time will bar the demands of this quasi infant', Sir F. Pollock and F.W. Maitland, The History of English Law before the Time of Edward I, 2nd. ed. (2 vols., Cambridge, 1952), I, p.525.

The king exploited to the full his newly-recovered rights over Plympton, exercising the whole range of the patron's powers where formerly the priory seems to have been untroubled by more than nominal control from the bishop. A pension was immediately ordered for a royal nominee.¹ The prior elected by the bishop's licence before the judgment given for the king had to withdraw, and a new prior was chosen by royal licence.² The priory was forced to make fine with the king for £100 in order to secure pardon for all debts to the crown from past voidances of the priory, and for all contempts and trespasses.³ This was in marked contrast to the rights of the previous patron, who was entitled only to place his man at the gate of the priory at the convent's expense during vacancies,⁴ to grant licence for the election of a new prior, and then to institute him. Moreover, royal exploitation did not end there. One of the most welcome perquisites of custody of royal houses during vacancies was the presentation to benefices in the gift of the head of the house which were vacant during that period, for in this way members of the civil service could be provided for

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C.C.R., 1364-8, p.167.

2

C.P.R., 1364-7, pp.121 and 126.

3

C.P.R., 1364-7, pp.214-5.

4

The bishop thereby took nominal seisin of the temporalities of the priory during the vacancy.

without cost to the Exchequer.¹ Seven years after the verdict in the royal favour, in 1372, the pardon purchased by the priory for past offences was held in Common Pleas not to exclude the king's right to recover his presentation to a benefice filled by a prior earlier in the reign, who, then regarding the bishop of Exeter as patron, had not sued out the temporalities of the house from the king's hands and thus had filled the benefice without any right to do so. The prior of Plympton repeated his predecessor's contention that the bishop of Exeter, not the king, was true patron of the house, but in view of the judgment of 1365 this was disregarded. Nor did the pardon secured for the house help him, since no specific mention was made in it that advowsons were covered by its terms.² The precedent set by this judgment in Common Pleas meant that the king would be able to recover his right to present to all benefices filled by priors of Plympton from the start of the reign to the fine made in 1366.³

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See R.A.R. Hartridge, 'Edward I's Exercise of the Right of Presentation to Benefices as Shown by the Patent Rolls', Cambridge Historical Journal, 2 (1927), pp.171-7.

2

Details of the case may be found on the Coram Rege roll for Hilary 2 Richard II (P.R.O., Coram Rege Rolls, K.B.27/472/rex 20). They were sent into that court in connexion with a later stage of the dispute. The king's claims in this plea were restricted to his own reign, which was in accordance with a promise made in 1352 not to claim presentations from voidances which had occurred before his own reign; R.P., II, p.244.

3

From the beginning of the fourteenth century the king had begun the practice of reviving his claim to abandoned or neglected presentations. 'The right of an
(footnote continued on p.46)

In view of the loss of rights involved for the bishop of Exeter by all this and the burdensome demands made on the priory by the king, a surprising feature of the case is that not until 1378 did the bishop himself enter the dispute. Measured in material terms the bishop apparently derived nothing from his patronage of the priory, his rights being formal in nature. Yet the rights of the church of Exeter had been diminished by this plea and the prestige attached to the patronage of an important house lost to the bishopric, both of which the bishop might have been expected to resist strenuously. Moreover, when the bishop did appear, he was able to produce a charter of Henry I not previously seen in the case, which added substantially to the evidence against the crown. A possible explanation lies in the advanced age of Bishop Grandisson when the plea began,¹ and the case had been

(footnote 3 continued from p.45)

ordinary lay patron of course lapsed to the ordinary after six months, both when he had failed to present and when there was a dispute about the advowson which was not terminated within that time. The king at one time seems to have conformed to the canon law in this respect, for it was only by gradual stages that he claimed exemption from the rules of lapse. Secondly, if a patron wished to recover a presentation usurped by another, he was bound by law to purchase his writ within six months of the date of institution, plenarty by six months being a good defence against a possessory action. But here again the king was exempt.' A Deeley, 'Papal Provision and Royal Rights of Patronage in the Early Fourteenth Century', English Historical Review, 43 (1928), pp.512-3.

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The bishop's date of birth was possibly 1292; see The Dictionary of National Biography, ed. Sir L. Stephen and Sir S. Lee (22 vols., Oxford, 1885-1900), s.v. Grandison, John.

lost before his death in 1369. When the prior elected in 1365 died in 1378,¹ Bishop Thomas Brantingham was in a favourable position to assert his rights. As treasurer from 1377 to 1381 he could and did use his position in the royal council to promote his claims. We find one of his petitions to the king and council marked as granted 'a la requeste del Tresorer dengleterre' and as examined before the treasurer himself and others.² If the rights of the bishopric were ever to be reasserted, this was the time, before the exercise of royal patronage over the priory hardened into custom.

Brantingham placed a petition before the king and council in 1378, in which he alleged the insufficiency of the judgment given in 1365 on the grounds that his predecessor had not been summoned to defend his rights. The bishop had been deprived of his title to the patronage without the opportunity to answer, despite the fact that the priory had asserted his claim to it in their defence. His petition was accompanied by a charter of Henry I granting the church of Plympton to Bishop Warelwast as it had already been given to him by William I, 'dum adhuc capellanus suus esset'.³

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On 2 March 1378, a royal licence was granted for the election of a new prior. This was followed on 20 March by the notification of royal assent to the election of a canon of the house to the ordinary. C.P.R., 1377-81, pp.121 and 147.

2

P.R.O., Ancient Petitions, S.C.8/215/10739.

3

The charter is calendared in Regesta Regum Anglo-Normannorum 1066-1154, II, no.1391, and printed in Cartae Antiquae, Rolls 11-20, ed. J. Conway Davies (Pipe Roll Society, New Series 33, 1957), no.537, where its style is described as unlikely.

Brantingham added that Warelwast had then founded the priory of Plympton in the manse of the rectory of the church, granting it to the Augustinians and receiving royal confirmation of his action. Henry I's charter clearly established the bishop's title to lordship of the site of the priory, which was an essential preliminary to his recovery of the patronage. The church was granted to the bishop with all lands, tithes, and property pertaining to it. No clause in this document might be construed as implying a previous royal foundation there, and it is significant that no attempt was made by the crown to gloss this charter in the way that those produced by the convent had been treated.

However, the king was a minor and hasty action could not be taken in derogation of his rights.¹ The importance attached to the matter is shown by the long and careful consideration given to each stage in the process by which the bishop recovered his title to the patronage. Indeed the justices of King's Bench were noticeably reluctant to give judgment against the king in the face of as plain evidence in favour of the bishop as was likely to be secured. Brantingham's petition was considered by the chancellor and great council, which allowed the case to be reopened because of the injustice done in not summoning the late bishop to defend his

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Born on 6 January 1367, Richard II had acceded to the throne in the previous year on 22 June 1377; Handbook of British Chronology, ed. Sir F.M. Powicke and E.B. Fryde, 2nd edition (London, 1961), p.36.

rights. A commission of inquiry was instituted.¹ Its findings established the bishop's enjoyment of the patronage since the reign of King John and gave as the opinion of the jurors that, in view of the evidence shown to them and of tradition, William bishop of Exeter had founded the priory in the time of Henry I, and his successors had enjoyed the patronage ever since.

There was thus every reason for a reconsideration of the verdict of 1365. Brantingham petitioned to secure a trial of the case in parliament.² As a result the lords examined the evidence and sent the case into Chancery with explicit instructions for its trial in the presence of the justices and serjeants of the king. Once more issue was reached on the different versions given of the origins of the priory, and the case went into King's Bench for the verdict of a jury to be taken. The difficulties of securing the appearance of a jury prompted another petition from the bishop, which was given a notably cautious consideration by king and council. In order that the verdict might be taken in Devon itself for the sake of convenience, he requested the grant of a writ of nisi prius.³ A formidable list

¹ P.R.O., Ancient Petitions, S.C.8/171/8547. C.P.R., 1377-81, pp.250-1.

² P.R.O., Ancient Petitions, S.C.8/171/8548.

³ Legislation beginning with Edward I in the statute of Westminster II, c.xxx (1285) had slowly built up the system of nisi prius, whereby actions which began at Westminster in the court of Common Pleas, when once they had been pleaded to an issue, could be continued
(footnote continued on p.50)

of eight justices and four serjeants consulted on this matter for possible prejudice to the king's rights, before coming to the eventual conclusion that the writ might be granted.¹

The jury was as unable to provide an unqualified verdict on the dispute as had been the others. The time of the foundation of the priory was simply too remote. The jury confessed their ignorance in the matter, but expressed their belief in the justice of the bishop's claim that his predecessor had founded the house. They stated that they knew nothing of the college of secular chaplains, and made the point that they had been shown no evidence or 'speciale factum' in proof of its former existence. The priors of Plympton had always held of the bishops of Exeter and not of the king.

Despite the accumulating evidence against the king's pretensions, the justices still hesitated to give a verdict. Domesday book was consulted for possible light on the matter; and it needed a further petition from Brantingham, followed by a specific order from parliament, to restore the bishop to his rights. The case was expounded by the justices before the magnates

(footnote 3 continued from p.49)
by taking the jury's verdict in the country before justices at nisi prius, instead of compelling the jurymen to undertake a costly journey to Westminster as had formerly been the case. See T.F.T. Plucknett, A Concise History of the Common Law, p.157. Hence in this present case the bishop sought a writ of nisi prius for the sake of speed and convenience.

¹

P.R.O., Ancient Petitions, S.C.8/215/10739.

in parliament, and after consultation with the justices of both benches an order was issued to King's Bench to give judgment according to the verdict of the jury.¹ Since this was in the bishop's favour, he was at last restored to possession of the patronage of the priory.²

The disadvantage at which the subject was placed in resisting unjust royal pretensions emerges clearly in the struggles over corrodies. When the king exceeded the legal bounds of his rights of patronage, it seemed safer to many to acquiesce than to undertake the hazardous task of resistance. Assertive promotion of royal claims by the king and his officers could also lead to conflict with the spiritual jurisdiction of the ministers of the Church. Bishop Despenser of Norwich was sufficiently alarmed about the way in which royal rights were exercised over the priory of Walsingham that he petitioned to the council on the subject in 1389.³ Walsingham was not even a royal foundation, its patronage being only temporarily in the king's hands due to the minority of the earl of March. The action taken here in the king's name went far beyond the protection of the rights of the king's ward.

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C.C.R., 1377-81, p.282.

2

The proceedings in this case from the suit of 1365 to the verdict given in 1378 are to be found on the Coram Rege roll for Hilary 2 Richard II (P.R.O., Coram Rege Rolls, K.B. 27/472/rex 20).

3

P.R.O., Ancient Petitions, S.C.8/212/10588.

The king had become involved in the priory's affairs in 1384, when a commission had been issued for an inquiry into trespasses and other offences in the house, where quarrels had arisen between the prior and convent, dissipating its revenues and diminishing the services.¹ Later the bishop had taken action. His commissioners had removed from office the prior, John Snornyng, whose house lay within the diocese of Norwich. Snornyng had immediately appealed to Rome against the sentence. As the priory was effectively vacant and its affairs a public scandal, the king had seized the house into his hand, and in order to redress its state had appointed custodians.² The form of the grant was challenged by the bishop in 1389 as a serious threat to his jurisdiction. He complained that under its terms all kinds of defaults were to be amended in the priory, without any exception of the spiritual goods or of the jurisdiction and liberties exercised by the bishop himself. Consequently, he sought redress by the repeal of the offending commission and the issue of a revised version safeguarding his rights. In seeking to amend the affairs of a house even temporarily in his patronage the king was fulfilling the obligations attached to his position as patron; but the sweeping powers given in commissions of this nature contained an inherent threat to the spiritual authority of the ordinary, which in this case had not been allowed to pass unchallenged.

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C.P.R., 1381-5, p.421.

²

C.P.R., 1388-92, pp.36 and 74.

Meanwhile, a breach of the bishop's jurisdiction of a serious kind had already been committed by one of the king's officers. Without royal assent the Church could not proceed by the spiritual penalty of excommunication against royal servants, unless prepared to face the retaliatory action which would inevitably follow.¹ Hence the bishop had to seek remedy by petition against a royal serjeant at arms, who had gone far to annul the bishop's action against Snornyng, acting as he claimed on the king's behalf. The serjeant, John Aslak, had brought Snornyng to the priory with a force of armed men, assembled the canons in the chapter house, and without showing any warrant ordered all the canons and officers of the priory 'depart le Roy et par lour ligeance' to obey Snornyng as prior. Further Aslak had forced the four canons with custody of the keys of the treasury and the common seal to deliver these up to the deposed prior, who had handed them to certain laymen to keep. One Sir Ralph Shelton had been made receiver of all oblations and obventions belonging to the priory, although the spiritual nature of these offerings made this an infringement of the law and liberties of the Church. The bishop sought to have these offences against his jurisdiction reversed and Aslak brought before the council in Chancery to answer the king for his misdeeds. Unfortunately this interesting petition has no reply, and I have not

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'In spite of the condemnation which had fallen on the Constitutions of Clarendon, our kings seem to have steadfastly asserted the Conqueror's principle that their tenants in chief, at all events their ministers, sheriffs, and bailiffs, were not to be excommunicated without royal licence'; Sir F. Pollock and F.W. Maitland, History of English Law, I, p.478.

succeeded in tracing the case further than the licences granted to Prior Snornyng to go to Rome for the defence of his suit against the bishop.¹

The case does not make clear whether Aslak was acting on his own initiative or under instruction from the central government, although the bishop seems to imply the former. It does show the powerlessness of the ordinary to assert his authority against those who encroached on his jurisdiction in the king's name. Indeed the bishop appears throughout to be on the defensive in protecting the spiritual authority of churchmen, whether against royal commissioners endowed with over-extensive powers or curbing the intrusions on his rights by a royal officer.

When the patronage of a foundation escheated to the crown, the result might be to withdraw from the jurisdiction of the diocesan bishop and his ministers the spiritual authority hitherto exercised over the place concerned. The helplessness of ecclesiastics in the face of privileges claimed in the king's name is apparent from a long dispute about the chapel of Hastings. This chapel had been founded by Robert count of Eu and came into the hands of Henry III with the castle of Hastings. There was no doubt that in origin this was not a royal foundation.² However, from then on the king treated it as a royal chapel, free

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C.P.R., 1388-92, pp.152 and 424.

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See R.P., I, p.23 and The Victoria History of the Counties of England, ed. H. Arthur Doubleday and Others (London, 1900--), Sussex, II, pp.112-3.

and exempt as such from the jurisdiction of the ordinary, despite attempts by several bishops of Chichester to recover their rights of visitation and of instituting and admitting to the prebends there.¹

Lewis Coychurch, archdeacon of Lewes, petitioned to the king in 1432, seeking once more to assert the rights of the diocesan authorities over the chapel of Hastings. He protested against the loss suffered by himself and his predecessors, prevented from exercising jurisdiction over the prebendaries of the chapel, which was in their archdeaconry, and not allowed to induct royal presentees or to visit the establishment. All attempts to exercise their jurisdiction had been thwarted by royal prohibitions since the time of Edward I, and the chapel visited only by commissions instituted by the crown. The archdeacon pleaded for belated justice to be done in the matter. As often, the chancellor was given authority to deal with the dispute, and a commission of inquiry into the facts was instituted.² Hastings had been too long treated as a royal free chapel for this status to be lost. The ordinary and his archdeacon did not recover jurisdiction over it until 1446, when Henry VI granted the chapel to Sir Thomas Hoo along with the castle, exempting it from visitation by the king or any other person except the

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For such an attempt in 1299, see C.P.R., 1292-1301, p.468. Also V.C.H., Sussex, II, pp.112-3.

2

P.R.O., Ancient Petitions, S.C.8/231/11534. C.P.R., 1429-36, p.274.

bishop of Chichester and his officials.¹ Only when the king disposed of the castle and chapel, so that any further exercise of authority over the latter would have been a profitless inconvenience for him, did the bishop recover his authority over it. Yet it was not a royal foundation and had only received the privileges of one through the inability of the ministers of the Church to thwart the pretensions of the crown.

Royal pretensions in the above cases involved serious encroachments on the rights of subjects and on the jurisdiction of churchmen. They were accompanied by an increasing supervision of houses in the disposal of their property and the performance of the services founded within their walls. The climate of secular opinion was favourable to such intervention in the affairs of religious foundations. The statute of Westminster II (1285) had given expression to the anxiety of laymen that houses should not alienate their endowments without the consent of the founder or his heirs, and to their desire for the protection of the spiritual services established for the souls of former patrons. The statute had laid down that property granted by the king or his predecessors, which was alienated by the religious foundation concerned, might be taken into the king's hand and held by him at will. Earls, barons, and others, had been given a writ to recover alienated property which they or their ancestors had granted to the houses. Further, after pious works had been withdrawn for the space of two years, the

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V.C.H., Sussex, II, pp.112-3. C.Ch.R., 1427-1516, p.74.

donor (or his heir) of the property that supported these services might have an action for the recovery of the endowment.¹

The commons of 1414 showed a like concern for the evil state of hospitals throughout the realm, and petitioned that the king take action for their visitation and better government. The king's reply was to grant that royal hospitals should be visited by the ordinaries under his commission, certifying the results of their inquiries to Chancery. Other hospitals were to be visited by the ordinaries and appropriate measures taken by them for reform.² In the following year the commons again petitioned to complain that the statute had not been executed, and received a royal confirmation of the 1414 statute in reply to their forceful suggestions for visitation and reform.³ Laymen were thus concerned to ensure that the monasteries and hospitals of the realm performed their proper functions, and were no longer willing to leave the supervision of this solely to the ecclesiastical authorities. The same attitude is reflected in the king's dealings with certain of the houses in his patronage.

There is evidence from Gloucestershire that a persistent, if spasmodic, attempt was made by the king and his ministers to protect the spiritual services endowed by the crown. In 1364 a commission was issued

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Statutes 13 Edward I, statute 1, c.xli.

2

R.P., IV, pp.19-20; Statutes 2 Henry V, statute 1, c.i.

3

R.P., IV, pp.80-1.

for an inquiry by oath of the good men of the county of Gloucester into the concealment and withdrawal of chantries, alms, divine services, and other pious works in abbeys, priories, churches, and other places in the county, and the value of these. The king had been given to understand that very many such had been concealed and withdrawn.¹ Although the terms of the commission did not restrict the inquiry to houses of royal foundation, these were presumably what the commissioners would have had most in view. Five years later, perhaps with the above inquiry still in mind, the escheator of the same county seized the cell of Horsley into the king's hand as a result of an inquest instituted by him, which had found that spiritual services and the king's rights as patron of the house had been withdrawn there.

Bruton priory had acquired the cell of Horsley, comprising the churches of Horsley and Wheatenhurst and the manors of Horsley and Rongeton, through an exchange of property with the Norman abbey of Troarn in 1260.² The priory of Horsley received its 'prior'³ by

¹ C.P.R., 1364-7, p.71.

² Bruton and Montacute Cartularies (Somerset Record Society, 8, 1894), pp.76-9.

³ The canon appointed to custody of the cell of Horsley was described as its prior, and for the sake of a clear distinction between him and the prior of Bruton, his superior, the incumbent of the cell will be described throughout as 'prior' of Horsley. As a cell of Bruton, Horsley seems to have contained a 'prior' and one canon (D. Knowles and R.N. Hadcock, Medieval Religious Houses, (footnote continued on p.59))

presentation of the prior of Bruton. In the difficult years after the Black Death the arrangement seems to have been considered an anachronism at Bruton. The 'priors' of Horsley were too independent of the mother-house for the latter to be able to exploit to the full the resources of the churches and manors. Indeed the king's first intervention at Horsley appears to have been instigated by the prior of Bruton in an effort to bring the 'prior' more closely under his control. In May 1355 the king had taken Horsley into his protection and custody due to the alleged waste committed by its 'prior', Henry de Lyle, which had prevented any of the issues and profits of the cell reaching the prior of Bruton as they should have done.¹ However, although some colour had been given to the accusation of waste by a jury assembled by royal commission,² the king had cancelled the mandate taking the cell into custody in July of the same year when it had been found that the 'prior' of Horsley was a perpetual 'prior', presented

(footnote 3 continued from p.58)

p.140), so that the two offices described by the one word were quite dissimilar in nature. Bruton was one of the larger Augustinian priories. The house became an abbey in 1511, and had a net income in 1535 of £439. In 1534 the abbot and 17 canons subscribed to the royal supremacy (ibid., p.130).

1

C.P.R., 1354-8, p.244.

2

See Calendar of Inquisitions Miscellaneous - Chancery - Preserved in the Public Record Office, 1219-1399 (6 vols., London, 1916-63), 1348-77, case 190, p.73.

to the cell by the prior of Bruton, but having a freehold in the priory once he was inducted by the bishop.¹

In 1363 one William Cary had been appointed 'prior' of Horsley.² Six years later inquisitions taken before the escheator of Gloucestershire in his capacity of guardian of the king's rights in the shire³ reported that the services founded at Horsley by the king's predecessors, and his rights as patron, had both been withdrawn. Divine obsequies, hospitality, and the sustenance of six poor persons every day at dinner, had not been fulfilled for seven years past, and the king's title to custody of the cell during vacancies had been violated twice during the last 15 years. As a result the escheator seized the cell into the king's hand.

It took a petition from the prior of Bruton⁴ in 1371 and a fine of 20 marks to secure complete restitution of the cell and pardon of all trespasses done in the matter, although the allegation about withdrawal

1

C.P.R., 1354-8, p.266.

2

V.C.H., Gloucestershire, II, p.92 (citing Worcester Episcopal Register, Barnet, fol. 4d).

3

It was the escheator's duty to claim every estate in which the king might have an interest. He had power ex officio to hold inquisitions and to seize lands into the king's hand. See E.R. Stevenson, 'The Escheator', in The English Government at Work, 1327-1336, II, ed. W.A. Morris and J.R. Strayer (Cambridge, Mass., 1947), pp.109-67.

4

P.R.O., Ancient Petitions, S.C.8/209/10432.

of vacancy rights was found to be unjustified. By the same royal grant the prior of Bruton secured licence to go to the root of his difficulties, to abolish the office of 'prior' of Horsley and to substitute secular vicars in the churches of Horsley and Wheatenhurst.¹ The services due under the original royal grant of the property would be provided for by the vicars, whilst the management of the manors attached to the cell would return to the priors of Bruton. Care was taken to see that the crown would lose nothing thereby. An inquisition ad quod damnum was first taken which found no loss to the king under the arrangement.²

The 'prior' of Horsley was unwilling to be displaced. When an attempt was made by the prior of Bruton to execute the royal licence, Cary took the case to Rome and incurred the royal wrath thereby in 1373.³ Once appointed the 'prior' of Horsley was perpetual and Cary seems to have been able to maintain his position for some time; but his efforts in this direction provoked action against him by the diocesan authorities, due to his absence from the cell and the waste of resources which were caused by his suits at

1

C.P.R., 1370-4, p.126.

2

Bruton and Montacute Cartularies, p.97.

3

C.P.R., 1370-4, p.395.

Rome.¹ At length in July 1376 the bishop of Worcester made a new ordinance under which the prior of Bruton could not only present the 'prior' of Horsley, but might also recall him.²

Nothing further is heard of Cary. However, after his departure, the prior of Bruton kept the cell in his own hands without any attempt to provide for the spiritual services of the place. This neglect is a clear indication that Bruton's concern for the cell was purely financial, and it provoked fresh royal action for the enforcement of due services. A jury from the hundreds of county Gloucester presented in 1378 that the cell was now in the hands of the prior of Bruton without

1

See V.C.H., Gloucestershire, II, p.92, where it is noted that on 30 July 1375, during a vacancy of the see, the prior of Worcester issued a mandate for the sequestration of the fruits of Horsley. This action was taken on account of the absence of the 'prior', the peril of souls therefrom, and the withdrawal of hospitality. The mandate added that the buildings were in a state of collapse, and the profits of the house wasted (The Register of the Diocese of Worcester during the Vacancy of the See, Usually Called 'Registrum Sede Vacante', 1301-1435, ed. J.W. Willis Bund [Worcester Historical Society, 1893-7], p.347). The sequestrator was negligent, and the appointment of another commissioner was equally ineffective (Registrum Sede Vacante, p.347). The bishop of Bath and Wells excommunicated Cary for leaving the house without permission from Bruton. On 26 March 1376, Bishop Wakefield of Worcester sent a mandate for the denunciation of the 'prior' as excommunicate, and ordered the sequestration of the fruits of the cell (Worcester Episcopal Register, Wakefield, fol.7d-8).

2

See V.C.H., Gloucestershire, II, p.92 (citing Worcester Episcopal Register, Wakefield, f.8).

royal licence. No canon had been appointed to the cell, and celebration of divine services and customary alms had been totally withdrawn for four years past, to the loss of the souls of the king and his predecessors.¹ For reasons unspecified the prior of Bruton did not answer this indictment until he appeared in King's Bench in 1386. By this time secular vicars had been instituted in the churches of Horsley and Wheatenhurst in accordance with the royal licence of 1371.² The prior was able to secure a writ of supersedeas from the king for the proceedings against him on the charge of there being no incumbent. The charge of withdrawing customary alms still remained. A jury assembled to give its verdict on the prior's denial that such a fixed sum was owed found that alms had been provided in the past entirely at the discretion of the prior, with no such obligation to provide victuals for paupers in aid of the souls of the king and his predecessors as the indictment had alleged. Consequently the prior went without a day.³

1

P.R.O., Coram Rege Rolls, K.B.27/504/rex 18: Coram Rege roll for Easter term 10 Richard II.

2

The bishop of Worcester had created vicarages in the churches of Horsley and Wheatenhurst in 1380. See V.C.H., Gloucestershire, II, p.92 (citing Worcester Episcopal Register, Wakefield, fols. 14, 133d and 134).

3

P.R.O., Coram Rege Rolls, K.B.27/504/rex 18.

The unreliability of the evidence produced by juries, on which royal action for the preservation of the king's rights had to be based, is evident in the preceding case. The king's concern to see that due spiritual services were performed was too often misdirected as a result of the faulty presentments made before his officers. Yet the action taken by the crown on such faulty evidence might be arbitrary, as the king's dealings with the hospital of St Giles, near London, in the late fourteenth and early fifteenth centuries will serve to illustrate. The arbitrary nature of the king's conduct is perhaps explained by the very real control that the crown normally exercised over royal hospitals.¹ The hospital had been granted to the Order of Burton St Lazar in 1299 by Edward I, in return for the remission of 40 marks per annum which the Order was accustomed to receive at the Exchequer.² Richard II proceeded to remove the hospital from Burton St Lazar's custody on the basis of an allegation that the terms of his predecessor's grant had not been kept. A royal commission instituted in 1389³ found that

1

When appointing a commission to visit the hospital of St Leonard's York in 1375, the king described it as 'like other royal chapels and hospitals,... exempt and ~~immune~~ from all jurisdiction of the ordinary'; C.P.R., 1374-7, p.226. The king appointed the masters of such foundations and they were under the supervision of the chancellor. See R.P., I, pp.380-1, and K.L. Wood-Legh, Studies in Church Life in England under Edward III (Cambridge, 1934), chapter II.

2

C.P.R., 1292-1301, p.404.

3

C.P.R., 1388-92, pp.143 and 339.

the number of lepers provided for under the terms of the foundation were no longer being maintained there by the master of Burton St Lazar. The hospital was resumed into the king's hand. Richard II then granted it to John Macclesfield, and when he resigned it in 1391, to the abbey of St Mary Graces in London.

Burton St Lazar had lost both annuity and hospital, and there is a strong suspicion of injustice about the whole transaction. The master of Burton St Lazar argued in 1401 in Chancery that his predecessor had been ousted by Macclesfield from St Giles before the 1389 commission of inquiry had begun its proceedings, and had not been notified of the commission or been present during its inquiries.¹ Moreover, an entry on the Patent Rolls under 1402 contains an expression of the deposed Richard II's contrition for his unjust action at St Giles in expelling the master of Burton St Lazar.² The deposition of Richard II gave Burton St Lazar an opportunity of regaining their control, for there was no reason to expect that Henry IV would look favourably on an injustice committed by his predecessor.

Walter Lynton, master of the order of Burton St Lazar in England, petitioned in the parliament of 1401 to secure restitution of the hospital or the renewal

1

P.R.O., Coram Rege Rolls, K.B.27/562/rex 17. The case went into King's Bench from Chancery when an issue of fact was reached which necessitated a jury.

2

C.P.R., 1401-5, p.120.

of the annuity of 40 marks per annum.¹ The case was referred from parliament to Chancery (the normal venue for cases affecting the king's rights), and the abbot of St Mary Graces was summoned to show reason why the late king's grant to him should not be revoked. Thence the plea went into King's Bench when an issue of fact was reached. The case in Chancery turned on whether Richard II had acted on misinformation in removing the hospital from the custody of Burton St Lazar and in granting it to St Mary Graces. The abbot pleaded that Edward I's grant of St Giles had specified that charges previously sustained by the hospital were still to be maintained by the new masters. He contended on the basis of the findings of the commission of 1389 that St Giles had been founded for the maintenance of 'Quatuordecim leprosorum unius capellani unius clerici et unius valetti', but had been converted at the expense of this into a house for lay sisters against the form of the foundation. Lynton denied that the number of lepers cared for in the years previous to the grant of Edward I had been as high as the abbot alleged, holding on the contrary that it had been three to five at the discretion of the master.

The jury summoned to give a verdict on these two versions of the state of the hospital in the thirteenth century supported the contentions of Lynton. The justification for Richard II's actions had now been virtually destroyed. The grant of St Giles to St Mary

1

P.R.O., Ancient Petitions, S.C.8/198/9870.

Graces was declared void, since there was no longer any question of an infringement of the patron's rights over the hospital.¹ The case provides significant evidence of the arbitrary element in royal patronage, which could cause a hospital to be granted and re-granted at the royal will on the basis of unreliable evidence that the services provided under the terms of the foundation had not been maintained.

The masses, prayers, and alms endowed by members of the royal family in the various houses of the royal patronage were protected against neglect or withdrawal by the vigilance of royal officers and the institution of special inquiries where allegations of laxness came to the king's ear. However, the maintenance of services and alms depended equally on the preservation largely intact of the property and rents supporting them. A feature of the feudal world was the notion that 'The gift of land implied protection, defence, warranty for the donee. If he was impleaded, his battle would be fought for him by a high and mighty lord'.² Houses in the royal patronage might thus appeal to the king for aid in time of need. On the one hand royal foundations were prevented from arbitrary disposal of their property by the need to seek the king's

1

P.R.O., Coram Rege Rolls, K.B.27/562/rex 17; Coram Rege roll for Michaelmas term 3 Henry IV.

2

Sir F. Pollock and F.W. Maitland, History of English Law, II, p.663.

licence before permanent alienations could be made;¹ and on the other, they were placed in a favourable position to call on the king for aid in defending their possessions and in enforcing their rights.

The hospital of St Leonard in York provides a useful illustration of this facet of patronage. The hospital had recurrent difficulties in collecting a due of a thrave of corn from each plough ploughing in Yorkshire, Lancashire, Cumberland, and Westmoreland, which it claimed by a pre-conquest royal grant.² The foundation had been recovered into royal patronage about 1280,³ but even before this the king could state in respect of his predecessor's grant that 'predictos magistrum et fratres in iuribus suis tueri et elimosinam illam conservare volumus illesam, sicut et tenemur'.⁴ Later the protective and possessory quality

1

Even manumissions of villeins apparently fell under this rule. The prior and convent of Shene petitioned to the king in 1417 for licence to manumit two serfs, and this was granted; P.R.O., Ancient Petitions, S.C.8/180/8957 and C.P.R., 1416-22, p.109.

2

The thrave apparently consisted of 24 sheaves. This is the definition given of it in a fifteenth century plea, in which St Leonard's recovered the due against the vicar of Silkestone; P.R.O., Miscellanea Of The Chancery, C.47/86/19/454. The due is sometimes referred to as 'Petercorn'.

3

C.P.R., 1334-8, pp.266-8. The defendants seem to have been the dean and chapter of York (V.C.H., Yorkshire, III, pp.336-7). D. Knowles and R.N. Hadcock (Medieval Religious Houses, p.322) describe St Leonard's as one of the greatest of all the English hospitals.

4

C.C.R., 1264-8, p.111.

of royal patronage emerges. In 1336 the king granted aid to St Leonard's 'not wishing the hospital to be depressed, chiefly because it is of his patronage and the mastership, collation, visitation, correction, and disposition thereof pertain to him'.¹ Similarly in 1351, this declaration was made by the king's attorney in King's Bench in a case concerning the thraves: 'hospitale supradictum est de fundacione progenitorum dicti Regis nunc per quod dominus Rex donaciones et elimosinas prefato hospitali collatas manutenere debet et tenetur'.²

St Leonard's became increasingly dependent on the crown for aid in collecting its thraves, as the time of the origin of the payment of the due receded and opposition to it grew in strength. The cartulary of the hospital contains monitions and mandates from the twelfth century, which show that under Henry II the spiritual authority of the archbishop of York and his dean and chapter was used to enforce payment of Petercorn to St Leonard's.³ By the later thirteenth century, the king's aid was being granted at regular intervals to maintain payment of the due. In 1265 a writ was issued from Chancery to the sheriff of York

1

C.C.R., 1333-7, p.563.

2

P.R.O., Coram Rege Rolls, K.B.27/365/rex 10; Coram Rege roll for Michaelmas 25 Edward III.

3

Early Yorkshire Charters, ed. William Farrer (3 vols, Edinburgh, 1914-6), I, pp.152, 161 and 162 (extracts from the Cartulary of St Leonard's, British Museum, Nero D. III, fs. 9d, 10 and 10d).

for the appearance of the prior of Malton before the king for detaining thraves;¹ and in 1267, 1276 and 1284, the sheriffs of the four northern counties were ordered to distrain those liable to pay thraves to St Leonard's where this should prove necessary.² The machinery of royal administration in the counties was thus invoked to help in collection of the yearly levy. This form of aid continued to be given in the first half of the fourteenth century. Mandates were issued to the sheriffs to distrain withholders of Petercorn in 1309, 1333 and 1336, on the last occasion as a result of a petition to the council.³

The second half of the fourteenth century witnessed a change in both the type of aid granted and the frequency with which it appeared. The degree of royal involvement in the affairs of the hospital that resulted is striking, and reached a peak early in the fifteenth century. The payment of thraves was resisted on a large scale by ecclesiastics and laymen alike, probably reflecting the economic difficulties under which landholders were labouring in this period, as well as hostility to a burdensome due whose origins were obscure. The great northern churchmen are found in the company of rectors, vicars, and laymen of every

1

C.C.R., 1264-8, p.111.

2

C.P.R., 1266-72, p.173; *ibid.*, 1272-81, pp.164 and 166; *ibid.*, 1281-92, p.116.

3

C.P.R., 1307-13, p.100; *ibid.*, 1330-4, p.424; C.C.R., 1333-7, p.563.

kind in defaulting on payment. This was the more serious since the hospital itself seems to have been financially distressed in the later fourteenth century.¹ Half the income of the hospital was derived from the collection of the annual thraves;² but as many as 150 persons were presented as withholding it in 1380, and the losses to the hospital were assessed in circa 1388 at £60 per annum and in 1416 at £160 per annum.³

1

In 1391 a royal commission instituting a visitation spoke of information that the hospital was 'charged with corrodies sold and given to divers persons and with hurtful demises of its possessions, as well as oppressed by excessive expenditure of its head and laden with debt, so that its remaining revenues are insufficient to support the master, brethren, and sisters or the poor and needy inmates, whereby divine service is diminished and the hospital threatened with extinction'; C.P.R., 1391-6, p.79. The house had to be granted protection and respite from payment of corrodies, liveries, grants, sales and charges in 1399 because of its impoverished state; C.P.R., 1396-9, pp.542 and 565, and *ibid.*, 1399-1402, p.131. The reports of the visitation commissioners in 1398 and 1402 revealed a bad state of affairs in the hospital; see V.C.H., Yorkshire, III, pp.340-2 (quoting the returns made by the commissioners; P.R.O., Miscellanea Of Chancery, bundle 20, no.3 and bundle 20, file 3, no.13).

2

The income of the hospital in 1376 was assessed by royal commissioners ordered to visit the hospital at over £825, of which thraves accounted for £425 (the figures have been taken from the return made to Chancery by the commissioners; P.R.O., Miscellanea of Chancery, C.47/20/1/6).

3

P.R.O., Ancient Petitions, S.C.8/188/9389; P.R.O., Coram Rege Rolls, K.B.27/477/rex 18; C.P.R., 1416-22, p.51.

Much of the hospital's reliance on the crown must have been due to the peculiar nature of Petercorn, which appeared an anachronism in the later middle ages. The hospital may have had no ready means of pursuing its rights in the ecclesiastical courts. Certainly when an attempt was made to enlist the spiritual powers of the Church on St Leonard's side, the pope set up machinery to enforce its payment outside the ordinary Church courts. A royal licence to execute a bull of Pope John XXIII appears on the Patent Roll for 1416.¹ For the conservation of the rights of St Leonard's the bull appointed the abbots of Westminster and Chester and the precentor of York to summon detainers of the thraves to make restitution. This can only have had limited success, for the hospital was making strenuous efforts in the 1420s to enforce its rights through the royal courts. Similarly, the hospital seems to have had no adequate form of action at the common law for recovering thraves until 1423.² St Leonard's was dependent on the help which the king would provide for it.

1

C.P.R., 1416-22, p.51.

2

The hospital stated this in its petition to parliament in 1423 (R.P., IV, pp.249-50). Similarly, a petition of Richard II's reign had stated that 'voz ditz oratours nont my remedie par votre commune ley' (P.R.O., Ancient Petitions, S.C.8/188/9399). Nonetheless, the hospital does appear to have been involved in suits in Common Pleas for the recovery of thraves in 1298 and 1300 (see Monastic Notes, II [Yorkshire Archeological Society, 71, 1931], pp.75 and 77).

A means of recovering thraves in the common law courts was provided for the hospital by the crown, though exceptional in nature and dependent on the king for its initiation on each occasion that it was used. In an increasingly legal-minded age it was perhaps no longer acceptable for the king merely to order his officers in the counties to aid the hospital in the collection of the thraves, although such a mandate was issued in 1380 in conjunction with action in the courts.¹ In 1351, following an order for the visitation of the hospital in the previous year,² the king set up a commission of inquiry into allegations that thraves were being detained.³ The inquiry provided evidence of the extent of the withdrawal of the due and the names of offenders, and was used as the basis for action in King's Bench on behalf of the hospital. The jury's findings were sent into that court with a royal writ ordering the justices to summon offenders named therein to answer for their actions.

An important affirmation of the hospital's right to thraves resulted in 1351, which was still cited by St Leonard's as evidence in its favour a hundred years

¹ C.C.R., 1377-81, p.388.

² C.P.R., 1348-50, p.518.

³ P.R.O., Coram Rege Rolls, K.B.27/365/rex 10; Coram Rege roll for Michaelmas term 25 Edward III.

later.¹ The exceptional nature of the mode of procedure adopted for dealing with offenders is well brought out in the plea, in which two of the greatest ecclesiastics in the north, the archbishop of York and the abbot of St Mary's York, appeared as defendants. In the first place the defendants denied that the hospital had been seised of the thraves since time immemorial, and both they and the master of St Leonard's placed themselves on the country on this issue. The jury found that the hospital had been so seised since time beyond memory on the manors of the defendants, until the archbishop and abbot withdrew the thraves (the former seven years ago, and the latter five). Faced with this unfavourable verdict, the defendants shifted their ground completely and impugned the whole basis of the action begun against them. They argued that judgment ought not to be given against them in an action begun without original writ on the basis of an inquisition of office,² since by the law and custom of the realm, no one might be held to answer for his free tenement without original writ. The archbishop and abbot sought judgment whether they ought to be burdened with the payment of thraves from their free tenements in an action begun without such an original writ and without process of the common law.

1

The hospital's right to thraves was tried before the council in 1468, and the plea was part of the evidence presented on behalf of the hospital; C.P.R., 1467-77, p.131. Earlier the plea had provided part of the evidence which led to an award in St Leonard's favour in 1430; C.C.R., 1429-35, p.165.

2

The term used was 'inquisicio officii'.

This was a fundamental challenge to the legality of the method of procedure adopted by the crown to aid the hospital. The justices referred the matter for decision to the council, which surmounted the difficulty of this exception to the proceedings by what can only be described as an evasion of the issue. It was held that because both parties had freely placed themselves on the verdict of the country, judgment should be given on the basis of the jury's findings.¹ Since the jury had found for St Leonard's the defendants were condemned to pay the thraves and made liable to distraint for this and for arrears, whilst having also to make fine with the king.²

The title of the hospital to the due had been firmly established here, and a basis provided for its recovery in the future. Apart from a commission of oyer and terminer issued in the hospital's favour in 1355, which was partly concerned with thraves,³ royal aid was not again in evidence for about 25 years. A period of intensive royal activity on behalf of St Leonard's then began, which continued until about 1430. Two petitions from the early years of Richard II's reign show that the hospital took the initiative in

1

The justices of King's Bench were ordered to proceed to judgment; C.C.R., 1349-54, p.425.

2

P.R.O., Coram Rege Rolls, K.B.27/365/rex 10.

3

C.P.R., 1354-8, p.231.

seeking royal aid.¹ Of these petitions one is limited in scope and directed against the instigator of the opposition to payment of thraves at that time. His summons before Chancery to answer for his offences against the hospital was sought. The other petition requested an examination of the whole question of thraves before a member of the council and certain legal minds (justices and serjeants), in view of St Leonard's lack of an adequate remedy at the common law. The king might then be advised of the best remedy to apply in the matter. Neither petition has any reply, but a long stream of royal actions followed from about this time. There are nine commissions of inquiry into detention of thraves between 1380 and 1428, and on three occasions at least action in King's Bench on the lines of 1351 followed.²

The frequency of these royal commissions of inquiry suggests that the opposition to the payment of thraves was strong, and that royal action to counteract it was at best temporarily successful on each occasion

1

P.R.O., Ancient Petitions, S.C.8/188/9389 and 9399. The commissions of inquiry and other measures enrolled on the Patent Rolls are frequently stated to have been granted because of a complaint by the hospital, or as a result of information supplied by the house.

2

1380: C.P.R., 1377-81, p.465; and P.R.O., Coram Rege Rolls, K.B.27/477/rex 18. 1388: C.P.R., 1385-9, p.471. 1399-1400: C.P.R., 1396-9, p.584; and *ibid.*, 1399-1401, p.268. 1404: C.P.R., 1401-5, p.434. 1412: C.P.R., 1408-13, p.473. 1413: C.P.R., 1413-16, p.111; and P.R.O., Coram Rege Rolls, K.B.27/616/rex 28. 1421: C.P.R., 1416-22, p.389. 1428: C.P.R., 1422-9, p.494; and P.R.O., Coram Rege Rolls, K.B.27/703/rex 19.

that it was granted. Certainly the king's help had the disadvantage of being granted on an ad hoc basis necessitating complaint to the central government each time that the hospital found itself in difficulties. Hence in 1423 St Leonard's presented a petition in parliament complaining of the non-payment of the greater part of its thraves, and once more added that it had no sufficient remedy at the common law. Parliament was asked to give not only an affirmation of the hospital's right to the due, but also an action by writs of debt or detinue against any refusing to pay it, so that recovery with damages might be had. The bill was granted by authority of Parliament.¹ A suit against the vicar of Silkeston shows that the actions secured were quickly brought into use.²

Nevertheless, suits at common law were still combined with royal aid. A further commission of inquiry into detention of thraves was issued in 1428;³ and in 1429 the vicar of Silkeston entered recognisances in Chancery to pay thraves in future, as well as to drop his action for embracery against the jurors who had found against him in the suit above.⁴ The hospital seems

1

R.P., IV, pp.249-50.

2

The vicar of Silkeston was summoned to answer in Common Pleas for detention of thraves to the value of 40s 0d; P.R.O., Miscellanea of Chancery, C.47/86/19/454 (an exemplified transcript of the plea in Common Pleas, Hilary 4 Henry VI, ro.117).

3

C.P.R., 1422-9, p.494.

4

C.C.R., 1429-35, p.23. At the same time the master of St Leonard's entered recognisances to cease his action against the vicar for conspiracy in preventing payment of the due; *ibid.*, p.24.

to have achieved considerable success in its efforts at this time, judging by an award made by the chief justice of Common Pleas in 1430. The master of St Leonard's is spoken of as suing divers processes and suits for the recovery of thraves; and damages in which certain persons had been condemned by an inquisition taken at the last assizes at York for the detention of thraves were respited. The people of the West Riding of Yorkshire are described as flocking to the chief justice on his way to the assizes and praying him to make an agreement between them and the hospital, which suggests not only the unpopularity of the due, but also that the master was enjoying some success in enforcing its payment.¹ The king was apparently not concerned in the matter of thraves again until 1468, when the due was confirmed by king and council. Withdrawals had again led to an examination of the hospital's right to it in Exchequer Chamber and before the full council.² In 1469 Edward IV promised to abolish Petercorn, recompensing the hospital in some other way.³ I have found no further evidence of royal action to enforce payment of thraves in the fifteenth century.

1

C.C.R., 1429-35, p.165. An agreement was made, which confirmed the hospital's right to the due, and made new arrangements for its collection.

2

C.P.R., 1467-77, p.131.

3

V.C.H., Yorkshire, III, p.342, n.42 (citing British Museum, Cott.MS. Nero, D.iii, fol.215).

For much of the period of this study the hospital of St Leonard was dependent on royal aid to enforce payment of the source of over half its income. Its difficulties secured a substantial response from the crown as patron. Despite the strong resistance of a considerable section of the king's other subjects, both lay and clerical, whose lands were burdened with payment of thraves, the royal responsibility towards the hospital for the conservation of its endowment was fully acknowledged.

The king's concern to protect the endowment of royal houses caused him to intervene regularly in the affairs of houses in his patronage financially distressed for a number of reasons - misfortune, mismanagement, and the economic depression against which landlords were so commonly struggling in the late fourteenth and early fifteenth centuries. The Patent Rolls contain a large number of royal commissions, whose essential features are a grant of royal protection for a term of years or during pleasure, and the committal of the distressed house to the care of custodians responsible for supporting the inmates, maintaining its services and works of piety, and applying the balance of the revenues to the clearing off of debts.¹

Fifty-one foundations were involved in commissions of protection and custody in the period 1350 to 1450,

1

The terms of years for which the house was granted protection ranged from one year (e.g. Wellow, 1375; C.P.R., 1374-7, p.117) to ten years (e.g. Milton, 1440; C.P.R., 1436-41, p.403).

and over a hundred commissions were issued in their favour. A number of surviving petitions and the terms of such grants demonstrate that they were normally taken into the king's hands at their own request and for their own benefit. The reason which is stressed in all these petitions and commissions is the need to protect the spiritual services founded by the king's predecessors. Petitions frequently point out the king's involvement in the fortunes of the house seeking aid, stressing that alms and other works of piety endowed for the souls of royal progenitors could not be sustained in its present state. The good lordship of the crown over these foundations was thus invoked. Other motives than care for the spiritual services of the houses probably also weighed with kings. Doubtless the king's interest in securing corrodies, pensions, and particularly the subsidies granted by the clergy in convocation, helped prompt action to save royal houses from their parlous state.

In view of the complaints which were made against royal custodians of monastic houses during vacancies, the seeking of custodians in time of need is the more surprising. However, there is little evidence of complaint against them. The prior and convent of Bermondsey complained in 1321 of their keepers that one took no part and the other did not behave well in the custody of the house.¹ In 1401, when committing the custody of the priory of Amesbury to the archbishop of

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C.P.R., 1321-4, p.23.

Canterbury during an internal dispute in the priory, there is a note that certain destructions had been committed there by the king's commissioners by colour of his letters patent.¹ However, these examples of misconduct seem quite exceptional. When the abbot of Abbotsbury petitioned in 1354 against the commissioners appointed to his abbey,² his petition was countered by another from the custodians themselves which strongly leaves the impression that it was the abbot who was obstructing reform, rather than the custodians who were abusing their power.³

Commissions of custody and protection date from at least the middle of the thirteenth century;⁴ and they were granted frequently by the start of the fourteenth century. On average from 1350 to 1450 they were issued at a rate of more than one a year, although their distribution was uneven as will be seen below. Then about the middle of the fifteenth century, such commissions seem virtually to have disappeared from the Patent Rolls.⁵ In origin, grants of custody and

¹ C.P.R., 1399-1401, p.461.

² P.R.O., Ancient Petitions, S.C.8/210/10470.

³ P.R.O., Ancient Petitions, S.C.8/210/10471.

⁴ For a discussion of grants of custody and protection to religious houses under Edward III and earlier, see K.L. Wood-Legh, Studies in Church Life, Chapter I. The earliest located grant of this kind was made in 1255; C.P.R., 1247-58, p.428.

⁵ The last located grant was made in 1476; C.P.R., 1476-85, p.12.

protection were not confined to foundations in the royal patronage.¹ However, mention of royal patronage occurs with increasing frequency in the early years of the fourteenth century; and it has been demonstrated that in Edward III's reign all the houses to which such grants were made had this attribute, although it might be only the temporary result of a wardship in the king's hands.² There is the same emphasis on royal patronage from houses seeking and securing grants of protection and custody in the period of this study. Petitions usually state that the house is of the king's foundation and patronage, whilst more often than not the commissions enrolled on the Patent Rolls also make a point of it. It had become important in seeking royal aid to demonstrate the king's responsibilities and rights in the matter.

The group of houses concerned in grants of protection and custody is a varied one, which includes representatives from almost all the monastic orders, together with a number of hospitals. Benedictine, Augustinian, and Cistercian foundations predominate. The range of size and importance is also great; but the smaller houses and those in the middle range of wealth, which might lack financial capacity in reserve to extricate themselves from their difficulties, form

1

See S. Wood, English Monasteries, p.97, n.1, for examples of grants of custody and protection to houses not in the royal patronage.

2

See K.L. Wood-Legh, Studies in Church Life, p.4.

by far the largest group. A little under half the sample of houses taken over the whole period 1265 to 1476 had an income of £200 per annum or less in 1535, whilst three quarters had an income of under £500 per annum.¹ The larger houses do appear on occasion, but it might be expected that they would more rarely find themselves in such disastrous straits that they had to invoke this kind of royal aid.²

The attitude of the crown in granting commissions of this type towards the ecclesiastical authorities is an interesting one, for we have noted above a petition of the bishop of Norwich against the threat to his jurisdiction contained in the commission of custody issued for the priory of Walsingham in 1389. On a few occasions commissions contain a clause which indicates that the king was not always unmindful that grants of custody and protection might threaten an encroachment on the rights of the ordinary. In 1353 commissioners were appointed to Winchcombe with the assent of the diocesan;³ and in 1359 the king took Wellow into his

1

D. Knowles and R.N. Hadcock, Medieval Religious Houses, supplied the estimates of the net income in 1535 of houses seeking custody and protection, which were used for this calculation.

2

An example of a wealthy house in difficulties is St Werbergh's, Chester, which received grants of custody and protection in 1415 and 1437; C.P.R., 1413-6, p.353 and C.P.R., 1436-41, p.76. Its net income in 1535 was over £1003; D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.62.

3

C.P.R., 1350-4, p.481.

hands with the consent of the bishop of Lincoln, the diocesan.¹ The assertion in 1353 that the commission appointed to Abbotsbury was so named subject to the assent of the diocesan² is particularly interesting, for it is clear that the bishop had already begun action to reform the state of the abbey before the king granted custody and protection.³ In fact this appears an example of royal and episcopal cooperation to deal with a particularly bad case of maladministration.⁴ The impression is strengthened by the fact that when the custodians petitioned to the chancellor against the recalcitrant abbot of the house, they sought an order to the ordinary to take action on their behalf.⁵ At

¹ C.P.R., 1358-61, p.292.

² C.P.R., 1350-4, p.536.

³ See V.C.H., Dorset, II, p.51. On 29 October 1353, the bishop wrote to the abbot and convent that since visiting the monastery, it had come to his ears that the community had spurned his orders to the danger of their souls and scandal of the neighbourhood. He summoned them to appear before him or his official to answer for their conduct (Sarum Episcopal Register, Wyville, pt. I, fol.167). Unable to attend to the matter personally, the bishop wrote to two canons of Salisbury and commissioned them, with John de Wyley a rector, to correct the misdeeds of the brethren and to see his decrees executed (*ibid.*, fol.166d). A letter of Edward III to the bishop followed, informing him of the grant of custody and protection (*ibid.*).

⁴ The custodians found very serious waste of the abbey's possessions by the abbot; C.I.M., III, case 183, pp.67-9.

⁵ P.R.O., Ancient Petitions, S.C.8/210/10471. See also above, p.81.

the other end of the period, when in 1453 the king granted custody and protection to the priory of Newstead on Ancolm, he did so provided that by his grant ecclesiastical jurisdiction should not be prejudiced and that the ordinary of the place should have his wonted jurisdiction.¹ Further the diocesan was sometimes named as a member of the panel of custodians, though infrequently.

In one case it is clear that the king took action to support the ecclesiastical authorities, after the bishop's authority had not proven sufficient to prevent wasting of the property of the house. In 1393 the abbey of Colchester was committed to the care of custodians after a visitation by the bishop of London had found waste and dilapidation for which the abbot was responsible. The abbot had at first voluntarily submitted to the bishop's correction and instructions, but had then refused obedience and continued his malpractices. The commissioners were ordered to examine the condition of the abbey, to take order for the provision of divine services and the support of the prior and monks, to prevent alienations and grants of corrodiess, annuities, pensions and other charges, as well as to keep the peace in the house and report contrariants to the king.² A considerable extension of royal intervention in the affairs of religious houses since the thirteenth century seems indicated

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C.P.R., 1452-61, p.45.

2

C.P.R., 1391-6, pp.234-5.

here; but its character in this case was the support of ecclesiastical authority, rather than the derogation from the bishop's rights that was felt in the matter of Walsingham.

These grants of custody and protection throw interesting light on the economic difficulties of landowners in the late fourteenth and early fifteenth centuries, and show one small section of the community able to call on substantial royal aid to help it over these problems. However, the Black Death had no significant effect on the number of commissions granted. There was no sudden increase in the frequency of these,¹ for the level of grants remained largely unchanged until Richard II's reign, when a noticeable fall, rather than a rise, occurred. Under Henry IV the number of commissions issued rose back to its original rate, and this persisted for the first 40 years of the fifteenth century. On the other hand, a change did take place in the nature of grants of protection and custody in the second half of the fourteenth century, which seems to reflect the increased economic dislocation and depopulation of the time. Houses appear to have found it increasingly difficult to extricate themselves from bad financial situations from the start of the reign of Edward III, in the manner in which commissions of custody and protection

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K.L. Wood-Legh, Studies in Church Life, p.19: 'During the entire reign of Edward III, sixty-six commissions on behalf of impoverished monasteries were enrolled; thirty-two in the years which preceded the pestilence, and thirty-four during the longer period which followed it.'

were granted time and again to the same house over a period of years can be used as evidence of this. Bindon, whose troubles began from internal strife over the removal of an abbot and continued because of its position on the coast exposed to the attacks of alien enemies and the visits of mariners, was granted eight such commissions over a period of 25 years.¹ The indebted and depressed state of Wellow-by-Grimsby abbey led to the grant of six commissions within 25 years;² and at the end of the century, the effects of an election dispute placed Beaulieu into royal custody almost continuously over a span of 16 years.³ These are but the most striking examples of houses which had to receive help over a considerable period of time.

There are several significant changes in the type of commission of custody and protection issued in the

1

1329: C.P.R., 1327-30, pp.384 and 391. 1330: C.P.R., 1330-4, p.19. 1333: C.P.R., 1330-4, p.406. 1334: C.P.R., 1334-8, p.32. 1335: C.P.R., 1334-8, p.80. 1348: C.P.R., 1348-50, p.52. 1352: C.P.R., 1350-4, pp.249 and 353. 1357: C.P.R., 1354-8, p.565.

2

1350: C.P.R., 1348-50, p.549. 1359: C.P.R., 1358-61, p.292. 1365: C.P.R., 1364-7, p.170. 1366: C.P.R., 1364-7, p.244. 1373: C.P.R., 1370-4, p.292. 1375: C.P.R., 1374-7, p.117.

3

1397: C.P.R., 1396-9, p.93. 1405: C.P.R., 1401-5, p.488. 1408: C.P.R., 1408-13, p.29. 1409: C.P.R., 1408-13, p.69. 1413: C.P.R., 1413-6, p.9. The struggle at Beaulieu was one result of the Great Schism, which cut off the English Cistercians from their mother-houses in France and rent the Cistercian order in twain. See R. Graham, 'The Great Schism and the English Monasteries of the Cistercian Order', English Historical Review, 44 (1929), pp.373-87.

second half of the fourteenth century. As in the past laymen are as prominent as ecclesiastics on the panels of custodians appointed, and the religious still form only a small proportion of the commissioners nominated.¹ However, the panels are normally larger in size. Where one or two commissioners had been virtually the rule up to circa 1350, commissions of four and often more are regularly appointed thereafter, and contain great lords with more frequency in company with the royal clerks, lawyers, knights and esquires.

More important, two causes of economic distress which are signs of the times appear again and again in the reasons given for the condition of these houses: the sale of corrodies and unprofitable leases of property. Before this time commissions had given a variety of reasons for distress, some of which appear also in the later fourteenth and early fifteenth centuries. A simple statement that the house had fallen into debt and poverty, combined from the early years of Edward III's reign with allegations of past misrule, had been most common. Election disputes and internal dissensions in monastic houses caused a number of foundations to get into difficulties throughout the period in which commissions were granted. A variety of external causes, largely beyond the control of the houses concerned, had also been given: the excessive demands of royal ministers;² murrain and

1

For a discussion of the types of custodian appointed up to 1377, see K.L. Wood-Legh, Studies in Church Life, pp.20-5.

2

Flexley, 1281; C.P.R., 1281-92, p.2.

failure of crops;¹ floods² and the baronial wars of Henry III's reign;³ the attacks of local enemies.⁴ In the period after 1364 corrodies and leases, with the now-constant cry of past misrule, were insistently put forward to explain financial distress, interspersed with natural calamities, pleas in the courts, foreign invasion and revolts, and agricultural disasters.

The emphasis placed on misrule by past presidents of houses may indicate the lower standard of those governing religious houses in the later middle ages, and certainly examples of wasteful administration can be given.⁵ However, incompetent financial management was hardly unknown before the 1360s.⁶ It

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Flexley, 1281; C.P.R., 1281-92, p.2. Missenden, 1281; C.P.R., 1281-92, p.4. Waverley, 1326; C.P.R., 1324-7, p.304.

2

Bermondsey, 1295; C.P.R., 1292-1301, p.148.

3

Northampton, 1265; C.P.R., 1258-66, p.403.

4

Tuntam, 1344; C.P.R., 1343-5, p.252. Louth Park, 1344; C.P.R., 1343-5, p.334. Crowland, 1344; C.P.R., 1343-5, p.339.

5

The case of Abbotsbury abbey, where the distressed condition of the house in 1353 was due to the misgovernment of the abbot, has already been noted. See above, pp.81. and 84, and C.I.M., III, case 183, pp.67-9.

6

The maladministration of Abbot Hugh (1157-80) at the abbey of Bury St Edmund's has been described by Jocelin of Brakelond, who characterised the abbot as 'homo pius et benignus, monachus religiosus et bonus, sed nec bonus nec providus in saecularibus exercitiis'. See Memorials of the Abbey of St Edmund at Bury, I, pp.209-215.

was convenient for convents to blame past abbots and priors for incompetence, without understanding the effects of inflations and of the complex economic difficulties of a period which was trying for most landowners.

There was, first, the difficulty of leasing tenements, which made it difficult to maintain the old rents at any time after 1349, and in some cases impossible to do so by the end of the century. Secondly, the type of tenement most difficult to lease was a villein tenement for villein services. As a result of the depopulation there was an absolute decline in the services. Thirdly, this affected husbandry, because it made more wage labour necessary. Fourthly, the price of grain failed to rise with the increased agricultural costs. As a result of this combination of factors, the manorial lords were beginning by the end of the century to suffer a permanent loss in total income. Leasing, the abandonment of husbandry, was a way of offsetting the loss, but it could not offset it permanently, for the farmer had the same difficulty as his lord in making ends meet and rents for leased land were bound to go the same way as other rents. This had¹ begun to happen by the end of the century.

The sale of corrodies was a means of raising capital to meet immediate financial necessities, but inaccurate calculation of the life-expectancy of the buyer and unproductive disposal of the money gained could be disastrous. This was recognized by some religious houses. A group describing itself as the abbeyes, priories, colleges, and hospitals of the realm attempted to place

1

G.A. Holmes, The Estates of the Higher Nobility in Fourteenth Century England (Cambridge, 1957), pp.119-20.

a strict control over the trade in the early years of Richard II's reign,¹ seeking to prevent the burdening of their houses with pensions and corrodies as heads of houses had done in the past. They asked parliament to order that for the future they could not be so charged without the assent of the bishop and the founder or patron.² The petition received no reply and was not implemented, although it might have applied a brake to a dangerous method of raising ready cash, whose effects are illustrated by the plight of St Denis priory in 1388. French raids and the passage of troops over its property on their way overseas (the priory was located near Southampton), together with the cost of coastal defence and murrain among their cattle, had pressed the priory into raising money by the sale of corrodies. The house found that not only was it charged with corrodies to the value of 40 marks per annum on its annual income,³ but that the corrodies had already cost the house over £300 more than the initial payment had brought into their treasury.⁴

In attempting to tide over its financial difficulties by resort to corrodies, St Denis had only provided

1

The date assigned to it by the Public Record Office is ? 1381-2.

2

P.R.O., Ancient Petitions, S.C.8/88/4389.

3

Its net income in 1535 was only £80 per annum. See D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.152.

4

P.R.O., Ancient Petitions, S.C.8/253/12634.

itself with a serious burden over a number of years, and it was forced to seek grants of protection and custody from the crown. Similarly, the very small house of Torksey complained in 1417 that its corrody holders had had twice and thrice from the house what they had paid in the first instance. The priory had also resorted to leasing its property in an effort to ameliorate its difficulties, but this too had been of no avail. Its possessions were stated to have been farmed at less than their value, though this was perhaps the result of the economic conditions of the time rather than incompetence. The priory's revenues had been reduced to little more than 20 marks per annum.¹ The rentier world had proved too much for this small priory to cope with, and royal aid was desperately needed. Freedom from taxation for four years was secured in addition to custody and protection.² Even this help failed to make any permanent improvement in the value of the revenues of the house.³

A striking change in the type of protection granted to distressed houses was made in the second half of the fourteenth century to meet these new

1

P.R.O., Ancient Petitions, S.C.8/180/8982.

2

P.R.O., Warrants For The Great Seal, C.81/666/842. C.P.R., 1416-22, pp.114-5. Torksey was in the king's patronage at this time only because the rightful patron, Lord Darcy, was a minor in the king's wardship.

3

The net income of the house in 1535 was still only £13 per annum. See D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.156.

problems. The earlier commissions seem mainly concerned to protect houses from the burdens of hospitality, particularly that which was demanded by royal servants. The earliest grant noted states that St Mary's York is to desist from showing hospitality and other less necessary expenses until the house is out of debt.¹ In seeking a grant of protection in 6 Edward I (1277-8), Bardney abbey sought

ke pur ce ke notre Seigneur le Roy ad pris la meson, et les moynes, et lour biens, en sa protection, par le tens certain a durer, ne seient pas si espesement hostes al Abbaye ne a lur granges receuz, come furent en tens quil furent hors de dette, sauve ne qe dent charitee a fere a bones genz, et as povres, pur deu solonc lur poier.²

Before a custodian was appointed to the cell of Leominster in 1275, the crown ordered that all serjeants and horses, with their keepers, either the king's or other's, staying in the abbey of Reading or its cell, be removed and not received again until the abbey was relieved of indebtedness.³ Soon a specific clause was developed, which was designed to forbid sheriffs, bailiffs, or other minister or person whatsoever, from lodging in a house under the king's custody during that period.⁴

1

C.P.R., 1247-58, p.428.

2

R.P., I, p.6. Legislation had been enacted in 1275 against the excessive exaction of hospitality from religious houses; Statutes 3 Edward I, c.i.

3

C.P.R., 1272-81, pp.81 and 128.

4

See, for example, the case of Fountains abbey in 1291; C.P.R., 1281-92, p.431.

Protection with clause 'nolumus' began to be granted to distressed houses in the royal custody about 1302, and this gave protection against exactions from the house on behalf of the king or any other:

Nolumus etiam quod de bladis fenis equis carectis carriagiis victualibus, aut aliis bonis et catellis ipsius (A) contra voluntatem suam ad opus nostrum aut aliorum per baillivos seu ministros nostros aut alterius cuiuscumque quicquid capiatur.¹

On occasion the two types of protection from exaction and hospitality were combined. In 1351 Lilleshull abbey was granted protection with a clause that no sheriff or bailiff, or other minister was to lodge in the abbey or its granges whilst they were in the king's hands, and nothing was to be taken for the king from the goods of the abbey.² Protections of this nature suggest financial difficulties of a temporary nature, which could be largely overcome by a period of careful administration under the watchful eye of royal custodians, freed from the demands of the king and his ministers. In many cases the keepers played an advisory role. At Lenton in 1313, the revenues of the priory were to be applied to the improvement of the financial state of the house by view of some of the more discreet members of the house through the assistance and advice of the keepers.³ Similarly, in

¹

K.L. Wood-Legh, Studies in Church Life, pp.25-6.

²

C.P.R., 1350-4, p.177.

³

C.P.R., 1307-13, p.571.

1341, the king ordered the custodian of Stanley to assist the abbot in the rule of the temporalities with counsels and aid, so that revenues might be spent on discharging debts and relieving other defects in the abbey as should seem best to the abbot and custodian, by view of some of the more discreet members of the house.¹

The situation was radically modified in the 1360s. Emphasis came to be laid on the responsibility of custodians for the administration of the revenues of the house and the payment of debts, and drastic measures were introduced into commissions to deal with the problems raised by corrodies, leases, and debt in general. The commission issued in favour of St Mary Winchester in 1364 ordered that all corrodies were to cease until the house was relieved, and that all men and women dwelling in the abbey whose stay there was not necessary were to be expelled. The custodian was not to be impleaded on account of the cessation of corrodies and of the expulsions.² Even more drastic, at Bruerne in 1365 farms were to be revoked which had been made unreasonably, and other charges withdrawn until the abbey was relieved.³ A clause came to be commonly included in commissions that all corrodies, farms, and other charges on the house were to cease until the abbey or priory was relieved.⁴

¹ C.P.R., 1340-3, pp.351-2.

² C.P.R., 1361-4, p.485.

³ C.P.R., 1364-7, p.86.

⁴ See, for example, the case of the abbey of St Augustine's, Bristol, in 1366; C.P.R., 1364-7, p.225.

This continued to be the case for about fifty years. In 1377 the commission granted to St Frideswide's specified that neither the prior nor keeper was to be molested for the non-payment of debts.¹ Protection from pleas seems to have become a regular feature of the grants made during this period.

Though common enough, such clauses cutting across the rights of those with claims on the houses taken into royal custody were not always included. There are a number of other commissions, in which it was stated that after due allowance for the maintenance of the prior and convent, the remainder of the revenues of the foundation were to be expended on the support of annuities, corrodies, and pensions, and on the payment of debts.² However, it was possible to secure comprehensive protection without being in the king's hands. In 1399, the hospital of St Leonard's York received a grant of protection and the suspension of payment of corrodies, liveries, grants, sales and charges, with the exception of liveries to hermits and the poor inmates of the hospital. Here too the grant was made in view of the bad financial state of the hospital.³

Petitions seeking grants of protection and custody sometimes specify these sweeping clauses. In 1411

¹

C.P.R., 1377-81, p.8.

²

See, for example, the case of the London Charterhouse in 1402; C.P.R., 1401-5, p.174.

³

C.P.R., 1399-1402, p.131; *ibid.*, 1396-9, pp.542 and 565.

Henwood priory requested that it be taken into the king's hands for seven years, during which time payment of pensions, corrodies, and other charges on the house were to cease until it was relieved of debt.¹ Grants such as this were an arbitrary suspension of the rights of other subjects, many of which had been purchased from the house in the first instance. A wide range of actions at common law were closed to subjects seeking redress. This provoked protests in parliament in the early years of the fifteenth century. Complaints against royal protections to individuals and the delays which these caused to others at common law were not new. In 1309 the king had promised not to grant protections with clauses giving acquittance from pleas, except to those going out of the realm on the king's affairs.² Similarly, in 1376, the commons had complained against those indebted to merchants and other subjects securing protections which prevented recovery.³ Protests were now raised for the first time against the type of protection being granted to houses in the royal patronage.

In 1401 the commons alleged that religious houses purchased property, for which they had to borrow large

1

P.R.O., Ancient Petitions, S.C.8/53/2635. The petition was granted; P.R.O., Warrants For The Great Seal, C.81/651/6900, and C.P.R., 1408-13, p.294.

2

R.P., I, p.444.

3

R.P., II, p.332. See also the petition presented by the commons in 1383; R.P., III, p.164.

sums of money, and that they committed many trespasses, extortions, and oppressions against subjects. They were charged with numerous rents, services, debts, annuities, pensions and corrodies. In order to exclude subjects from their rights and to prevent them recovering their debts or securing redress for trespasses, the religious suggested to the king that they were of royal foundation and patronage, but so greatly burdened that divine services could not be sustained. The king took them into custody and granted protection giving quittance from all kinds of pleas except dower, unde nichil habet, quare impedit, attainst and the assizes of novel disseisin and darrein presentment, to the loss of other subjects. The commons asked the king to consider that such quittance from pleas was against right and the common law of the realm. They sought the repeal of such protections and no further grants of this nature in the future. The type of protection condemned here was the protection with clause 'volumus'.¹ In his reply Henry IV granted that such protections should be repealed, and new protections issued which conformed to the type of grant made during the time of Edward III.² The fact that there was to be a return

1

'volumus etiam quod (N) interim sit quietus de omnibus placitis et querelis, exceptis placitis de dote, unde nichil habet, et quare impedit, et assisis nove disseisine, et ultime presentationis, et attinctis; et exceptis loquelis quas coram Justiciariis nostris itinerantibus in itinerantibus suis summoneri contigerit'. See, for example, the letters of protection granted to the earl of March in 1379; R.P., III, p.78.

2

R.P., III, pp.469-70.

to the practice of the past suggests the novel and drastic nature of the measures adopted in the second half of the century.

A check of the printed Patent Rolls reveals no sudden appearance of large numbers of protections with clause 'volumus' to account for this commons' petition. K.L. Wood-Legh found one example under 1329,¹ and St Frideswide's was granted protection with this clause in 1375.² Otherwise the clause does not appear by that name in fourteenth century commissions of this kind. It seems clear, however, that in order to provoke the commons' petition, many houses must have received this type of protection where the modern printed Calendar of Patent Rolls gives no indication of it. In fact the clause does make appearances after 1401. Colchester received a grant of it in 1404,³ Carmarthen in 1423,⁴ and Chester in 1437.⁵

1

K.L. Wood-Legh, Studies in Church Life, p.26. Despite a thorough search of the printed calendar, I have been unable to locate this commission.

2

C.P.R., 1374-7, p.121.

3

C.P.R., 1401-5, p.379.

4

C.P.R., 1422-9, p.63.

5

C.P.R., 1436-41, p.76. A search of the patent rolls preserved in the Public Record Office would possibly reveal many cases of protection granted with clause 'volumus', where the printed calendars give no indication that this type of grant had been made. However, I have been unable as yet to make such a search.

Protests in parliament against the granting of protection from pleas continued to be made. In 1402 a petition was addressed to the commons complaining that the abbot of Lesnes and certain other abbots and priors had sold and granted various annuities, pensions, and corrodies, and had bound themselves and their houses to distress for the payment of these and in great sums of money in case of default. Then, to exclude subjects from their livelihood and their actions in this matter, these houses had secured protections from the king preventing them from being molested. Subjects could not have process or execution at the common law and the justices would not proceed in pleas commenced before them. The suppliants sought the repeal of protections that delayed and forbade actions at common law and payment of charges on religious houses, or an ordinance that the abbots and priors be obliged to answer plaintiffs according to the law and customs of the realm. In reply the king referred the petition to Chancery, where the chancellor was to do right to parties.¹

The type of protection granted to Lesnes was very common about this time. Pensions, corrodies, and farms were to cease until the abbey was clear of debt, and protection with clause 'nolumus' was granted.² The complainants themselves were probably clerics, if certain entries on the Close Roll under 1403 can be connected with this petition. The parson of St

¹

R.P., III, p.520.

²

C.P.R., 1401-5, p.38.

Michael's in 'Wodstret', London, had petitioned concerning a plea against the abbot of Lesnes pending in Common Pleas, which had been brought for the recovery of a rent withdrawn for three years before the parson obtained his writ. The justices had deferred proceedings in the plea because of the king's grant of special protection to the house. They were now ordered to go on with the case, provided that they did not render judgment without advising the king. The situation was unusual in that Lesnes was only in the king's hands because of the minority of the earl of March. In granting that the plea might proceed, a point was made of the fact that the abbey was not of the foundation of former kings or of the king's patronage.¹ Later in 1403, there is an entry ordering the justices of Common Pleas to proceed to give judgment in a suit for the recovery of a yearly rent due to the dean and chapter of London under an agreement for the appropriation of a church to the abbey. The justices had again deferred proceedings because of the king's grant of protection to the house. They were now ordered to proceed, 'for that the abbey is not of the foundation of former kings nor of the king's patronage'.² The implication seems clear that if Lesnes had been in the royal patronage, permission to proceed in these cases would not have been so readily given. This emphasizes once more the great weight which was placed on royal

¹C.C.R., 1402-5, p.54.²Ibid., p.86.

patronage as the qualification for grants of the king's aid in time of need.

The case of Lesnes illustrates the difficulties that royal protections placed in the way of litigants against the recipients of these grants. The justices would not take action that might be construed as in derogation of the king's rights. The commons complained again in 1416, seeking that no one be prevented or delayed from obtaining his rights, or from recovering debts, corrodies, pensions, fees and annuities, by such protections, unless the religious concerned was out of the realm in the royal service. The king's reply was studiously vague in asserting that the royal prerogatives and the common law were both to be preserved in this matter.¹

Protections provided a moratorium for distressed houses during which debts might be paid off, as their finances allowed, without coercion from debtors. The protests of the commons at this time should be seen in conjunction with their attitude in general to the temporalities of the Church. In the parliament of 1404 at Coventry, the knights could think of no other means of helping the king's need for money '*quam confiscandi Christi per totum regnum patrimonium; scilicet, ut Ecclesia generaliter de bonis temporalibus privaretur*'.² A similar tale occurs in the chronicles of London of a lollard bill presented to the king in parliament in

¹ R.P., IV, p.104.

² Thomae Walsingham, Historia Anglicana, ed. H.T. Riley (2 vols, Rolls Series, 1863-4), II, pp.264-7.

this reign, which planned a confiscation of the temporalities of the Church and suggested 'that thees worldely clerkes, Bisshopes, Abbotes and Priours, that aren so worldly lordes, that they be putte to leuen by her Spiritualtes'.¹ Small wonder then that protection of the temporalities of the religious at the expense of other subjects aroused the hostility of the commons. Most landlords were suffering difficulties and the pressure of taxation due to wars and revolts was heavy on all classes. It is the more striking a feature of royal patronage that help of this scope should be provided by the king.

The petitions of individual houses concerning custody and protection emphasize the desirability for their recipients of grants of freedom from pleas, and demonstrate that for the purposes of estimating the extent of the protection granted to the religious, the modern printed Patent Rolls are quite inadequate. When Beaulieu petitioned Henry IV in 1405 to be taken into royal custody, it specified that

les ditz Abbe et Conuent ou les ditz Gardeins
ne nul de eux a cause de mounpaïement de les
dices charges ou dettes ou par cause daucunes
de les surdices choses enuers vous ou voz ditz
heirs ou autres quelconques durante la dice
garde par plees ou autrement ne soient molestez
distreintz inquietez ou greuez en nulle manere
mais quils ent soient quitz et deschargez
durante la garde surdice.²

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Chronicles of London, ed. C.L. Kingsford (Oxford, 1905), p.67.

2

P.R.O., Council and Privy Seal Records, E.28/file 18.

The royal reply was to grant the whole bill during pleasure, but no indication of protection from pleas appears on the printed Patent Rolls.¹ Similarly after Combermere Abbey had been taken into royal custody in 1413,² without sign in the modern calendar that a special type of protection had been granted, the house petitioned in 1415 to complain of the detention of some of its possessions and tithes and of being impleaded for various debts and other contracts. An order was sought to the justices of Chester, and to the chamberlains and escheators of the same or their lieutenants, by letters of privy seal, that the king's grant of protection to the house should be allowed in all pleas of debt and other personal contracts, and that they should oust those in possession of Combermere's property against the terms of the king's letters patent. A proclamation was sought, to be made in all necessary places, that no one molest them or their possessions on pain of forfeiture. This was granted by the king and appropriate letters issued.³

The clause 'nolumus' continued to be granted in protections of the late fourteenth and early fifteenth centuries. As we saw above, its range was not very extensive, for it merely forbade the taking of goods belonging to the house concerned for the use of the king or any other. However, when the hospital of St John Baptist, Bristol, petitioned in 1404 because it

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C.P.R., 1401-5, p.488.

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C.P.R., 1413-6, p.73.

³

P.R.O., Council And Privy Seal Records, E.28/file 31.

was oppressed by pleas and by leases of its possessions at farm and in fee, the 'nolumus' clause which it sought contained a significant additional sentence: (nolumus) 'vel quod dicti magister vel confrates sui ponantur in placita durante dicta custodia nostra aut molestentur in aliquo seu graventur'.¹ The petition was granted.² The hospital was thus protected from pleas during the period of its custody despite the protests of the commons against this practice at precisely this same time. Those to whom the house was indebted, and those to whom other obligations were owed, were left without any means of securing their rights during the period over which such a commission was effective. Debtors had to wait for payment by the custodians of the house, and abide by the arrangements which the latter might make; but in their case it might be argued that their chances of eventual payment were increased rather than diminished. When corrodians, holders of pensions, and farmers had their rights arbitrarily suspended until the financial state of the foundation improved, no such compensation for their loss could be alleged. These were the real sufferers under the drastic measures adopted for dealing with the financial distress of royal foundations.

A highly effective procedure for creating the conditions under which houses might make a financial recovery had been devised. Royal aid could go yet

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P.R.O., Warrants for the Great Seal, C.81/1402/30; P.R.O., Ancient Petitions, S.C.8/93/4627.

2

The details of the commission printed in the calendar (C.P.R., 1401-5, p.413) do not include any mention of the clause 'nolumus'.

further. It could be invoked in order to nullify agreements no longer in the interest of the house concerned. Beaulieu abbey appears to have been attempting to escape from an inconvenient lease, when it petitioned to the council in 1405 that one William Bray was wrongly occupying a valuable manor and church worth 160 marks per annum belonging to the abbey. According to the abbot and convent, Bray claimed to occupy them by lease from the previous abbot, and he refused to allow them or the royal custodians of the abbey to meddle with either manor or rectory. It is hard to believe that if Bray's tenure of this property had been illegal, the convent could not have found a remedy at common law, instead of appealing to the council for aid. However, his tenure of the property was against the present interests of the abbey, which secured his summons before the council to answer the allegations made in the petition.¹

The extent of the aid that might be sought in securing release from unfavourable bargains made in the matter of leases and corrodies, is indicated by the petition of Alcester in 1450. Royal custody was not sought in this case. In view of the great poverty and disrepair of the house, a grant was sought from the king in parliament for power to be given to the chancellor and chief justices of both benches to bring before them all persons, their heirs, executors, or assigns, who had secured a wide range of types of grant from the abbey since the first years of Henry V's

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P.R.O., Ancient Petitions, S.C.8/34/1664.

reign.¹ These grants were to be examined to see whether they had been made against faith and conscience in disinheritance or hurt of the monastery, and where this did prove to be the case, the grant was to be annulled and the property restored to the abbey. Compensation was to be payable where the grantee had given or paid a sum of money greater than he had received from the profits of the grant secured, together with costs at the discretion of the justices and a reasonable reward for foregoing his claims. Parliament gave its assent to the petition,² which gave scant consideration to the rights of other subjects.

The fact that Alcester did not seek royal custodians on this occasion may be significant. It had received grants of custody and protection in 1431 for six years and in 1437 for ten years because of its financial difficulties,³ but was still in trouble. This seems to indicate a failure by the royal keepers to provide a lasting solution to its financial problems. On the other hand, such grants of sequestration were becoming less frequent by the mid fifteenth century, soon to disappear from the Patent Rolls. The nadir economically was probably past, and it may have been more to Alcester's advantage now to escape from

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The list included: leases, releases, obligations, sureties, annuities, corrodies, offices, manors, lands, tenements, parsonages, portions, tithe, or any possessions spiritual or temporal; R.P., V, p.206.

²

R.P., V, p.206.

³

C.P.R., 1429-36, p.186; *ibid.*, 1436-41, p.20.

unprofitable bargains made in the worst times of economic depression, than to secure the care of competent custodians for its possessions. If so, even this drastic measure failed to achieve its purpose. In 1465 the abbey contained no monks except the abbot, and it was taken over by Evesham as a dependency, a prior and two monks being sent in the following year.¹

The king has shown himself ready to provide substantial aid to royal houses in difficulties, at a time when serious economic problems faced many landowners. Little respect was shown for the rights of other subjects. In view of the contemporary lay hostility towards the 'possessioners', the response of the crown to the needs of royal foundations and its efforts to preserve their endowments intact become the more striking. On the other hand, royal intervention was not motivated solely by disinterested benevolence. The king was concerned to protect the spiritual benefits which would accrue to his soul and the souls of his predecessors from the spiritual services of these foundations. The king also had a financial interest in the well-being of these houses, since their temporalities came into his hand in time of vacancy. Moreover, he had found a profitable means of tapping the wealth of all religious houses through grants of subsidies made in convocation. It was in the royal interest to ensure that the ability of his own houses to pay taxes was not impaired by the loss of their endowments or a chronic state of debt.

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D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.58.

The relationship of the crown as a patron with the religious foundations in the royal patronage was one which was continually modified to meet changing needs and circumstances. Although the power of the king over royal free chapels and hospitals was practically absolute in this period,¹ the proprietary monastery was a thing of the far-distant past, and the forces in the Church working against lay control and domination had probably achieved the peak of their success in the thirteenth century. There was no longer any question of the proprietary rights of the eleventh century, or of the abuses of the twelfth century, in royal relations with the monasteries. The king's rights in the election of the prelates of religious houses had become formal, and his rights in time of vacancy had been much reduced over the years. Whilst royal prerogatives were tenaciously preserved, there is little sign that the crown was attempting to extend them. Royal grants of corrodies and pensions provide the single exception to this general conclusion. Here petitions do indicate that the king was striving with some success to extend his claims to houses not in the royal patronage. The patronage relationship still retained an exploitative aspect, but its protective side seems to have assumed the greater importance in the later middle ages.

Perhaps the most significant feature of this study is the evidence provided by petitions of the readiness with which the religious and other ecclesiastics

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See K.L. Wood-Legh, Studies in Church Life, p.38.

sought royal intervention in the affairs of their houses. It was not that the crown was trying to increase its control over royal foundations, though the king did enforce his supervision over the disposal of their property and the performance of the religious services endowed by his predecessors. Royal houses themselves were quick to invoke the aid of the crown to deal with the social and economic problems which faced them, even if this involved interference in the internal discipline of the suppliant house. An increased dependence of royal houses on the king, and a corresponding extension of the scope of royal aid to them seem to be characteristic of the period.

Chapter II

ROYAL PATRONAGE AND THE BENEFICES OF THE CHURCH

'Vacante et a votre donison regardante'.

The discussion of the king's relations with royal foundations in the preceding chapter provided evidence of the extension of royal power over the Church, but indicated that this resulted rather from the readiness of ecclesiastics to seek royal intervention in the affairs of their houses than from deliberate royal policy. Another aspect of royal patronage will now be considered, which reveals a conscious intensification by the crown of its claims over the Church. The king's rights of presentation to ecclesiastical benefices prompted large numbers of petitions from the clergy. Whilst the greater proportion are simply requests for livings, which add little to existing knowledge about the king as patron, the fact that the crown was the ultimate resort for those suffering injustice ensured that many other petitions are concerned with disputes over benefices. The great majority of this latter group seek redress for injustice caused by the king, and throw light on important questions concerning the nature of royal government in the fourteenth and fifteenth centuries. In particular they supply evidence of how far the crown was willing to go to provide redress for injuries caused by the exercise of royal patronage, both by remedial action in specific cases and by the provision of effective machinery to

deal with all cases of this nature. This question takes on a greater significance when it is considered that the king was not only the greatest patron in the realm, but was also extending his claims in this regard during the fourteenth century.

The crown controlled a very large fund of patronage. For the 35 years of Edward I's reign there are records of almost 1,000 grants of benefices by the king,¹ which gives an average of a little under 30 presentations a year. During the rest of the fourteenth century the number of royal grants reached a still higher level. W.A. Pantin has estimated from the Patent Rolls an average annual presentation to about 15 prebends and dignities, and about 45 lesser benefices, to which were added for a time between 30 and 60 additional grants annually, when the alien priories were seized into the king's hand.² Only a small proportion of such presentations was made pleno jure, as where the king

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R.A.R. Hartridge, 'Edward I's Exercise of the Right of Presentation to Benefices as Shown by the Patent Rolls', Cambridge Historical Journal, 2 (1927), p.171.

2

W.A. Pantin, The English Church in the Fourteenth Century (Cambridge 1955), p.32. The number of royal grants could reach very large proportions in exceptional circumstances. In 1349, with the Black Death at its height, Edward III made 847 presentations to Church benefices, of which nearly half resulted from his seizure of alien holdings in England. This compares with 193 such grants made in the previous year, and the 267 grants made by the pope to benefices of the English Church in 1349. See C. Carstens, 'The Enforcement of the Statute of Provisors' (unpublished Ph.D. thesis, Harvard, 1937), pp.58 and 63.

presented to crown livings, the masterships of certain hospitals, and to royal free chapels. Presentations falling to the crown through vacancies of bishoprics, abbeys, and priories, or the minority, idiocy, or other incapability of tenants in chief were much the larger group. It has been estimated that Edward I made fewer than one grant in twelve pleno jure.¹

Ann Deeley has noted an increased care for the strict observance of the king's rights of patronage from the early thirteenth century. The pleadings in a case of 1234 led her to conclude concerning vacancies of bishoprics that

before that time the king certainly did not present to benefices once the temporalities had been restored, and possibly not after the bishop's confirmation,....Long before the end of the century, however, the king claimed the right to present to all benefices which became void while the temporalities were in his hands....²

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R.A.R. Hartridge, 'Edward I's Exercise of the Right of Presentation', p.171. When lay fiefs came into the king's hand through wardship and other causes, presentation to vacant benefices attached to these fiefs also fell to the crown. The same principle applied when the temporalities of vacant bishoprics and abbeys were taken into royal custody: 'Dominus Rex et progenitores sui, ratione prerogative sue, fuerunt et sunt in seisinâ presentandi ad Ecclesias, Vicarias, et alia Beneficia quecumque, ad quascumque domos religionis seu ad Episcopatus spectantia, tempore vacationis earumdem Domorum et Episcopatum, nomine custodie in manu sua existentium'. (1293, R.P., I, pp.116-7).

2

A. Deeley, 'Papal Provision and Royal Rights of Patronage in the Early Fourteenth Century', English Historical Review, 43 (1928), p.508.

Significant developments had taken place by the early decades of the fourteenth century. The king now exercised his rights of patronage

when the temporalities of a bishop or abbot were seized for political or punitive reasons during the prelate's lifetime. Moreover, he claimed the presentation to all benefices which were vacant at the moment when he took the temporalities into his hands, even those which had been conferred but of which possession had not been obtained before the bishop's death, and also to those which were vacant de iure though not de facto.¹

From the start of the fourteenth century, the king began the practice of reviving his claims to abandoned or neglected presentations, with the assertion that time did not run against the king in this matter any more than in others.² This is partly explicable as a result of the shorter vacancies of bishoprics, which was one of the penalties paid by the crown for the convenience offered by the system of papal provision.

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A. Deeley, 'Papal Provision and Royal Rights of Patronage', p.509. In a letter to Pope Boniface IX, Richard II thus described his rights: 'Beatissime pater, etsi vigore regalie nostre et iuris corone nostre quibus omnes progenitores nostri Reges Anglie suis temporibus inconcusse gaudebant, omnia et singula beneficia ad collacionem quorumcumque episcoporum regni nostri sede plena spectancia, temporalibus ecclesiarum cathedralium in manibus nostris quacumque de causa in manu nostra existentibus et presertim illa que per iudicium redditum in curia nostra per nos fuerint recuperata, ad nostram donacionem debeant pertinere' (The Diplomatic Correspondence of Richard II, ed. Edouard Perroy (Camden Society, third series 48, 1933), p.133).

2

See A. Deeley, 'Papal Provision and Royal Rights of Patronage', pp.512-3.

Shorter vacancies meant fewer benefices coming into the king's gift, and worst of all fewer prebends. Hence the crown took steps to lessen its loss by intensifying royal rights.¹ Partly it was probably an attempt by the crown to meet the threat of papal provisions, particularly to aliens, at a time when the papacy was also extending its claims.² The presentation rights of the lay patron lapsed to the ordinary after six months, both when he failed to present and when there was a dispute about the advowson not terminated within that time.³ Similarly, a patron wishing to recover a presentation usurped by another was bound by law to begin his suit at common law within six months of the date of institution, plenarty by six months being a good defence against a possessory action.⁴ The crown

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See M. Howell, Regalian Right in Medieval England (London, 1962), pp.185-6. At the start of Edward III's reign, the clergy complained that the crown exerted pressure on prelates to make grants of prebends and churches to royal clerks. See Statutes 1 Edward III, statute 2, c. x.

2

See A. Deeley, 'Papal Provision and Royal Rights of Patronage', pp.512-3.

3

'Lapse, lapsus, is a slip or departure of a right of presenting to a void benefice, from the original patron neglecting to present within six months next after the avoidance. Whence it is commonly said, that such benefice is in lapse or lapsed, whereunto he that ought to present hath omitted or slipped his opportunity. God. 242.' R. Burn, The Ecclesiastical Law, 8th edition (4 vols, London, 1824), II, pp.354-5. See also *ibid.*, pp.354-62.

4

See clause five of the statute of Westminster II (1285); Statutes 13 Edward I, statute 1, c.v.

asserted its exemption from both these rules.¹ In 1340 the king could state that

exception de Plenertee ne ne tient pas lieu devers nous ne devers auscun de noz auncestres nient plus en cas la ou tieux presentementz nous furent devolutz en autri droit qe sils neussent este en nostre droit demesne ou en le droit de nostre coroune.²

The clergy attempted to secure the confinement of the king's prerogative within more narrow limits, for incumbents and patrons alike had little security in their respective rights whilst possible revivals of long neglected royal titles to present hung over them. In 1340 the king promised that for the future he would not make presentations to benefices after the lapse of three years from the occurrence of the vacancy. Where clerks had had possession of their benefices for a year before this statute, the crown would have no action or claim to presentation. No more grants were to be made, or actions instituted, in the case of benefices vacated in the time of Edward III's predecessors.³ However, the statute was not enforced, as the commons complained in 1346.⁴

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See A. Deeley, 'Papal Provision and Royal Rights of Patronage', p.513.

2

Statutes at Large, I, p.234; 14 Edward III, statute 4, c.iii.

3

Ibid.

4

R.P., II, p.163. The king replied: 'Quant a cest point, Soit le Roi ent avisez, et face outre par avys de son Conseil ce q'il verra que soit a faire'. Ibid.

The courts apparently disregarded this curtailment of royal rights. John de Helewell stated in a petition presented in 1347 that the king had sued a writ of Quare impedit against one Thomas Wake concerning the church of Roule, on the basis of a vacancy in the time of Edward II. The king had recovered his presentation by judgment in Common Pleas despite the above statute.¹ When the clergy petitioned in 1351 for confirmation of the grant of 1340, they met instead with its revocation. The king's only restriction on his claims was a promise that 'il ne prendra desore title de presentement en autrui droit des Vacations du temps de ses Progenitours'.² Even this promise was not kept.³

'Patronage was not a source of wealth which the king, at least as late as the reign of Henry III, could exploit directly for himself'.⁴ Its importance to the crown lay in the incomes which could be provided for royal servants from the benefices of the Church. The use of ecclesiastical livings for the maintenance of busy administrators had a long history. In the twelfth century 'a large proportion of the prebends or canonries were distributed as rewards among clerks in the royal household who seldom if ever visited the cathedral to which they were attached'.⁵ There was a

1

R.P., II, p.177.

2

Ibid., p.244. Statutes 25 Edward III, statute 3, cc.i and ii.

3

See A. Deeley, 'Papal Provision and Royal Rights of Patronage', p.514.

4

M. Howell, Regalian Right, p.171. See also *ibid.*, n.3.

5

A.L. Poole, From Domesday Book to Magna Carta 1087-1216, 2nd edition (Oxford, 1955), p.222.

tendency to regard a benefice exclusively as a source of income, and a beneficium was granted without concern for the officium attached to it. The king made free and unhesitating use of his rights of advowson in order to reward his clerks, and the most fortunate of these might expect a bishopric as the culmination of their careers.¹ As has been pointed out, 'in the absence of banks and ready money, kings, popes, and bishops would have been hard put to find any means other than prebends with which to provide for the busy clerks in their service'.² The expanding bureaucracies of state, Church, and papacy meant a continually increasing number of clerks trying to draw on the fund of patronage in the realm, and led to a keen competition for benefices.

Pluralism and non-residence were an established concomitant of this method of rewarding the servants of the crown. The Avignonese popes made papal dispensations essential for the holding of a plurality of benefices with cure of souls; but dispensations were procurable at the curia for a price, and papal legislation on pluralism with sinecures continued to remain somewhat indefinite. In practice numerous sinecures might be held by the prominent clergy in high

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See R.A.R. Hartridge, 'Edward I's Exercise of the Right of Presentation', pp.171-7.

2

K. Edwards, The English Secular Cathedrals in the Middle Ages, 2nd edition (Manchester, 1967), p.7.

positions in the state.¹ Cathedral prebends were the most convenient means of supporting civil servants, for they were usually remunerative and were regarded as without cure of souls. A large proportion of the non-residents holding the richest prebends at cathedrals were made up of government officials.² It needs no stressing that such busy clerks would be non-resident; and their freedom from ecclesiastical penalty on this score was firmly maintained by the crown. In 1315 the council made this statement as a result of a petition of the clergy:

Rex et antecessores sui a tempore cujus contrarii memoria non existit usi sunt quod clerici suis immorantes obsequiis dum obsequiis illis intendunt ad residentiam in suis beneficiis faciendam minime compellantur nec debet dici tendere in prejudicium ecclesiastice libertatis quod pro Rege et republica necessarium invenitur.³

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See A.H. Thompson, 'Pluralism in the Medieval Church; With Notes on Pluralists in the Diocese of Lincoln, 1366', Associated Architectural Societies Reports, 33 (1915), pp.35-73. William of Wykeham, keeper of the privy seal, held in 1366 the archdeaconry of Lincoln and ten prebends to the annual value of £873. In the same year David of Wollore, another civil servant of long standing in the Chancery, held seven prebends, one parish church and one hospital, to the value of £270. Similarly Hugh Pellegrini, a papal envoy, held in 1366 the treasurership of Lichfield, two prebends and one parish church, to the value of £293. See W.A. Pantin, The English Church, pp.36-7.

2

K. Edwards, The English Secular Cathedrals, pp.37-8 and 41.

3

Statutes at Large, I, p.168; 9 Edward II, statute 1, c.viii.

Needs of state were thus clearly proclaimed as the guiding principle of the government's attitude towards the benefices of the Church.

Many petitioners for benefices were clearly royal clerks, and some expressly request grants as their reward for service to the king. In 1325 Robert de Haliwell, crippled by illness, put forward his 35 years service to Edward II and his father, including 18 trips to Ireland on the king's behalf, in support of his suit for advancement.¹ Similarly, in 1384, Nicholas Grenham spoke of his long years of work in Chancery without advancement, in urging his case for a grant of the church of Seyton.² However, the patronage in the hands of the crown could not be used solely to reward the king's own administrators. The monarch was open to influence and supplication, and members of the royal family and court had a favourable opportunity for pressing the claims of their clerks. The queen herself was ready to sue to the king on behalf of her servants. In 1389 Queen Anne petitioned for the grant of the prebend of Langammarch in the collegiate church of Abergwili to her treasurer, Thomas More, after a suit of Quare impedit had recovered the king's presentation to it against the bishop of St

¹ R.P., I, p.418. A grant was made to Haliwell in November 1325 (C.P.R., 1324-7, p.193).

² P.R.O., Ancient Petitions, S.C.8/115/5709. He secured a grant of the church (C.P.R., 1381-5, p.512).

David's and others.¹ More was granted the treasurership of Abergwili with the prebend of Langammarch annexed.²

The network of influence surrounding the king again made itself felt when More encountered opposition in executing his presentation. The queen sued to Richard II to ensure that her clerk secured possession of the benefice. She supported the presentee's own request for a new grant of the treasurership³ with a petition in the same vein, which was directed against the claims of one Thomas Bekyngham, a papal provisor. Certain persons were seeking from the king a ratification of the estate of Bekyngham in the benefice concerned, and the queen sought that any such grants made should be revoked and nothing further done to her treasurer's prejudice.⁴ Action was secured against Bekyngham's pretensions. He had to enter mainprise and undertake on oath not to depart to foreign parts, or to attempt anything in contempt or prejudice of the king in regard to the treasurership of Abergwili.⁵ In October 1390 More's

¹ P.R.O., Ancient Petitions, S.C.8/186/9259. Since the king's marriage in 1382, Thomas More, a king's clerk, had been attached to the household of Queen Anne of Bohemia, soon becoming her general receiver. Already acting as such in 1386, he continued to hold the post until the queen's death in June 1394, and afterwards was cofferer of the king's Wardrobe. See T.F. Tout, Chapters in the Administrative History of Medieval England (six volumes, Manchester, 1928-37), IV, pp.200-1, V, pp.261-3, and VI, p.32.

² C.P.R., 1388-92, pp.3 and 18.

³ P.R.O., Ancient Petitions, S.C.8/224/11188.

⁴ P.R.O., Ancient Petitions, S.C.8/222/11055.

⁵ C.C.R., 1385-9, p.683.

position was further strengthened by the grant of a royal confirmation of his estate in the benefice.¹

The king would be constantly solicited for grants to the relatives and dependants of those surrounding him, whose position gave them the opportunity to benefit from royal patronage. This led to a most abusive use of royal power by Richard II, described in a commons' petition to Henry IV on behalf of Thomas Stokkes. In May 1397 Richard II had presented Stokkes' son to the church of Middelton Chenduyt, which was in the royal gift because the temporalities of the alien priory of Ware were in the king's hands.² The younger Stokkes had been duly inducted. Subsequently, Nicholas Hauberc, one of the king's knights, had sued to the king for the presentation of his brother to the same church. It seems that Stokkes resisted the royal will in this matter, for the king caused both father and son to be arrested by two royal serjeants at arms and imprisoned. The harsh treatment meted out to the elder Stokkes brought his son to resign the benefice to obtain his father's release. In return for this resignation, the king promised to grant the younger Stokkes the first church in the king's presentation to become vacant, with or without cure, to the value of £40 or 100 marks per annum, that he would accept.³ Nothing seems to have come of this, and the commons petitioned in 1399 for Stokkes'

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C.P.R., 1388-92, p.306.

2

C.P.R., 1396-9, p.127.

3

Ibid., p.265.

restoration to the church, 'si la Ley de Seint Eglise le voet soffrer'. Henry IV refused to implement this supplication on the grounds that it was not a bill of parliament, although he did promise right to all parties.¹ If justice was done, it was evidently not through the restoration of Stokkes to Middelton Chenduyt, for two royal grants of that benefice to other persons were made in 1399 and 1400.²

The machinery of royal patronage was inadequate to ensure against the occurrence of mistaken grants and injustice to existing incumbents. The means of approach to the crown for presentation to benefices was by petition, and numerous examples of these supplications survive. They follow a brief and standardized form, which usually consists of the suppliant's name and status, essential details of the vacant benefice, and a short statement of the royal title to present. If the king gave his assent to the petition, it was sent into Chancery for the issue of letters to the successful applicant, who then proceeded to the diocesan for institution and

1

R.P., III, pp.444-5. The king's reply was: 'Le Roy s'advisera, a cause q'il n'est mye Bille du Parlement, et ferra droit as toutes parties'. Henry IV seems to have objected to the inclusion of a matter that would normally have been brought to his attention by private petition in a list of commons' petitions, perhaps because this was a matter of only individual concern and not one of general importance.

2

C.P.R., 1399-1401, pp.34 and 368.

induction into the living.¹ The king and his ministers appear dependent on such information concerning vacancies in the royal gift as was supplied by petitioners themselves, without even the means of preventing double grants of the same benefice. Indeed this situation was sometimes recognised by the crown in assenting to petitions. When Nicholas Grenham received a favourable response to his petition for the church of Seyton, it was specified that the grant was made 'en cas quil ne le auera grante a nul autre'.² Two clerks in pursuit of the same benefice could receive royal grants of it almost simultaneously. Piers Harmondsworth petitioned in 1383

1

E.F. Jacob has described the procedure followed by archbishop Chichele in his capacity of diocesan, where he had not himself collated to the benefice: 'If...the benefice belonged to some other patron, lay or ecclesiastical, it was necessary to find out whether it was really vacant, and to establish the identity of the "true" patron; where doubt existed, a formal inquiry was initiated not only into this, but also into the value of the living and any charges which it had to bear, as well as into the age, condition, and quality of the presenteeGranted, then, that ambiguity about the vacancy and the patronage had been removed, and that the Archbishop was satisfied as to the suitability of the presentee, the Archbishop admitted the clerk as a suitable person and instituted him to his office (dominus admisit...et instituit). Institution, which means that the clerk is entrusted with the cure of souls, was the occasion for taking the oath of canonical obedience; a vicar, when he was instituted, in addition promised personal residence and ministration in accordance with the legatine constitutions. In all cases, whether he collated or admitted on another's presentation, the Archbishop sent a mandate for the clerk to be put into corporal possession of the benefice by induction'. The Register of Henry Chichele, ed. E.F. Jacob (4 vols, Oxford, 1938-47), I, p.lxxiii.

2

P.R.O., Ancient Petitions, S.C.8/115/5709.

about a mistake of this kind. He stated that the king had lately granted him the free chapel of Sudbury, but shortly afterwards had made the same grant to one of the clerks of the earl of March through a lapse of memory. Faced with this situation the king allowed that the first of the two grants in time was to hold its force.¹

There seems to have been no procedure for verifying the information supplied by petitioners that benefices in the king's gift were vacant. The errors occasioned by this situation led an injured incumbent in the early years of Edward III's reign to declare that untrue suggestions were made to the king 'de jour en autre: par queux la Court est esclandre et plusours gentz grevousment ennoye'.² Later in the century incumbents encountered the same difficulties. Henry de Coton petitioned to the council in 1378 after the hospital of St Leonard's, Derby, granted to him in 1367,³ had been bestowed on a royal clerk, William de Pakynton, as a result of erroneous representations made to the crown.⁴

1

P.R.O., Ancient Petitions, S.C.8/222/11085. For the grants made to the two clerks, see C.P.R., 1381-5, pp.307 and 311.

2

R.P., II, p.395.

3

C.P.R., 1367-70, p.29.

4

C.P.R., 1377-81, p.28. William Pakynton or Pakington had been in the service of the Black Prince from 1364, and after the Prince's death became general receiver of his widow until he transferred to the service of Richard II. In 1377 he was appointed keeper of the Wardrobe, and remained so until his death in 1390. On 6 January 1381, he was also appointed chancellor of the Exchequer for life. T.F. Tout, Chapters, III, pp.329-30 and 357, IV, pp.192-5 and 214-20, and VI, p.27.

His petition was referred to Chancery,¹ where his opponent was unable to show any reason why Coton should not be restored to the hospital. The presentation of Pakynton was thus revoked.² Cases of this type seem to indicate great pressure on the resources of royal patronage, which led clerks to take precipitate action in suing to the king for grants of benefices on the basis of misinformation.

Little, if any, investigation of the king's title to present appears to have preceded royal assent to petitions. Uncertainty is reflected in the reply of Richard II to a petition, which granted presentation to a church with the qualifying phrase 'en tant com en luy est'.³ If the royal grantee met with opposition, because another patron had presented and an incumbent already occupied the benefice, the king or his presentee might take action through the common law courts to establish the right of the crown to present. A writ of Quare impedit would be sued against the alleged patron, his clerk, and the diocesan, in order to determine where the rightful title lay. If the diocesan refused to admit a royal presentee to a benefice, then the king might bring an action of Quare non admisit, by means of which the bishop was brought before the royal courts to justify

¹ P.R.O., Ancient Petitions, S.C.8/172/8587.

² C.P.R., 1377-81, p.177.

³ P.R.O., Council and Privy Seal Records, E.28/file 3.

his action, and fined for his contempt if he failed to do so.¹

However, the existence of actions at common law by which the king's claims could be tried and his rights enforced, did not prevent the arbitrary dispossession of incumbents from their benefices by royal presentees. For incumbents ousted without the opportunity to defend their position in the courts the common law provided no redress. No writ could be brought against the crown in the law courts.² Such plaintiffs were able to secure remedy only through petitions to the king and council, whose normal procedure was to refer the matter to the chancellor, frequently assisted by royal justices, and with serjeants at law present to protect the king's interests. In this way the common law side of Chancery was used to meet the needs of patrons and incumbents deprived of their rights by royal grantees without trial.³

1

The clergy had complained in 1351 of the seizure of the temporalities of prelates into the king's hand by the justices for contempt, and had cited the case of the bishop of Exeter, whose temporalities had been seized as a result of a suit of Quare non admisit (R.P., II, p.245). The king had granted that in future all justices giving judgment against a prelate in a case of this nature, or cases similar to it, might receive a reasonable fine for the contempt in question, either at the time of judgment if the party offered it, or afterwards whenever the party wished to offer it (Statutes 25 Edward III, statute 3, c.vi).

2

See Sir F. Pollock and F.W. Maitland, History of English Law, I, pp.515-8, and L. Ehrlich, 'Proceedings against the Crown, 1216-1377', in Oxford Studies in Social and Legal History, VI (Oxford, 1921), pp.83-4.

3

For the jurisdiction of the common law side of Chancery, see T.F.T. Plucknett, A Concise History of the Common Law, pp.155-6, and A.D. Hargreaves, 'Equity and the Latin Side of Chancery', pp.481-99.

A number of efforts were made in the second half of the fourteenth century to give incumbents ready access to redress for injustices arising from the exercise of royal patronage. The attitude of the crown perhaps showed more anxiety to prevent infringement of royal prerogatives than concern to solve the problems raised by their abuse. In 1351 the clergy complained of the unjust recoveries of title to present 'en autri droit'¹ made by the king in the courts, 'par noun dedire et en autre manere'. The ordinaries could provide no ecclesiastical remedy in the face of such judgments of the lay courts.² In reply the king was emphatic that 'apres Juggement rendu pur le Roi et son Clerc en possession,...le Presentement ne poet estre repellez'; but before a presentation was made or a judgment given, trustworthy information was to be secured henceforth that his title was just.³ Further, Edward III gave

1

That is, not pleno jure. As noted above, presentations which came into the king's hand through wardship, vacancies of bishoprics and abbeys, etc., formed the greater part of royal grants. See R.A.R. Hartridge, 'Edward I's Exercise of the Right of Presentation', p.171.

2

In 1164 the Constitutions of Clarendon had firmly asserted the jurisdiction of the royal courts over matters of advowson: 'De advocacione et praesentatione ecclesiarum si controversia emerit inter laicos, vel inter laicos et clericos, vel inter clericos, in curia domini regis tractetur vel terminetur'. Select Charters, ed. W. Stubbs, p.164. The substantial victory of the secular courts over the ecclesiastical in this matter in the century which followed, is discussed by J.W. Gray, 'The Ius Praesentandi in England from the Constitutions of Clarendon to Bracton', English Historical Review, 67 (1952), pp.481-509.

3

R.P., II, p.244.

patrons and incumbents adversely affected by royal grants a substantial promise of obtaining remedy by petition. He conceded that, when the king's title could be shown to be unjust before a judgment in the courts, the presentation was to be revoked and the injured patron or incumbent granted suitable writs from Chancery.¹

The king gave a most liberal interpretation to this statute in the case of a prominent royal servant, Bishop Buckingham of Lincoln.² The bishop sought in 1369 to have evidence of his rights examined in parliament, although a suit on the matter had reached an advanced stage in Common Pleas. The crown had sued a writ of Quare impedit respecting the church of Iftelde against the bishop, the archdeacon of Oxford, and the prior of Kenilworth, on the supposition that the presentation belonged to the king because of the late vacancy of the priory. The bishop stated in his petition that the church had been granted to a former

1

Statutes 25 Edward III, statute 3, c.iii.

2

John Buckingham was bishop of Lincoln 1362-98, and keeper of the privy seal 1360-3 (Handbook of British Chronology, pp.91 and 236). Previously he had been appointed chamberlain of the Exchequer of Receipt in 1347, whence he had been transferred to the keepership of the Great Wardrobe, which he had held 1350-3. He had then been brought into the Wardrobe of the Household, first as its controller and soon afterwards as its keeper. In 1357 he had gone back to the Exchequer as a baron, and remained there until he had been made keeper of the privy seal. He was in such favour with the king that pressure had been brought to bear upon the pope to raise him to a bishopric. An attempt to make him bishop of Ely in 1361 had been quashed by the pope, but he had eventually secured Lincoln. T.F. Tout, Chapters, III, p.218.

bishop of Lincoln by a previous prior of Kenilworth, with the assent of his convent. It had been annexed to the archdeaconry of Oxford in perpetuity, and the confirmation of the dean and chapter of Lincoln had been obtained for this arrangement. The bishop, the archdeacon, and their predecessors, had been in possession of Iftelde for 103 years. In Common Pleas, through bad information supplied by the royal presentee¹ and his adherents, pleading had reached an issue on the assertion made for the crown that the former prior and convent had not granted the advowson in question by the deed proffered in evidence by the bishop. The petitioner sought that certain persons be assigned from parliament, with justices and others, to examine his evidence. This was granted.²

The inspection of the bishop of Lincoln's evidence by a number of councillors and justices convinced them of the groundless nature of the king's claim to present. As judgment had not yet been given in Common Pleas, they decided on the basis of the 1351 statute that the grant made by the king should be revoked, and a writ sent to the justices of the Bench to supersede the plea in progress there.³ Bishop Buckingham was thus able to forestall what he may have feared would be an unfavourable jury verdict on the issue reached in Common Pleas. The accommodating nature of the royal

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Master Richard de Pencrich, presented to the church on 12 March 1368 (C.P.R., 1367-70, p.93).

2

P.R.O., Ancient Petitions, S.C.8/210/10463.

3

P.R.O., Ancient Petitions, S.C.8/210/10464.

response to his petition is striking, for the trial of the king's title to present to Iftelde proceeding at common law seems to have been a perfectly proper one.

According to a petition of the commons in 1390, the intention of the statute of 1351 was that incumbents should not be ousted from their benefices by royal presentees 'sanz Respons final par Brief a seute le Roy, solonc le Ley'. This had broken down because of the failings of the ordinaries, whose reluctance to refuse admission to royal presentees is perhaps explicable in terms of their unwillingness to be involved in suits in the royal courts. The commons complained that by favour of the ordinaries some royal grantees were instituted and inducted.

sanz due Proces, les parties nemye garniz, ne appellez; et ascuns foitz par Enquestes meyns vrais favorablement pris; oustantz les ditz Incumbentz, en enervation del¹dit Estatut, en deceivant la Court le Roy.....

Many incumbents were allegedly without remedy, because they could not have writs of Scire facias to bring their opponents to answer in Chancery² without the special leave of the king.

1

R.P., III, p.273.

2

The words of the commons' petition are: 'pur faire venir ceux qui sont entrez...par title de Roy' (R.P., III, p.273). There is no mention of Chancery. However, the petitions of individual clerks, and the action taken on those supplications, show that royal presentees were normally summoned to answer the allegations of their opponents in Chancery.

The commons attempted to get to the root of the problem, and sought to ensure for ousted incumbents a regular means of securing trial of their rights that would not be dependent on the grace of the crown. They asked for an order to the chancellor to furnish with writs of Scire facias all such ousted incumbents, and requested that henceforth chancellors should be bound to supply the writ by authority of their office, 'et outre faire droit as parties, sanz poursuite a notre Seigneur le Roy, et sanz autre garrant de lay'. However, the king would not allow any such diminution of his prerogatives. He proposed a different solution to the problem. In addition to confirming the statute of 1351, he ordered that when the king presented to a benefice which already had an incumbent, his presentee was not to be admitted by the ordinary until the king had recovered his presentation by process of law. If an incumbent should still be dispossessed without trial, he was to begin his suit¹ within a year of the induction of the royal presentee at the latest.² In cases of disputed possession it thus remained necessary for injured parties to seek the grace of the crown for redress.

The most unsatisfactory aspect of this enactment was that much of its success depended on the willingness of the ordinaries to refuse institution to royal presentees. The bishops were not willing to oppose the king in this way. The commons protested in 1399 that

1

That is, present a petition to the king.

2

R.P., III, p.273. Statutes 13 Richard II, statute 1, c.i.

despite prohibitions delivered to the ordinaries in accordance with the statute of 1390, 'les Ordinaries ont resceux, et fount de jour en autre, les Presentes du Roy par favour'.¹ The ecclesiastical courts could give ousted incumbents no redress, as royal prerogatives and the jurisdiction of the common law courts over advowson were protected by 'prohibitions et reconisances et lies faitz en la Chauncellerie nostre Seigneur le Roy'.²

The commons again sought to provide a regular form of redress for dispossessed incumbents. They asked that the chancellor be given authority to call the parties to such disputes before him, and to reinstate incumbents ousted without process of law from their benefices, until the king had recovered his presentation in the courts. The king rejected these proposals, as he had rejected those made in 1390. His reply was confined to a grant that prohibitions were to be granted when a benefice already had an incumbent, in accordance with the statute of 1390.³ When the commons

1

The prohibitions in question would be writs Ne admittas, which prohibited the ordinary from admitting a parson to a cure while the advowson was under dispute. See The Register of Henry Chichele, ed. E.F. Jacob, I, p.clxiv, and IV, pp.303-4, 307-8 and 312.

2

R.P., III, p.438. On prohibition, see the complaint of the clergy in 1377 (R.P., III, p.26), and G.B. Flahiff, 'The Writ of Prohibition to Court Christian in the Thirteenth Century', Medieval Studies, VII (1945), pp.229-90; and Flahiff, 'The Use of Prohibition by Clerics against the Ecclesiastical Courts in England', Medieval Studies, III (1941), pp.101-16.

3

R.P., III, p.438.

petitioned again in 1402, they sought to improve the procedure laid down by the crown only by a request for the removal of the time limit of one year within which ousted incumbents must begin their suit to the king. This was granted.¹

A suit brought in 1389 will serve to demonstrate that although ousted incumbents were obliged to seek trial of their rights by petition, a reasonable means of securing remedy had been provided. Adam Towell petitioned to the king that he had held the vicarage of Mathersay by collation of Alexander, archbishop of York. He had been ousted by William Morthynglay under a royal presentation, which had been made on the false suggestion to the king that the benefice was vacant at the time when the temporalities of York were seized into the hands of the crown through a judgment in parliament.² Morthynglay had moved swiftly in securing his grant from the king, for the date of his first presentation to Mathersay was only six days after the judgment against the archbishop.³ The petitioner sought an order to the chancellor for the grant of a writ to bring his opponent before Chancery, where Morthynglay would have to give reasons why his presentation should

1

R.P., III, p.507. Statutes 4 Henry IV, c.xxii.

2

Archbishop Neville was condemned for treason in the Merciless Parliament of 1388. See R.P., III, p.237.

3

Judgment was given on 13 February 1388 (R.P., III, p.237). Morthynglay was presented on 19 February 1388 (C.P.R., 1385-9, p.406). He received another grant of the same benefice on 12 June of the same year (C.P.R., 1385-9, p.449).

not be revoked and Towell restored. This was granted. A writ of Scire facias was issued to the sheriff of Nottingham to secure Morthynglay's appearance.¹

The case came before the chancellor at Easter 1389. Morthynglay's defence of his presentation rested on the allegation that the benefice had been vacant when the temporalities of York came into the king's hands. Towell produced his letters of collation and institution, and placed himself on the country as to his induction before the forfeiture of the archbishop. The plea was sent into King's Bench for the verdict of a jury to be secured.² On the basis of his letters of collation and induction, the jury concluded that Towell had been presented, instituted, and inducted, some time before the judgment had been given against the archbishop. He had retained possession until ousted by the royal presentee, at the time of whose presentation the benefice had not been vacant. The justices annulled the grant made to Morthynglay, and ordered the restoration of Towell to his vicarage with all the revenues derived from it since his dispossession.³

A royal title to present was plausible in this case, for only eight weeks separated the induction of Towell

1

P.R.O., Ancient Petitions, S.C.8/254/12695-6.

2

P.R.O., Judicial Proceedings (Common Law Side), Placita In Cancellaria, Tower Series, C.44/14/14. On the common law side of Chancery, cases were sent into King's Bench when an issue of fact had been reached and the necessity arose for the verdict of a jury to be taken. See H. Potter, Historical Introduction to English Law, p.155.

3

P.R.O., Coram Rege Rolls, K.B.27/516/49.

and the forfeiture of his patron.¹ An ambiguous time-element was clearly the cause of many disputes brought by petition before Chancery. The close proximity of the death of a prebendary of Wolvey to a vacancy of the see of Coventry and Lichfield seems to have been responsible for a similar plea, which also demonstrates that papal provisors could secure a hearing in Chancery like other clerks dispossessed by royal presentees. Elys de Sutton petitioned to the king in 1388, claiming to have held the prebend of Wolvey in Lichfield cathedral by papal provision until ousted by John Maureward, a royal grantee, without suit of Quare impedit or sufficient trial of title.² He asked that the suit be allowed to come before Chancery, and this was granted.³ Maureward had been presented in March 1387 on the grounds of the late voidance of the see of Coventry and Lichfield.⁴ The bishopric had become vacant on 28 March 1385 by the death of Bishop Robert de Stretton (1359-85), and again on 18 August 1386 when Stretton's

1

Towell was inducted on 20 December 1387 (P.R.O., Coram Rege Rolls, K.B.27/516/49). Archbishop Neville forfeited on 13 February 1388 (R.P., III, p.237).

2

Sutton does not seem to have been inducted. His name is not listed under the prebendaries of Wolvey in John le Neve, Fasti Ecclesiae Anglicanae, 1300-1541, compiled by Joyce M. Horn, B. Jones, and H.P.F. King (12 vols, London, 1962-7), X, p.69.

3

P.R.O., Ancient Petitions, S.C.8/252/12553. Writs of Scire facias were issued to Maureward; P.R.O., Chancery Files, C.202/C.87/114 and Ancient Petitions, S.C.8/252/12554.

4

C.P.R., 1385-9, p.302.

successor, Walter Skirlaw, had been translated to Bath and Wells. The temporalities had been restored to the next bishop, Richard le Scrope (1386-98), on 15 November 1386.¹ The point at issue was whether the prebend had been vacant during the time that the king had the temporalities of the see in his hands.

In Chancery Maureward stated that the prebend had become vacant by the death of one Richard de Stafford, and had remained vacant until the temporalities of the see came into the king's hands on the death of Bishop Stretton. On the available evidence this plea appears weak, and may indicate that the royal presentee was aware that the last incumbent had died too late for the king to have the right of presentation. Stafford had died before 24 July 1369, when William Lombe had been collated to the prebend.² On 10 November 1374 Thomas de Arblaster had been admitted to the benefice, which he seems to have held until his death sometime before 5 December 1386.³ Elys de Sutton countered Maureward's statement with a claim that Arblaster had been duly collated by Bishop Stretton, and had held the prebend until his death on 29 November 1386, which was two weeks after the temporalities had been restored to Bishop

1

Le Neve, Fasti, rev. ed., X, pp.1-2, and XII, p.84.

2

Le Neve, Fasti, rev. ed., X, p.69 (citing Lichfield Diocesan Registry, Registers of the bishops of Coventry and Lichfield, IV (Stretton), f.59b).

3

Le Neve, Fasti, rev. ed., X, p.69 (citing Bodleian Library, Oxford, MS Ashmole 794 (Lichfield chapter acts, 1321-85), f.151, and Lichfield Cathedral, Dean and Chapter Library, Acta Capitularia, I, f.13).

Scrope and barred any royal claim to present for this turn. The parties came to an issue on Maureward's contention, and the plea was sent into King's Bench for a jury verdict to be secured. No such inquest was taken, for the justices of Nisi prius returned that on the day appointed Maureward had appeared, but his opponent had defaulted. The suit against the royal presentee was dismissed.¹

The pressure on benefices, particularly prebends, is indicated by the existence of another claimant to the prebend of Wolvey by papal provision. Roger de Gray also petitioned to the king in 1388, alleging his own dispossession from the benefice by Maureward and seeking trial of the matter in Chancery. When this suit came before the chancellor, Maureward put forward the same plea as before, and Gray countered with the arguments used by Sutton. The case again came to an issue on the claim of the royal presentee that the prebend was vacant when the temporalities of the see came into the king's hands on the death of Bishop Sutton. Gray defaulted on the day appointed for an inquest before justices of Nisi prius, as Sutton had done; and Maureward once more went sine die.² Neither

1

P.R.O., Coram Rege Rolls, K.B.27/511/Warr.4.

2

P.R.O., Coram Rege Rolls, K.B.27/511/Staffs.3. It should be noted that Gray secured the prebend of Netheravon in Salisbury cathedral in 1388 by exchange, and on 1 July of the same year secured royal ratification of his estate (C.P.R., 1385-9, p.478). This may have influenced his attitude towards the dispute with Maureward. See R.I. Jack, 'The Ecclesiastical
(footnote continued p.139)

provisor in this case seems ever to have been inducted into the prebend.¹ The claim of dispossession made in the petitions of Sutton and Gray was a fiction designed to secure trial of the king's right to override their claims to the benefice, since the lay and ecclesiastical courts were equally unable to provide them with a remedy in a suit against the crown.

Reasonable grounds for making a royal presentation could be put forward in the last two cases, but the dependence of the crown on information supplied by petitioners did leave the way open for attempted exploitation of royal patronage. Many petitions are concerned with effecting exchanges between incumbents, where one or both of the livings was in the king's gift. This reflects the increasingly common practice of exchanging benefices in the second half of the fourteenth century.² Fraud was evidently prevalent,

(footnote 2 continued from p.138)

Patronage Exercised by a Baronial Family in the Later Middle Ages', Journal of Religious History, 3 (1964-5), pp.281-2. Maureward retained Wolvey until 1393, when he exchanged it for the chancellorship of Lichfield (Le Neve, Fasti, rev. ed., X, p.69).

1

Neither Sutton nor Gray is listed as inducted into the prebend of Wolvey in Le Neve, Fasti, rev. ed., X, p.69.

2

Irene Churchill has remarked on the very noticeable increase in admissions by way of exchange in Canterbury diocese during the archbishopric of Simon Sudbury (1375-81), in which the exchanged benefice was held in many cases for only a short time. She has suggested that such exchanges mask an attempt to evade the decrees relating to the holding of benefices in plurality. I.J. Churchill, Canterbury Administration: The Administrative Machinery of the Archbishopric of Canterbury Illustrated from Original Records (2 vols, London, 1933), I, pp.111-2.

for the clergy complained in the convocation of 1399 about the 'fictiones et fraudes varias in permutationibus beneficiorum exercitas', and sought that exchanges should only be expedited when proof of institution to both the benefices concerned could be shown.¹ Two petitions from 1390 suggest that the crown did not demand this proof. Stephen atte Bothe complained to the king on two occasions against a royal presentation made to John Elys on an exchange with William Wrangell.² Wrangell's title to the church of Harpesworth was alleged to be spurious, since Bothe claimed to have held the church peacefully for 14 years and more. Nonetheless, a fraudulent exchange had been engineered, under which the king had presented Elys to Harpesworth and Wrangell had secured the chapel of Northyngelby. As a result Elys had been inducted, and the incumbent ousted without examination of his rights. Here too the means of securing redress was granted by the king, who gave his assent to Bothe's petition for trial of the matter in Chancery.³

The king has appeared little disposed to deny justice to complainants, but he might be summary in acting to protect royal rights. In 1360 John de Spanby claimed peaceful possession of the chapel of Steresburgh

1

Concilia Magnae Britanniae et Hiberniae, ed. D. Wilkins (4 vols, London, 1737), III, p.240.

2

C.P.R., 1388-92, p.7.

3

P.R.O., Ancient Petitions, S.C.8/223/11101 and 250/12487. See also P.R.O., Warrants for the Great Seal, C.81/515/6211 and Chancery Files, C.202/C.92/151.

for over 40 years, by collation of a former bishop of Ely.¹ In his version of the facts the chapel had been in the patronage of the bishops of Ely since time immemorial. However, an inquest 'doffice' had been procured and taken before the escheator of Cambridgeshire, whose return to Chancery had reported that the chapel was a royal foundation and that the services endowed in it had not been performed by the present incumbent. Without further trial of title the king had granted the chapel to one Thomas Grace, and had sent a writ to the sheriff of the county to put him in seisin,² whereby he had disregarded all the legal processes. The petitioner denied the findings of the escheator's inquiry and sought redress. If Spanby's allegations are correct, royal action had been undoubtedly arbitrary, but he secured a promise of reinstatement. Both petition and inquest were ordered to be sent into Chancery. If, when both parties had been heard, the petition proved to contain the truth, Spanby was to be restored to possession. After restoration to his benefice, the petitioner was to be given warning to appear on a certain day to answer the king's claims in this matter.³

¹ Bishop John de Hotham, 1316-37; Handbook of British Chronology, p.223.

² For the grant to Grace, see C.P.R., 1358-61, p.462. The statute of Westminster II (1285) had provided an action for the recovery by the donor or his heirs of property given for the maintenance of pious works, if these works were withdrawn; Statutes 13 Edward I, statute 1, c.xli.

³ P.R.O., Ancient Petitions, S.C.8/72/3563.

The threat of sudden dispossession through royal presentations caused an evident feeling of insecurity in incumbents, reflected in the numerous petitions to the king and chancellor for confirmation of clerks in their benefices. The crown had provided incumbents with a procedure for securing remedy, but ratifications were seen as a way of obviating the necessity for recourse to this, and as good evidence against royal claims if disputes arose. Petitions came from the presentees of the king and other patrons alike. Groups of clerks joined in presenting a supplication for royal ratification of their several estates.¹ Such grants contained a clause specifically barring any present or future royal claim to present to the benefice whilst the incumbent lived, as a ratification granted in 1441 to William Tame, archdeacon of St David's, will demonstrate:

Nolentes quod idem Willelmus super possessione sua archidiaconatus predicti ratione alicuius iuris vel tituli quod vel qui nobis competit aut nobis vel heredibus nostris in futurum competere poterit per nos vel heredes nostros aut

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In 1397 seven clerks joined in presenting a single bill for the confirmation of the estates of each of them in their benefices. Of these seven one was on a royal embassy; one was at Rome on the king's service; and three were clerks of Chancery (P.R.O., Ancient Petitions, S.C.8/221/11006). Six secured their ratifications (C.P.R., 1396-9, pp.194 and 202). An odd circumstance was that two competitors for the same prebend petitioned together for ratification of their estate in this benefice; but in fact only one of them secured his confirmation.

ministros nostros quoscumque futuris temporibus
impetatur, molestetur, inquietetur, perturbetur
in aliquo seu grauetur.¹

Petitioners sometimes declare their disquiet about their future security. In 1371 John de Hellewell, who had been prebendary of Barnby in York cathedral since 1349,² sought a grant of confirmation of his estate because he feared to be troubled in his old age by those with false titles.³ Robert Esbache, admitted as prebendary of Dasset Parva in Lichfield cathedral on 8 January 1387 immediately after a vacancy of the see,⁴ petitioned twice in the same year to have his tenure of the benefice ratified by the king, in an obvious attempt to make his position safe against possible royal presentees. He sought the king's confirmation notwithstanding any plea pending concerning the prebend, and despite any royal presentation made to it. His

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P.R.O., Council and Privy Seal Records, E.28/file 70. The ratification is calendared C.P.R., 1441-6, p.31.

2

Le Neve, Fasti, rev. ed., VI, p.31.

3

P.R.O., Ancient Petitions, S.C.8/254/12652. He secured his ratification (C.P.R., 1370-4, p.84). Hellewell survived as prebendary of Barnby until 1387; Le Neve, Fasti, rev. ed., VI, p.31.

4

Le Neve, Fasti, rev. ed., X, p.30. Bishop Skirlaw was translated to Bath and Wells on 18 August 1386. His successor, Richard le Scrope, secured restitution of the temporalities on 15 November 1386. A royal presentee, William Norton, had been granted the prebend on 28 December 1386 (C.P.R., 1385-9, p.249), but resigned it before 8 January 1387, when Esbache was admitted (Le Neve, Fasti, rev. ed., X, pp.2 and 30).

petitions were granted,¹ and he retained the prebend until 1413.²

The position of incumbents impleaded by the crown in suits of Quare impedit was greatly strengthened by the ability to produce royal letters of confirmation of estate. Indeed the king acted in the parliament of 1390 to prevent abuse of the system against himself. He laid down at this time that no ratification granted to an incumbent after a royal presentation had been made and a suit began 'soit allowe pendant le Ple, ne apres le Juggement renduz pur le Roi, mes que tiel Juggement soit pleinement execut, come reson demande'.³ There is some evidence that threatened incumbents continued their attempts to block the claims of the king's presentees by securing such confirmations, while the matter of right was before the courts. In 1446 a clerk of the privy seal office, John Hamond, to whom the king had granted a canonry and prebend in the collegiate church of Stokes by Clare at the request of the keeper of the privy seal,⁴ petitioned two months after the grant against one John Smyth. Hamond claimed that Smyth had secured a ratification from the king of

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P.R.O., Ancient Petitions, S.C.8/252/12570 and 253/12619. The ratifications are calendared C.P.R., 1385-9, pp.350, 355 and 358.

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Le Neve, Fasti, rev. ed., X, p.30.

3

R.P., III, p.273.

4

Adam Moleyns, bishop of Chichester (Handbook of British Chronology, p.92). For the grant to Hamond, see C.P.R., 1441-6, p.435.

his estate in the same benefice, in order to defraud the king and his presentee of their rights, and to 'exclude and forbarre' the king from his suit of Quare impedit, which was already in progress against the dean of the collegiate church and Smyth himself. The petitioner sought the revocation of the ratification, and this was granted.¹

In 1351 the king had strongly affirmed the jurisdiction of his courts and the final nature of their judgments, when the clergy had complained of the unjust recoveries of the right of presentation made there by the crown.² After a favourable judgment had been given for the king, he was naturally reluctant to allow suppliants to diverge from the established processes of the common law, whilst a means of securing redress still remained open to them there. The bishop of Norwich complained in the parliament of 1376 that he had been ousted without due process from his advowson of the archdeaconry of Norfolk 'par grant meintenance d'aucuns Privez entour le Roi'. His register reveals a writ of the previous year ordering the resignation of his presentee, Robert de Prees, in favour of the king's

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P.R.O., Council and Privy Seal Records, E.28/file 76.

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The king stated that 'apres Juggement rendu pur le Roi et son Clerc en possession...le Presentement ne poet estre repellez'. R.P., II, p.244.

nominee, John de Freton,¹ because the king had recovered his right of presentation.² The bishop sought that the record of the suit in Common Pleas be brought into parliament for correction on the grounds of error. This was refused, because the justices declared that errors in Common Pleas must be amended in King's Bench, and only errors in King's Bench corrected in parliament.³ In fact Freton retained the archdeaconry until his resignation of it in 1385.⁴

However, the king and the courts did not resist judgments against the crown, if plaintiffs followed the proper procedures. When the king was a party to a suit, a special process had to be followed by suitors attempting to secure the reversal of a judgment on the grounds of error. The common law writ of error was not

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For the grant to Freton, see C.P.R., 1370-4, p.425. Freton was one of the greater clerks of Chancery, and a receiver of petitions in the parliament of 1376. He was the only Chancery clerk in the confidential employment of Alice Perrers, and also an attorney of William of Windsor, which probably accounts for the bishop's accusation of maintenance by certain persons near to the king. See B. Wilkinson, The Chancery under Edward III (Manchester, 1929), pp.177, 179, 180 and 206.

2

Le Neve, Fasti, rev. ed., IV, p.29 (citing Norwich Diocesan Registry, Register Dispenser, ff.31-31b).

3

R.P., II, p.330.

4

Le Neve, Fasti, rev. ed., IV, p.29. The king again presented in 1385 (Le Neve, Fasti, rev. ed., IV, p.29), as the temporalities of Norwich were in his hands after their seizure following the abortive crusade by Dispenser in 1383 (see Dictionary of National Biography, s.v. Dispenser or Spencer, Henry Le).

available in such cases, and the king's licence had to be obtained by petition for a judgment in Common Pleas to come before King's Bench for correction. Hence John de Bylton, formerly parson of Warton in Kendal, sued in 1388 concerning a writ of Quare impedit brought against him by the king at Michaelmas 1383. Bylton had been ousted from his church by the judgment, which had affirmed the king's title to present due to the minority of a tenant in chief. He alleged errors in the record, process, and judgment, and sought an order that the chancellor cause the plea to be sent before King's Bench for examination. This was granted.¹ When Bylton appeared in King's Bench, he next secured a writ of Scire facias to the royal presentee, Richard de Clifford,² who was brought to answer on his own and the crown's behalf the plaintiff's allegations of error. The court eventually annulled the judgment against Bylton, and he was granted a writ to the archdeacon of Richmond for his restoration to the church of Warton.³ After a period of six years since the start of the dispute, Bylton was once more in possession of his benefice in 1389.⁴

¹ P.R.O., Ancient Petitions, S.C.8/253/12603.

² The grant to Clifford is calendared C.P.R., 1381-5, p.298. This Clifford was probably the clerk of the king's chapel condemned by the Appellants in 1388, who later became keeper of the Great Wardrobe in 1390, and was keeper of the privy seal from 1397-1401. See T.F. Tout, Chapters, III, pp.430, 435, 452 and 464, IV, pp.49-51, 55, 62-3, 189, 382, 385 and 392, V, pp.52-4 and VI, pp.37 and 54.

³ P.R.O., Coram Rege Rolls, K.B.27/510/Lancs. 70.

⁴ See C.P.R., 1388-92, pp.108 and 130.

Despite the emphatic assertion of 1351 that once judgment had been given for the king in the royal courts, a presentation could not be revoked, the crown did not deny a further trial of title to a petitioner in 1399. Indeed the king leaned over backwards to redress a possible injustice. William Cheddre had had possession of the church of Wotton under Edge in Gloucestershire for four years, until John Dautre, an official of the Exchequer, had secured a royal presentation to the church of 'Wotton undur Heg' in 1386, on the grounds that the advowson was in the king's hands through the death of a tenant in chief.¹ According to Cheddre, there was no such church in the county. A suit of Quare impedit had been brought against Cheddre, who had put forward the alleged mistake in the naming of the church in the writ, and had stated that he was parson of 'Wotton undur Egge'. Both parties had placed themselves on an inquest of the country, as to whether the church was known by the name of 'Wotton undur Heg'. On the day to which the plea was adjourned, Cheddre had defaulted and the king had recovered his presentation. A writ had been issued to the bishop of Worcester to admit Dautre to the church, and the petitioner had been ousted.

Cheddre had petitioned to the king and lords in parliament in 1393, and had sought his restoration to Wotton notwithstanding the king's recovery by default. His petition had been referred to Chancery, to which the royal presentee was to be summoned for examination

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The grant to Dautre is calendared C.P.R., 1385-9, p.282. Confirmations of his estate were granted to him in 1387 and 1391; C.P.R., 1385-9, p.372 and *ibid.*, 1388-92, p.365.

of the king's title. The chancellor had been ordered to restore Cheddre despite the judgment given by default, if he found the royal title to be false or the suppliant's dispossession unlawful. Cheddre complained in the parliament of 1399 that this had never been done, and again sought remedy. Henry IV took the unusual step of allowing the case to be tried in parliament, where judgment was given by the lords that the presentation of Dautre should be annulled. A writ was to be sent to the bishop of Worcester for the restoration of Cheddre to possession of his church.¹

When abuses were brought to his notice, the king did act to prevent the manipulation of royal patronage and the courts against the established rights of others. In 1351 a common petition of the clergy complained that the rules of lapse were being thwarted, and ordinaries deprived of their claim to presentation by devolution, to the advantage of the crown. Normally the right to collate to a benefice devolved on the ordinaries, if patrons did not, or could not through suits pending in the courts, present to benefices in their patronage within the six months prescribed by law. However, such patrons, 'par suyte faite vers eux en le noun nostre Seigneur le Roi par lour procurement demesne', allowed the crown to recover by judgment of the courts the rights of presentation which had already devolved on the ordinaries. The king had no real title to the presentation, but gained it on such occasions, since the ordinaries and their presentees could not appear in the courts to defend

¹

R.P., III, p.430 and C.P.R., 1399-1401, p.129.

the suit 'sanz estat clamer el Patronage'. Edward III immediately closed this loophole in the law by granting that

en tieu cas et en toutes autres cases semblables ou le droit le Roi nest pas trie Lercevesqe Evesqe Ordinar ou le possesseur soient receuz a contrepleder le tittle pris pur le Roi et davoir son respons et a monstrier et defendre son droit sur la matiere tout soit il qe il riens cleime el patronage en cas susdit.¹

A number of petitions sought for patrons and incumbents a proper trial of their rights, which legal chicanery had denied to them at common law in suits brought by the crown. In 1267 the statute of Marlborough had laid down the procedure to be adopted on writs of Quare impedit. If the defendant did not appear or essoin on the first day that he was summoned, he was to be attached to appear on another day. If he then failed to appear or essoin, the great distress was to be employed against him.² A further default meant the loss of the suit to the plaintiff.³ This presented an opportunity for ousting an incumbent, who was absent from his benefice in distant parts. John Daventre petitioned in 1387 concerning the church of Llanroust, of which he had long been in canonical possession. He had even

¹ Statutes 25 Edward III, statute 3, c.vii; R.P., II, p.245.

² Distrain by all goods and chattels, which meant a real seizure of them by the sheriff, who became answerable for the proceeds to the king. See Sir F. Pollock and F.W. Maitland, History of English Law, II, p.593 and *ibid.*, n.4.

³ Statute of Marlborough; Statutes 52 Henry III, c.xii.

secured royal ratification of his estate in 1386,¹ only for one Nicholas Benet to procure a royal presentation in 1387 on the grounds that it was vacant and in the king's gift.² Benet had sued a Quare impedit against Daventre, which had gone by default against the latter, after the great distress had been employed and had failed to produce his appearance. Daventre claimed that he had been far away at the time of the suit and knew nothing of it, so that he had been unable to appear or to produce his ratification in defence of his benefice. His implication is clearly that Benet had engineered the whole process in this way.

A petition to the crown was now Daventre's only means of recovering his benefice, for the common law could provide him with no action against Benet or his patron. The king's desire to give ousted incumbents an opportunity of demonstrating their rights against a royal presentation is again apparent in the king's reply. The petition was referred to Chancery, with a promise of remedy if it proved just.³ A writ of Scire facias summoned Benet before that court;⁴ and when he appeared, his presentation was revoked as fraudulently obtained, in view of the confirmation previously granted to Daventre.⁵

¹ C.P.R., 1385-9, p.124.

² C.P.R., 1385-9, p.284.

³ P.R.O., Ancient Petitions, S.C.8/224/11194.

⁴ P.R.O., Ancient Petitions, S.C.8/224/11192.

⁵ C.P.R., 1385-9, p.376.

An ingenious misuse of the action of Quare impedit allowed an incumbent to be ousted without the possibility of his being summoned to answer the writ. John Mayn petitioned to the king in 1397 against his dispossession from the church of the Trinity, Colchester, which he had held for six years by presentation of the abbot and convent of St John's, Colchester. Richard Crawele had been instigated by one John Wryght to secure presentation to the church from the king in 1393, claiming a royal title to present because of a vacancy of the abbey of Colchester under Edward III.¹ Crawele had then sued a Quare impedit, not against Mayn, but against John Wryght as incumbent, and the bishop of London as ordinary, although Wryght had not had possession of the church according to the petitioner. The suit had been undefended, and the king had recovered his presentation by default of Wryght and the bishop.²

Crawele had thus been instituted to the church and Mayn ousted unheard. The latter's first reaction seems to have been an attempt to regain possession by force. In October 1394 the sheriff of Essex was ordered by writ to produce Mayn before the king in Chancery, to answer for an alleged forcible intrusion into the benefice in contravention of the royal recovery.³ When he appeared,

¹ C.P.R., 1391-6, p.328.

² P.R.O., Ancient Petitions, S.C.8/224/11195.

³ Mayn is described in the writ as claiming the church by papal provision, but the allegation does not appear elsewhere in the details of the case. P.R.O., Judicial Proceedings (Common Law Side), Placita In Cancellaria, Tower Series, C.44/12/12.

the court decided that Mayn could not excuse his actions. He was obliged to enter mainprise and to take an oath not to molest his opponent, or to sue in courts christian within the realm or without, or to attempt anything against the judgment given for the king.¹ A surprising feature of the case is that Mayn did not approach the king directly at this stage, but waited three more years before petitioning against his opponent. As he stated in 1397, he had no remedy for his dispossession under common law. Moreover, the crown had given a strong warning that royal rights could not be impugned by force or by suits in the ecclesiastical courts. When he did petition, his supplication was referred to the council,² by whose advice redress was granted. A Scire facias brought Crawele before Chancery,³ and his presentation to the church was finally revoked there.⁴

The malpractices of royal presentees at common law were effectively countered by the readiness with which the king responded to complaints. Petitioners might secure in Chancery a strikingly speedy and efficient trial of right. William Humberston, a royal clerk, obtained the king's presentation to the church of Yevele in December 1375.⁵ The benefice already had an

¹ P.R.O., Judicial Proceedings (Common Law Side), Placita In Cancellaria, Tower Series, C.44/12/12.

² P.R.O., Ancient Petitions, S.C.8/224/11195.

³ P.R.O., Chancery Files, C.202/C.101/115.

⁴ C.P.R., 1396-9, p.264.

⁵ C.P.R., 1374-7, p.200.

incumbent, for Robert Sambourn presented a petition against the grant in the parliament which assembled in April 1376, stating that he had held the church for 14 years through an exchange. His predecessor had held it for 34 years before that. He alleged that Homberston had sued a writ of Quare impedit against the petitioner and the bishop of Bath and Wells, but had failed to appear to plead his own and the king's rights, 'nyent confyant du dit droit come il semble'. Homberston had then got another writ, which was still pending; and it was Sambourn's view that his object was to defeat his opponent by the trouble and cost of the action. The petitioner asked for the summons of the royal presentee before parliament to demonstrate the king's title to present to the church.¹ In fact the case was referred to Chancery, where neither Homberston nor the king's serjeants could put forward any evidence for the king's right to present on this occasion. Hence the presentation granted to Homberston was revoked on 1 July 1376.²

On the other hand, abuse of the legal system in suits involving the crown left the injured party entirely dependent on the king's grace for securing redress. Medieval juries were notoriously subject to corruption and influence,³ but the action of attain

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P.R.O., Ancient Petitions, S.C.8/70/3491.

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C.P.R., 1374-7, p.286.

3

See P.H. Winfield, The History of Conspiracy and Abuse of Legal Procedure (Cambridge, 1921), chapter VII.

against an offending jury could not be employed without royal licence if the king was a party.¹ Alein de Schutlyngdon alleged circa 1366 that an action of Quare impedit had been brought against him concerning the hospital of Sherburn, of which he was warden, on the supposition that the king had a claim to present to it dating from a vacancy in 1345, when the temporalities of Durham were in his hands. The jury assembled by writ of Nisi prius to give a verdict on the issue reached had been procured by his enemies, and it had been composed of 'gentz loingteins des pluis foreins lieus del Countee....et de gentz de petit valu'. Their verdict against Schutlyngdon had resulted in his loss of the hospital. The petitioner asked the king and council to ordain remedy, and at least to hear and discuss his right, as no one could have redress by way of attaint without special permission if the king was a party. He asked the king either to bring before the council the justices, sheriff, under-sheriff, and other royal ministers present at the inquest, to be examined on oath as to the truth of his allegations, or to grant him an action by attaint. However, the king deferred his answer until he had been fully informed of the matter.²

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By the process of attaint the 12 jurors suspected of a false verdict were accused before 24 jurors, and if they were convicted of a false oath, their verdict was replaced by that of the 24. The attainted juror forfeited his movables to the king, was imprisoned for a year at least, and became infamous. P.H. Winfield, The History of Conspiracy, pp.193-5.

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P.R.O., Ancient Petitions, S.C.8/159/7949 and 71/3524.

It must be emphasized that incumbents could secure remedy only by the means established by the crown. Royal grantees did not hesitate to petition against opponents who attempted to act outside the law in defiance of the king's rights. John Frank, a Chancery clerk, had been presented to the church of Tallachram in 1418.¹ He stressed the involvement of the crown, when he applied for help to counteract the activities of those preventing him from obtaining possession. His petition to the council was made 'sibien depart le Roi come depart luy mesmes'. The king had recovered his title to present by a suit in Common Pleas against the bishop of St David's, Robert Lovell esquire and his wife, and Richard Ogan, the incumbent. However, Ogan had continued his occupation of the church and its possessions, taking the profits of the benefice to the value of £100 and more, just as if no judgment had been given against him. Frank had been prevented by fear and menaces from securing his induction, so that he now sought redress from the council. He requested that Ogan be made to find sufficient sureties not to meddle with the church further, and to keep the peace.² Entries of recognisances

¹ C.P.R., 1416-22, p.196. Frank was appointed clerk of parliament in 1414, and was receiver of petitions from the British isles from 1415 till his death. He remained clerk of parliament till promoted master of the rolls in 1423, and died in 1438. A.F. Pollard, 'Fifteenth-Century Clerks of Parliament', Bulletin of the Institute of Historical Research, 15 (1937-8), pp.142-5.

² P.R.O., Council and Privy Seal Records, E.28/file 33.

and mainprise on the Close Rolls show that Ogan was summoned before the council to answer Frank's allegations.¹

The clergy and commons stressed in their petitions of 1351 and 1399 that the ecclesiastical courts could give no redress to incumbents against royal presentees.² A dispute concerning the archdeaconry of Durham will serve to illustrate that the king would not permit the obstruction of his rights of patronage by action in courts christian, although the vigour of his reaction on this occasion may have been increased by his wish to use this wealthy benefice to gratify an important churchman, Cardinal Pileus de Prata.³ John Maundour

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C.C.R., 1419-22, pp.69 and 106.

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See R.P., II, p.244 and III, p.438; also above p.128. n.2.

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The benefice was valued at Rome at 250 marks (Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Papal Letters, ed. W.H. Bliss and others (London, 1893, etc.), IV, p.479. During the latter years of Edward III's reign, Pileus de Prata, archbishop of Ravenna, was closely concerned as a papal nuncio in the efforts of the pope to secure peace between England and France (see C.P.L., IV, pp.107, 125, 133-4, 137-9, 142, 144 and 145). However, after the Schism began in 1378, Pileus de Prata was one of the cardinals of Urban VI and his legate in Central Europe. 'He toured Germany, invited Wenceslas to break the traditional alliance between Luxemburg and Valois, and planned to unite the Empire and England in a common crusade against schismatic France. In vain did Charles V, whom his military reverses in his recent campaigns had rendered less uncompromising, make tempting offers to the EnglishIn May 1380 the Cardinal of Ravenna managed to break off the talks and arranged a marriage between Richard

(footnote continued p.158)

petitioned to the king and lords in parliament probably in 1383, and asserted that he had been duly collated to the archdeaconry by the late bishop, Thomas Hatfield. His collation seems to have been ambiguously close to the death of Hatfield, for the king granted the benefice to Cardinal Pileus, on the grounds that the archdeaconry was vacant when the temporalities of Durham came into the king's hands.¹ Royal letters patent were issued to the archbishop of York to execute the royal grant during the vacancy of the bishopric of Durham.

Maundour took action in the ecclesiastical court at York against the commissaries of the archbishop, and secured there a grant of protection and restoration to full possession of his benefice, as he had held it in the life of Bishop Hatfield. This availed him little, as the cardinal's proctors secured from the king a commission to Lord Neville to maintain the cardinal and

(footnote 3 continued from p.157)

II and Wenceslas's sister, Anne of Bohemia' (E. Perroy, The Hundred Years War (Bloomington, Indiana U.P., 1959), p.173). The cardinal was in England in 1381 on matters connected with this marriage, and took the opportunity to do a roaring trade in indulgences, letters of confession, titles of chaplain and papal notary, licences for portable altars, dispensations from Lent and absolutions (see E. Perroy, L'Angleterre et le grand schisme d'Occident (Paris, 1933), p.150).

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C.P.R., 1377-81, p.624. Bishop Hatfield died on 8 May 1381 (Handbook of British Chronology, p.221). Prata was presented on 9 May 1381. The previous incumbent of the archdeaconry appears to have been Cardinal Agapitus de Colonna, who died 3 October 1380; and there is no evidence in Le Neve, Fasti, rev. ed., VI, p.112, that Maundour was in possession before Hatfield's death.

his proctors in possession of the archdeaconry,¹ and writs for the collection of the fruits of the benefice on behalf of their master. Maundour complained in his petition that this had been done without any proceedings against him in either the royal or Church courts. He sought from parliament the revocation of the commission and writs, and a grant that he might recover his archdeaconry according to the laws of Church and state.²

His petition has no endorsement, but the plaint appears to have been considered in parliament. When Maundour again sued for remedy, he maintained that the justices had given their opinion in the late parliament that the commission issued to Lord Neville was directly against law and right and should be repealed.³ The king then granted him the normal means of obtaining redress. A writ of Scire facias was issued in January 1384 to bring Lord Neville and the proctors of the cardinal before Chancery to show why the royal letters patent should not be repealed, and Maundour allowed to enjoy the archdeaconry in accordance with his collation

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C.P.R., 1381-5, p.73. The Lord Neville in question was John de Neville, fifth Baron Neville of Raby (d.1388) and Lord of Raby and Brancepeth. This great northern lord was closely associated with John of Gaunt and constantly employed on the Scottish border as a warden of the marches. See Dictionary of National Biography, s.v. Neville, John de, and R.L. Storey, 'The Wardens of the Marches of England towards Scotland 1377-1489', English Historical Review, 72 (1957), pp.596-600 and 609-12.

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P.R.O., Ancient Petitions, S.C.8/21/1021.

3

P.R.O., Ancient Petitions, S.C.8/126/6260.

by Bishop Hatfield.¹ However, the petitioner appears to have made no further progress towards obtaining the benefice until 1387, when the pope deprived Prata of the archdeaconry and granted it to Cardinal Deacon Marius Bulcano.² With the king's presentee removed from the scene, Maundour obtained a royal ratification of his estate in the benefice in August of that year.³ Before he could make good his claims against the provisor, the temporalities of Durham again came into the king's hands. In April 1388 Richard II presented Hugh Herle to the archdeaconry.⁴ Later, action was taken to prevent Maundour pursuing his alleged rights in courts christian. Early in 1390 he was prohibited in parliament from going or sending to Rome concerning the archdeaconry of Durham in prejudice of the rights of the king or his presentee.⁵ His efforts to secure the benefice seem to have ended in failure.⁶

¹ P.R.O., Chancery Files, C.202/C.82/79.

² See C.P.L., IV, p.479.

³ C.P.R., 1385-9, p.349.

⁴ John Fordham was translated from Durham to Ely on 3 April 1388 (Handbook of British Chronology, p.221). Grants of the archdeaconry to Herle are calendared in C.P.R., 1385-9, pp.431, 502 and 506.

⁵ R.P., III, p.258.

⁶ On 29 November 1393, after the death of Hugh Herle, John Maundour was said still to oppose the provision of the archdeaconry made to Cardinal Marius Bulcano, litigation about which had been proceeding at the curia between Herle, Maundour, and Bulcano (C.P.L., IV, p.479). After Herle's death, the bishop of Durham collated Thomas de Weston to the archdeaconry, and the latter seems to have successfully asserted his claim to it (Le Neve, Fasti, rev. ed., VI, p.112).

The ecclesiastical courts were virtually useless to incumbents as a means of opposition to royal presentations, unable as these courts were to do anything which might be construed as a trial of patronage. The king remained firm in protecting the jurisdiction of his own courts over advowson. This is manifest in a petition complaining of a royal presentation to an appropriated church,¹ which was presented to the king and council by the prior of Llanthony by Gloucester circa 1367. The church of Aure had been secured for the priory and its appropriation licensed in 1351.² Fifteen years later William de Hoton had procured a royal grant of it and institution.³ The prior had sued against Hoton in the court of Canterbury for spoliation,⁴ but had met with a

1

Appropriated churches were no more safe than other benefices from the attentions of would-be royal presentees. In one case, a clerk secured from the king a grant of a chapel annexed to an appropriated church, to which there had been no presentation or induction for over 100 years on the evidence of the bishops' registers. C.P.R., 1388-92, p.485.

2

The licence is calendared C.P.R., 1350-4, p.122.

3

C.P.R., 1364-7, p.307.

4

'SPOLIATION is a writ obtained by one of the parties in suit, suggesting that his adversary (spoliavit) hath wasted the fruits, or received the same, to the prejudice of him who sueth out the writ. 1 Ought. 13.

And a cause of spoliation shall be tried in the spiritual court, and not in the temporal. And this suit lieth for one incumbent against another, where they both claim by one patron, and where the right of the patronage doth not come in question or debate'. R. Burn, The Ecclesiastical Law, III, p.373.

royal prohibition against further proceedings, almost certainly on the grounds that the jurisdiction of the lay courts over pleas of advowson was being infringed. Certainly in this type of suit it is not easy to discern how possession of the fruits of the benefice could be disputed in the Church courts, without discussion of the king's right of presentation, which could only be determined in the common law courts. Llanthony sought from the king the grant of a consultation,¹ in order that the action might be continued in the ecclesiastical court. A consultation was granted, but with significant reservations. Trial of the right of patronage was forbidden, and the king reserved the right to sue against the prior by writ of Quare impedit for examination of his title to present, whenever he pleased.² Other houses found a more satisfactory procedure in petitioning to the king for trial of the matter in Chancery, in the same way as other incumbents dispossessed without suit in the lay courts.

1

'CONSULTATION is a writ, whereby a cause being formerly removed by prohibition out of the ecclesiastical court or court christian, to the king's court, is returned thither again. For if the judges of the king's court, comparing the libel with the suggestion of the party, find the suggestion false, or not proved, and therefore the cause to be wrongfully called from the court christian; then, upon this consultation or deliberation, they decree it to be returned again; whereupon the writ in this case obtained, is called a consultation'. R. Burn, The Ecclesiastical Law, II, p.12.

2

P.R.O., Ancient Petitions, S.C.8/56/2788.

The long tradition in England which made pleas of patronage a matter for the royal courts, prohibited action by patrons and incumbents not only in the English ecclesiastical courts, but also at the court of Rome. The 1353 statute of Praemunire specified outlawry and forfeiture as the penalties for attempting to draw the king's subjects out of the realm to answer pleas, of which the cognisance belonged to the king's courts.¹ Nonetheless, litigants defeated in the lay courts did sometimes attempt suits at Rome against their successful opponents, who then appealed to the crown to protect the jurisdiction of the secular courts. In the resultant clash between lay and ecclesiastical spheres of authority, the ability of the government to defend the jurisdiction of the royal courts over pleas of advowson is amply demonstrated.

William de Cantelupo, as patron of the church of Ilkeston in Derbyshire, had presented his clerk, Stephen de Candale, to that church during his lifetime. However, Cantelupo had died in 1375 before Candale had been inducted, and his property had come into the king's hand as that of a tenant in chief. Since Candale had not secured corporal possession of the benefice during the lifetime of his patron, the right to present to the church had then belonged to the king under English law. Edward III had presented Richard de Braundeston to Ilkeston,² but Candale had taken possession of the

¹

R.P., II, p.252. Statutes 27 Edward III, statute 1, c.i.

²

C.P.R., 1374-7, p.98.

benefice under cover of Cantelupo's grant to him. Hence a writ of Quare impedit had been brought against him in the king's name. Although Candale had placed himself on the country as inducted before his patron's death, the jury had denied this. The crown had thus made a quite legal recovery of its right of presentation.¹

Candale was foolish enough to take the case to the curia. Braundeston and others complained to Richard II in 1377 that Candale had sued a plea of spoliation against the royal presentee at Rome, which was in defeat of the king's rights and the judgment of his court. He had secured sentences in his favour in contempt of the crown. The execution of these papal sentences through spiritual censure had been commenced by John Moubray, canon of York, and other executors, not merely against Braundeston, but against others 'bienveullantz au dit Richard et presentz au temps du triement fait du dreit le dit aiel sanz autre cause'. Braundeston and his co-petitioners asked the king and council for letters to the pope for repeal of all processes and sentences,² and for an order to Moubray to revoke his actions immediately. Suitable remedies were also requested, which was possibly a general appeal to the Praemunire legislation.³

1

P.R.O., Coram Rege Rolls, K.B.27/460/rex XXVII.

2

For examples of royal letters of this nature to the pope, see The Diplomatic Correspondence of Richard II, pp.25, 134 and 137.

3

P.R.O., Ancient Petitions, S.C.8/166/8300.

This appeal to the crown produced the requisite action to protect royal rights and to uphold the decision of the common law court. In July 1377 a mandate was sent to royal officials ordering the arrest and appearance before the king and council of all impugnors of the king's right to present to the church of Ilkeston, which had been recovered by judgment in King's Bench. The same order was made against those disturbing the possession of Braundeston by proceedings in courts christian outside the realm.¹ At Trinity 1378 a suit was brought against Candale in King's Bench under the statute of Praemunire. Since he failed to appear, he was placed outside the royal protection, his property was forfeit, and process of outlawry commenced against him.² It was not until 1383 that the offender surrendered to his outlawry, and was pardoned for not appearing to answer the king and the royal presentee.³

The machinery employed to protect the jurisdiction of the royal courts and the king's patronage also operated to ensure that papal claims of provision to English benefices did not encroach on royal rights. The only potential challenge to the intensified prerogatives of the crown came in the fourteenth century from the papacy, which was under similar pressure to draw on the resources of the English Church for the support of

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C.P.R., 1377-81, p.44.

²

P.R.O., Coram Rege Rolls, K.B.27/470/rex XVII.

³

C.P.R., 1381-5, pp.341 and 345.

administrators, and was similarly importuned by large numbers of petitioners. In particular the papal plenitudo potestatis and royal regalian rights conflicted over benefices in cathedral and collegiate churches, by means of which both pope and king desired to provide for their servants. However, the common law principle that matters of patronage were determinable only in the royal courts provided the means by which the crown could combat any threat to its interests. If it were proven in the common law courts that a particular presentation belonged to the king, any papal provision became invalid, and it was impossible to appeal elsewhere without impugning the rights of the crown.¹

Papal claims to provisions and reservations, which had originated in the twelfth century, were greatly extended from the thirteenth century onwards. The first general reservation was decreed by Clement IV in 1265, when he reserved to the papacy the benefices of all who died at the Holy See. By the early fourteenth century such decrees covered the benefices of all who died at, or within two days' journey of, the papal court; those of all cardinals, nuncios, papal chaplains, and officials of the curia; and those which were vacated by an act of resignation or exchange made at the Holy See, or were vacated by prelates appointed by the pope. Under the decree Ex debito of 1316 a reserved benefice remained legally vacant until it was filled by the pope, however

1

See A. Deeley, 'Papal Provision and Royal Rights of Patronage in the Early Fourteenth Century, pp.504-5.

long that might be. In 1317 the constitution Execrabilis created a new source of provisions, in the benefices which pluralists were forced to disgorge under its terms.¹ Lesser additions to the classes of benefices reserved to papal provision were made later in the century.²

Clerks seeking benefices from the pope, like those who requested grants from the king, proceeded by way of petition:

A provision was made on the initiative of the petitioner for a benefice (impetrans) alone. More than this, we shall be generally correct in saying that a petition was not refused, if the necessary legal requirements were fulfilled and the usual fees paid; for the central organization regarded its task, not as that of filling vacant places in the hierarchy to the greatest possible advantage, but merely of providing remedies against unqualified petitioners and of preventing illegalities on the part of the impetrant. Nor did the pope, or his officials, take account administratively of the number of provisions they had made. At the Curia no one knew what had been disposed of In practice it was the impetrant's task to discover where vacancies had occurred; the pope took no pains to acquire information or to retain it.³

If his qualifications were judged satisfactory and his petition granted, the candidate would be given a papal

1

See A. Deeley, 'Papal Provisions and Royal Rights of Patronage', pp.499-504.

2

See W.E. Lunt, Financial Relations of the Papacy with England 1327-1534 (Cambridge, Mass., 1962), pp.320-3.

3

G. Barraclough, 'The Constitution "Execrabilis" of Alexander IV', English Historical Review, 49 (1934), p.215.

letter providing him to the benefice requested. This was only the first stage towards acquiring the living in question, for the pope gave no promise of the effectiveness of his grants. A group of local executors were charged with inquiring into the legal aspect of the grace, and rival claimants or the normal patron could appeal against the provision and secure a hearing of their rights.¹ Suits arising from the collation of benefices as a result of papal reservation were the principal concern of the auditors of the court of the Apostolic Palace.² Some of these disputes were referred by the pope to ecclesiastics in England for settlement.³ Papal action was not entirely authoritarian, but provisions which could not be challenged on legal grounds in the Church courts were nonetheless resented by ecclesiastical patrons and their presentees, whose rights were overridden. There is evidence of attempts by such patrons and incumbents to defeat papal provisors by manipulation of royal patronage and the lay courts.

In England recurrent opposition to provisions⁴ culminated in the statutes of Provisors and Praemunire

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See W.A. Pantin, The English Church, pp.49-51, and M. McKisack, The Fourteenth Century 1307-1399 (Oxford, 1959), p.279.

2

G. Mollat, The Popes at Avignon: 1305-78, translated from the 9th French edition 1949 (London, 1963), p.299.

3

For examples, see C.P.L., IV, pp.70, 91 and 237.

4

In the thirteenth century, Matthew Paris spoke of the effects of papal provision in these terms: 'Unde factum est, quod ubi solebant nobiles et dapsiles clerici, ecclesiarum custodes et patroni, circumjacentis patriae
(footnote continued p.169)

in the second half of the fourteenth century, which were strongly anti-papal in nature. No sudden change of royal policy seems to have occurred as a result of this legislation. The king had not needed the statute of Provisors to protect his interests before 1351.¹ Moreover, the appeals outside the realm, at which the 1353 statute of Praemunire was aimed, had been regularly prohibited for half a century, although the statute strengthened the machinery for dealing with offenders.² Edward III had no intention of cutting off his line of approach to the pope for favoured clerks, as this could be used to supplement his own patronage. Despite the legislation of 1351 the king continued to petition the pope for provisions to his servants, and his family and other influential persons did likewise.³ Consequently,

(footnote 4 continued from p.168)

latitudinem sua opulentia nobilitare, transeuntes suscipere, pauperes recreare, ibidem abjectae personae moribus vacui, versutia pleni, procuratores et firmarii Romanorum, quicquid pretiosum in terra fuit et utile abradentes, dominis suis in remotas terras deliciose ex patrimonio Crucifixi viventibus et ex alieno superbientibus transmiserunt'. Matthaei Parisiensis Chronica Majora, ed. H.R. Luard, (7 vols, Rolls Series, 1872-84), III, p.389.

1

See C. Davies, 'The Statute of Provisors of 1351', History, 38 (1953), pp.116-33.

2

See E.B. Graves, 'The Legal Significance of the Statute of Praemunire of 1353', in Anniversary Essays...by Students of C.H. Haskins (New York, 1929), pp.57-80.

3

See W.E. Lunt, Financial Relations, p.346. Anti-papal legislation never succeeded against one form of provision. The reign of Edward III witnessed a complete change from appointment to bishoprics by canonical election and royal confirmation, to a system of papal provision, coupled with an oath to the king in which certain words in the bull were renounced. After 1344 papal provision of

(footnote continued p.170)

a large number of papal grants still were allowed to become effective. Provisions made to Englishmen were not normally prohibited, and W.E. Lunt has suggested that the drastic reduction in the number of such papal provisors came only after the 1390 statute of Provisors.¹

A protracted struggle for the archdeaconry of Cornwall from 1350 to 1371 demonstrates royal machinery for enforcing the rights of the crown against provisors, when royal and papal grants conflicted. The dispute reveals something of the complexity of Anglo-papal relations. John of St Paul, archdeacon of Cornwall, was provided to the archbishopric of Dublin in September 1349. Since the acceptance of a bishopric involved the resignation of other benefices, the pope reserved the archdeaconry, which would become vacant on St Paul's

(footnote 3 continued from p.169)
 bishops became invariable, as kings preferred to use their influence at the curia in favour of their candidates, rather than to attempt to include bishoprics within the scope of the statutes of Provisors. See J.R.L. Highfield, 'The English Hierarchy in the Reign of Edward III', Transactions of the Royal Historical Society, fifth series, 6 (1956), pp.133-4. The commons noted in 1401 that 'la greindre partie de la Prelacie du Roialme ont ensi occupiez et occupient leur Benefices et Dignites par Provision de l'Appostoil, nonobstant l'Estatut' (of Provisors); R.P., III, p.460.

¹

W.E. Lunt, Financial Relations, p.408.

consecration, to John de Harewell.¹ However, at Michaelmas 1349, before St Paul was consecrated, an action in Common Pleas against the bishop of Exeter on a writ of Quare non admisit resulted in the seizure of the temporalities of the see into the king's hands, because of the bishop's contempt in refusing to receive a royal presentee to a benefice.² Under English law the king now had presentation to all benefices vacant and in the gift of the bishop of Exeter, together with those that should become vacant whilst the temporalities remained in his hands. One of those benefices was the archdeaconry of Cornwall.

At Trinity 1350, the king brought an action in King's Bench against the bishop of Exeter for the recovery of his right to present to the archdeaconry of Cornwall. As it was demonstrated that the benefice had become vacant by St Paul's consecration after the seizure of the temporalities of Exeter into the king's hand, judgment was in favour of the crown.³ Edward III granted

1

C.P.L., III, p.341. John de Harewell was a servant of the Black Prince and a member of his council. He was constable of Bordeaux 1362-4, and chancellor of Aquitaine from December 1363. The Prince tried to get him promoted to the see of Bath and Wells in 1363 without success, but in 1366 he was provided to the same see. T.F. Tout, Chapters, V, pp.376-8 and 386; and VI, p.70.

2

P.R.O., Coram Rege Rolls, K.B.27/360/Cornub.46. See also the complaint of the clergy in 1351 against the seizure of the temporalities of prelates for contempt. The clergy cited this case specifically; R.P., II, p.245.

3

P.R.O., Coram Rege Rolls, K.B.27/360/Cornub.46.

the archdeaconry to William de Cusantia in February 1350,¹ and action followed to thwart efforts in favour of the papal nominee. In July and October of that year, mandates were issued for the arrest of all persons prosecuting appeals against the king's recovery of his presentation.² Eventually Harewell was outlawed for not appearing to answer the king for his actions.³ There is no evidence of further attempts by Harewell to press his claims to the archdeaconry. In 1353 he obtained the archdeaconry of Worcester, and the resignation of his claims to that of Cornwall evidently followed.⁴

Papal pretensions to provide to the archdeaconry were revived two years later by a prominent subject and servant of the crown, whose activities reveal a surprising disregard for royal prerogatives. Whilst on the king's service at the papal court in 1355, Guy Lord

1

C.P.R., 1348-50, p.462. Beginning as a clerk of the Despensers, William de Cusantia had been keeper of Edward II's Great Wardrobe from 1320-1, keeper of the king's Wardrobe from 1340-1, treasurer of the Exchequer 1341-4, and again keeper of the king's Wardrobe in 1349-50. T.F. Tout, Chapters, IV, pp.72-3; VI, pp.23, 27 and 35.

2

C.P.R., 1348-50, p.587 and *ibid.*, 1350-4, p.24.

3

C.P.R., 1370-4, p.146. He was pardoned in 1371, by which time he was bishop of Bath and Wells; *ibid.* It would appear from the period of 20 years between outlawry and pardon that the proceedings against Harewell had long remained forgotten.

4

Le Neve, Fasti, rev. ed., IV, p.62; and C.P.P., I, p.280.

de Briene¹ secured a grant of the disputed benefice for his secretary, Thomas David,² despite his evident knowledge of the facts of the case and of the royal claim to present.³ In 1357 the provisor was able to take advantage of an exchange of the archdeaconry made by Cusantia with Nicholas de Newton.⁴ Guy de Briene kept Newton out of the benefice under cover of sentences given at Rome in his secretary's favour. He proceeded to levy the profits of the archdeaconry in the latter's name, in spite of the fact that David had been outlawed for maintaining his suits at Rome. Guy's intervention must have extended over a considerable period of time, for in March 1362 the king felt it necessary to issue a prohibition to him and to John de Sees. They

1

The son and heir of Sir Guy de Briene of Walwyns Castle, co. Pembroke, and of Tor Brian, Devon. He served in the wars with Scotland, Flanders, and France, and was summoned to parliament from 25 November 1350 to 6 December 1389 by writs directed 'Guidoni de Bryan', whereby he was held to have become Lord Briene. He was constantly employed on martial and diplomatic affairs of the highest importance, and was nominated Knight of the Garter on the death of Chandos. G.E. Cokayne, The Complete Peerage of England, Scotland, Ireland, Great Britain and the United Kingdom, Extant, Extinct, or Dormant, rev. ed., ed. V. Gibbs, H.A. Doubleday, G.H. White and R.S. Lea (12 vols, London, 1910-59), II, pp.361-2, s.v. Bryan or Briene.

2

C.P.P., I, p.280.

3

See C.C.R., 1360-4, p.392.

4

The Register of John de Grandisson, Bishop of Exeter, 1327-1369, with Some Account of the Episcopate of James de Berkeley, 1327, ed. F.C. Hingeston-Randolph (3 vols, London and Exeter, 1894-9), III, p.1447.

were ordered to cease all proceedings at Rome in this matter, to restore the profits of the archdeaconry to Newton, and to revoke their other actions in contempt of the crown.¹

Thomas David died at Rome in July 1361 with the case still unsettled. Alexander de Neville next secured a provision to the archdeaconry.² The king replied by granting the archdeaconry to Newton in April 1362, claiming that the proceedings in the papal court against Cusantia and Newton had prevented their full possession of the benefice, and that thus the king's right to collate remained intact.³ Action at Rome also continued, for a papal mandate was issued to the archbishop of York in 1365 to summon those concerned and to decide the suit.⁴ That same year Neville was alleged by the king to be preventing Newton from resuming possession of the archdeaconry by lay force, and a prohibition went out to the dean and chapter of Exeter, and to Neville and his abettors, forbidding action against the king's recovery of his presentation or Newton's resumption of possession.⁵

1

C.C.R., 1360-4, p.392.

2

C.P.P., I, pp.320 and 373-4. Neville was younger brother of John, fifth Lord Neville of Raby, and son of Ralph, fourth Lord Neville, and his wife Alice, daughter of Hugh, Lord Audley, Dictionary of National Biography, s.v. Neville, Alexander.

3

C.P.R., 1361-4, p.185.

4

C.P.L., IV, p.91.

5

C.P.R., 1364-7, p.78.

The invidious position of the dean and chapter of Exeter, caught in the cross-fire of this controversy, is revealed in a petition to the king and council made probably in 1365. They complained of the difficulties of their situation, bound to execute the mandates of the pope and yet prevented by royal prohibitions and suits in the common law courts. Remedy was sought so that they might return to the services of God, as they were accustomed. The reply they received is of great significance, for the council gave it as their opinion that the king's right to collate to the archdeaconry had been fully executed by the grant to Cusantia. The king ought not to intervene further in the dispute, but should supersede all proceedings and repeal his prohibitions and attachments, leaving the person in possession of the benefice to sue in courts christian if he wished to do so.¹ On the basis of this pronouncement, and information supplied by Neville that Newton had voluntarily renounced his claims to the archdeaconry at Rome, the king quashed prohibitions granted at the suit of Newton, together with the presentation made to the latter and all that had followed from it. Newton was told to sue in the ecclesiastical courts for any rights that he still claimed, whilst Neville was granted licence to pursue his claims to the archdeaconry in the same courts.²

Despite the conclusions of the council and the apparent readiness of the crown to abandon its claims

¹ P.R.O., Ancient Petitions, S.C.8/84/4165.

² June 1365; C.C.R., 1364-8, pp.125 and 126.

at this stage, the king's attitude had undergone a complete reversal by 1368. This may be connected with certain events in 1366-7. The pope interceded with Edward III in 1367 for the release of Neville, who had been arrested 'on account of certain grants brought by him from the pope last year, which are displeasing to the king's officers and others of the realm'.¹ In October 1368, a royal prohibition in favour of Newton forbade Neville to attempt anything against the king's recovery of his right to collate to the benefice.² Neville continued his endeavour to enforce the sentences given in his favour at the papal court. In 1369 the king again intervened, this time to order the revocation of proceedings against the bishop of Exeter by the executors in England of certain papal sentences, which had been prompted by the bishop's installation of Newton in the archdeaconry.³ A further commission for the arrest of offenders against the royal recovery of the presentation was issued in 1370.⁴

About this time Neville petitioned to the king and council. Citing in his favour the endorsement of the petition of the dean and chapter in 1365, and a declaration made in council that the king had no further right to meddle with the archdeaconry, he complained that at Newton's suggestion the king had sued against

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C.P.L., IV, p.26.

2

C.P.R., 1367-70, p.191.

3

C.P.R., 1367-70, p.259.

4

C.P.R., 1367-70, p.419.

him a writ of Scire facias in King's Bench. The king was seeking once more to execute his right to collate to the benefice under the recovery made against the bishop of Exeter. He asked that the plea in King's Bench be suspended, whilst the endorsed petition and declaration of the council were brought before parliament for final discussion.¹ However, he seems to have made no progress in asserting his claims, as by 2 May 1371 the plea in King's Bench had reached an issue.² A week later the king presented Thomas Orgrave to the archdeaconry without mention of any other claims.³ Orgrave retained the benefice until an exchange made in 1377.⁴

Whilst the crown was determined to keep within its own control, and under the jurisdiction of the lay courts, all litigation on conflicts between royal and papal presentations, petitions from provisors against abusive use of royal patronage, aimed at excluding them from execution of their provisions, received the same treatment from the king as those of other clerks. Nicholas de

1

P.R.O., Ancient Petitions, S.C.8/64/3151.

2

An order was then sent by the king to the justices for an inquisition to be taken by writ of Nisi prius before the justices of assize in Cornwall; C.C.R., 1369-74, pp.245-6.

3

C.P.R., 1370-4, p.78. The grant was made to Orgrave by reason of the vacancy of the see of Exeter, which had occurred in 1369 on the death of Bishop Grandisson. Grandisson's successor, Bishop Brantingham, received restitution of the temporalities on 16 May 1370; Le Neve, Fasti, rev. ed., IX, pp.1-2.

4

Le Neve, Fasti, rev. ed., IX, p.16.

Rissheton sued to the king in 1388 concerning the church of Warfeld, whose patron was the prior of Hurley. Its parson, John de Bowland,¹ had received a papal expectative grace for a benefice in St David's cathedral at the king's nomination. The pope, 'voillant faire une grace especiale a dit Nichol', had granted Rissheton the church of Warfeld as soon as it should become vacant for any reason other than the death of Bowland. On accepting the archdeaconry of St David's, Bowland had resigned Warfeld. However, one Robert de Warthecop, 'ymaginant pur faire preiudice a dite prouision et destourber le dit Nichol de execucion du dite prouision', had suggested to the king that he had the right to present to the vacant church. He had succeeded in securing a royal grant of Warfeld, by means of which he had been inducted. It is a significant commentary on the network of influence that lay behind many royal presentations that this had been done through the aid and counsel of the late parson, Bowland. Rissheton sought from the king the grant of a writ of Scire facias to bring Warthecop before Chancery.²

1

Bowland was one of the greater clerks of Chancery under Edward III and his successor (B. Wilkinson, The Chancery under Edward III, pp.177 and 205). Rissheton is presumably the diplomatist of that name, who in 1391 was one of the clerks engaged at the Roman curia on the suit of John de Waltham, bishop of Salisbury, with his chapter. Under Henry IV he was a commissioner negotiating with the French in 1403-4, and was employed on a mission to the pope in 1408. In 1404 he was described as doctor utriusque juris and auditor of causes in the holy apostolic palace. Dictionary of National Biography, s.v. Rishton, Nicholas.

2

P.R.O., Ancient Petitions, S.C.8/253/12602.

This was granted; and an entry on the Patent Rolls reveals the cancellation of the presentation to Warthecop, with all subsequent proceedings in prejudice of the rights of Rissheton.¹

The rights of ecclesiastical patrons and their presentees were nullified by papal provisions, causing an active resentment which is reflected in petitions. In a number of cases patrons and incumbents reacted against papal grants with a collusive use of royal patronage and the courts that enabled them to defeat the pretensions of provisors. William Forster petitioned to the king and council in 1385. He had been provided by the pope to the archdeaconry of Winchester, because the benefice had become vacant at the court of Rome.² John de Bloxham had been collated to the same benefice by the bishop of Winchester in 1382,³ but Forster had sued a long plea against him in the court of Rome, which had resulted in three definitive sentences in favour of

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C.P.R., 1385-9, p.524.

2

Forster claimed in Chancery that the vacancy had occurred as a result of the provision of Nicholas de Wykeham, then archdeacon of Winchester, to the archdeaconry of Wiltshire. 5 February 1388, the king confirmed the estate of Wykeham in the archdeaconry of Wiltshire (C.P.R., 1385-9, p.401), and he was installed in December of that year; but there is no evidence of an earlier provision in Le Neve, Fasti, rev. ed., III, p.14.

3

Nicholas de Wykeham resigned the archdeaconry on 29 November, 1381; Wykeham's Register, ed. T.F. Kirby (2 vols, Hampshire Record Society, 1896-9), II, p.328. Bloxham was collated on 27 March, 1382; *ibid.*, I, p.131.

the provisor. In order to thwart the execution of these, Bloxham had secured a royal grant of the archdeaconry in 1384, claiming a vacancy under Edward III during which the temporalities of Winchester were in the king's hands.¹ Action was taken to prevent Forster taking the case out of the country,² so that a petition was now the sole means available to him for securing redress. When he asked that Bloxham be summoned to show the king's title to present, the plea was sent for trial in Chancery.³

Bloxham argued in Chancery that Robert de Wykford, collated to the archdeaconry in 1362, had retained it until his elevation to the archbishopric of Dublin in 1375. The benefice had then remained vacant until the temporalities of the see of Winchester were seized into the king's hand in 1376.⁴ Richard II's grant was thus represented as a recovery of a right of presentation neglected by his grandfather. Forster stated that Wykford had resigned the archdeaconry previous to his elevation to the archbishopric, and that the bishop had duly collated Nicholas de Wykeham to succeed him.

¹ C.P.R., 1381-5, p.460.

² C.C.R., 1381-5, p.596.

³ P.R.O., Ancient Petitions, S.C.8/240/11963 and Warrants for the Great Seal, C.81/488/3544.

⁴ William of Wykeham, bishop of Winchester, was examined in the autumn of 1376 by the great council on a number of charges relating to his conduct as chancellor ten years earlier. After two days' trial, he was sentenced to forfeiture of his temporalities and forbidden to come within 20 miles of the court. See M. McKisack, The Fourteenth Century, p.394.

Wykeham had held the benefice until his provision to the archdeaconry of Wiltshire. The benefice had therefore not been vacant when the temporalities of the see were seized in 1376.¹ Nonetheless, when Bloxham offered verification of his statement, Forster refused this. The provisor could add nothing further to his case than a request for the examination of Nicholas de Wykeham, which the court regarded as useless in law against the verification offered by his opponent. The case was decided in favour of the royal presentee, who went sine die.²

Forster's reluctance to allow the case to go to a jury on his opponent's statement of the facts is odd, but he had been given a reasonable opportunity to demonstrate his rights against those of the crown. His subsequent attempt to challenge the verdict given in Chancery by suing at Rome was foredoomed to failure. The annulment of the decision of the royal court which he secured at the curia, merely served to provoke royal action to prevent execution of the papal sentence.³ He was outlawed for his failure to appear before the courts to answer for his contempt, and did not secure pardon

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Wykeford resigned the archdeaconry before 19 October 1372, when Nicholas de Wykeham was collated to the benefice (Wykeham's Register, I, p.46). Wykeham resigned the archdeaconry on 29 November 1381 (Wykeham's Register, II, p.328).

2

P.R.O., Judicial Proceedings (Common Law Side), Placita In Cancellaria, Tower Series, C.44/12/20.

3

C.P.R., 1385-9, p.172.

until 1388.¹ In the next year he finally renounced all claims to the archdeaconry.²

The execution of another papal provision was similarly thwarted in the last years of Edward III's reign. Richard North petitioned to the king, alleging his provision to the church of St Mary Waynflet,³ which was in the patronage of the prioress of Stixwold. The prioress had presented her brother, Walter Malet, to the church and ousted the petitioner. North had thereupon appealed to Rome, and secured definitive sentences against Malet. Whilst the provisor had been at Rome, a conspiracy between the prioress and Malet had obtained royal presentation for the latter to the church of Waynflet in 1372.⁴ A suit of Quare impedit had been procured in Common Pleas on the king's behalf. Inevitably this had gone in favour of the crown by default. North stated that the priory was of the foundation of the duke of Lancaster. For this reason the king had no title to present to the benefice; but a prohibition had been issued

¹ C.P.R., 1385-9, p.479.

² C.C.R., 1385-9, p.660. By this time Bloxham was dead (he died before July 1387), and the king had granted the archdeaconry to Roger de Walden (C.P.R., 1385-9, p.343). See Le Neve, Fasti, rev. ed., IV, p.50.

³ C.P.L., IV, p.179. The pope claimed the right to provide because the previous incumbent, William de Askobi, had been a papal chaplain. The benefice had become vacant by Askobi's death.

⁴ C.P.R., 1370-4, p.204.

to all ecclesiastical persons forbidding attempts to proceed in derogation of the judgment of the royal courts.¹

The king granted North trial of his rights in Chancery, but his two petitions show that little success attended his efforts. His first supplication complained of a delay of three years in securing justice,² and he had made no further progress in Chancery the next year, when he alleged that the case was unduly delayed through favour.³ He probably failed to obtain the benefice, for an entry on the Patent Rolls under 1377 rehearses the royal recovery of title and reserves the rights of the prioress of Stixwold over the advowson for the future.⁴ Obviously the prioress was fully aware that a successful manoeuvre on this occasion might be turned to the future detriment of her house by the crown. The dispute gives a hint that Chancery may not have been unsympathetic towards such attempts to prevent papal encroachment on the rights of English patrons.

Whilst the statute of Provisors did not cut off the flow of provisions after 1351, serious difficulties of execution seem to have faced some papal grantees. The continued pressure of the commons in parliament resulted in tighter royal control over provisions to Englishmen at the end of the fourteenth century. The parliament of

¹ C.P.R., 1370-4, p.391.

² P.R.O., Ancient Petitions, S.C.8/209/10406.

³ P.R.O., Ancient Petitions, S.C.8/130/6451.

⁴ C.P.R., 1374-7, p.449.

1388 placed a heavy penalty on anyone going or sending to the papal court for a provision without royal licence;¹ and after the more stringent statute of Provisors in 1390,² licences appear generally to have been granted sparingly. Pope and king continued to seek a mutually acceptable agreement about provisions, but the concordat made in 1398 was aborted by Richard II's deposition.³ The act of 1390 became the turning-point in the reduction of the number of papal provisions, although leave to 'moderate' the statute was granted on more than one occasion to Richard II and his successor.⁴ By 1410 the statute seems to have been generally applied in full vigour, and very few licences were granted after the early years of the fifteenth century.⁵ Martin V failed to

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Statutes 12 Richard II, c.xv. Higden commented on this statute that 'quia praedicta ordinatio parliamenti nequaquam fuerat executata, ideo universa ut antea inconcusse steterunt'. Polychronicon Ranulphi Higden, Monachi Cestrensis, IX, ed. J.R. Lumby (Rolls Series, 1886), p.205.

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R.P., III, pp.266-7 and 270. Statutes 13 Richard II, statute 2, cc.ii and iii.

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See W.A. Pantin, The English Church, pp.92-3.

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See R.P., III, pp.285, 301, 340-1, 428-9 and 458-9.

5

See E.F. Jacob, 'On the Promotion of English University Clerks during the Later Middle Ages', Journal of Ecclesiastical History, 1 (1950), p.180. On the other hand, in 1415, a petition of the commons could still complain that 'diverses persones eiantz Provisions del seint Pier l'Appostoill, des diverses Benefices en Engleterre, et aillours, et licences Roialx pur executer les ditz Provisions, ont par colour d'icelles provisions et licences, et acceptations des ditz Benefices, subtilment oustees diverses persones de leur benefices, en queux ils ont este encumbentz par long temps, del collation des verraiez patrons espirituelx, a eux faitz duement a leur entent'. R.P., IV, p.80.

secure the repeal or modification of the legislation against provisors, despite his persecution of Chichele in the early years of Henry VI's reign.¹ From the opening of his pontificate to 1534 the number of effective provisions, with the exception of bishoprics, was few compared with those of the fourteenth century.²

An absolute exclusion of papal grants seems to have been feared after the statute of 1390. The crown's complete control over the execution of provisions is seen in the petition of John Mere to the king and council in that year. The suppliant sought clarification of the effects of the new legislation. The pope had granted him the prebend of Gretton in Lincoln cathedral, which had become vacant at the court of Rome by the provision of John Trefnant to the see of Hereford.³ Mere had been installed on 3 April 1390,⁴ but this was too late for him to benefit under the clause of the statute ratifying the position of provisors in possession before 29 January 1390.⁵ Mere stated that he dare not take corporal possession of the prebend for fear of offending the king and incurring the penalties

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See E.F. Jacob, The Fifteenth Century, 1399-1485 (Oxford, 1961), pp.235-6.

2

See W.E. Lunt, Financial Relations, pp.427-8.

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C.P.L., IV, p.378.

4

Le Neve, Fasti, rev. ed., I, p.67.

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Statutes 13 Richard II, statute 2, c.ii. For an example of the enforcement of the statute against a provisor not in possession on 29 January 1390 of the benefice for which he was suing, see R.P., III, p.482.

of the statute. He asked for an examination of his case, so that he might be advised what course of action would be in accordance with the law.¹

This petition was a fundamental test of the government's intentions, for the pope's right to provide to benefices vacated by candidates provided to sees was a long-established one, particularly where, as here, the new bishop had been consecrated at Rome.² Royal prerogatives were not involved, as the bishopric of Lincoln had not been vacant for nearly 30 years. Mere's difficulty probably lay in the fact that one William Grettewell had been collated to the prebend and installed before the 1390 statute, which protected the rights of such incumbents. Grettewell had been displaced by the installation of Mere in April.³ In the event, the king granted with the assent of his council in parliament that Mere might sue for execution of his provision in courts christian, and take corporal possession of the prebend 'en forme de Ley'. The reason given for this decision was that the benefice had become vacant at the court of Rome. The licence entered on the Patent Roll added that it was not to be drawn into

¹ P.R.O., Ancient Petitions, S.C.8/62/3069.

² See A. Deeley, 'Papal Provision and Royal Rights of Patronage', pp.499-501. For Trefnant's consecration at Rome, see W. Stubbs, Registrum Sacrum Anglicanum, 2nd edition (Oxford, 1897), p.82.

³ Le Neve, Fasti, rev. ed., I, p.67.

and council in parliament allowed that he might sue for full execution of his provision and take corporal possession, the Patent Roll entry again adding that this was not to be drawn into a precedent.¹ The care with which Prata proceeded is indicative of a perceptible change in the enforcement of anti-papal legislation.

It is clear that many of the licences enrolled on the Patent Rolls never led to possession of the benefices sought. The acquisition of a licence from the king would not help a provisor, if his opponents made it their business to discover a royal claim to the presentation in order to exclude him. In May 1404 William Glym, himself a royal clerk,² petitioned for a licence to sue to the pope for the grant of an expectative of a canonry, prebend, office or dignity in the cathedral church of Salisbury, and secured such a grant.³ On 27 July 1404 the pope issued a mandate to the abbot of St Peter's, Westminster, ordering him to make provision to Glym of a canonry of Salisbury, and to reserve to him a prebend and elective dignity, not major, personatus, or office, with or without cure, or a prebend and office without cure only.⁴ When the

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P.R.O., Ancient Petitions, S.C.8/134/6667. C.P.R., 1391-6, p.3. Prata is noted only among the unidentified prebendaries of St Asaph in Le Neve, on the basis of the royal licence to execute his provision; Le Neve, Fasti, rev. ed., XI, p.47.

2

William Glym, king's clerk, had been appointed receiver of North Wales, with all the power of a chamberlain, in 1389; T.F. Tout, Chapters, VI, p.63.

3

P.R.O., Council and Privy Seal Records, E.28/file 12. C.P.R., 1401-5, p.397.

4

C.P.L., V, p.618.

treasurer's office at Salisbury was vacated on the election of John Chaundeler as dean on 20 August 1404, Glym asserted his claim to the benefice, but met with opposition from another candidate. George Westby was collated by the bishop on 30 August, and immediately after installation he exchanged it with George Louthorp for the prebend of Fordington and Writhlington.¹ Louthorp then bolstered his position by gaining royal confirmation of his estate in the following month.² Subsequently, Louthorp procured the king's presentation to the benefice in April 1405, on the grounds that the king had a claim to present dating back to the last voidance of the bishopric.³

Glym took the case to Rome. Litigation was proceeding there between the two parties in November 1405, when Louthorp presented a petition to the pope, alleging that neither litigant had been found to have a right to the benefice. In response to this supplication, Innocent VII ordered the papal auditor in charge of the proceedings to collate Louthorp to the treasurership, if it should be found that neither party

¹ Le Neve, Fasti, rev. ed., III, p.20.

² C.P.R., 1401-5, p.306.

³ C.P.R., 1405-8, p.8. The temporalities of Salisbury were in the king's hands from the death of Bishop John de Waltham on 18 September 1395, until 30 January 1396; Le Neve, Fasti, rev. ed., III, pp.1-2. Just prior to this a provisor and the bishop's presentee had been disputing possession of the treasurership; Le Neve, Fasti, rev. ed., III, p.20.

did have the right.¹ However, Glym was successful at the curia, securing a papal mandate of sequestration against his opponent, which was delivered to the bishop of Salisbury in 1406. Louthorp countered with action in the royal courts. A writ of Praemunire facias was issued against Glym and one Thomas Byllesthorpe, who had delivered the mandate of sequestration. As a result of this suit Louthorp recovered 1,200 marks for damages and costs against the defendants. By the same judgment the arrest of Glym and Byllesthorpe was ordered, until they should make fine and ransom with the king, satisfy Louthorp, renounce the treasurership, and find security not to attempt anything further. Glym's suits at Rome resulted in two commissions for his arrest in 1408,² and he was outlawed for not appearing before the justices of the Bench to satisfy the king for the judgment given in the earlier suit. He was pardoned in 1410,³ after he had entirely failed to dispossess Louthorp from the benefice.

The statute of 1390 added another weapon to the armoury of those ecclesiastical patrons and their presentees, who sought to resist provisors by means of royal patronage and the common law courts. In a petition to the king of 1393 Gruffith Yonge spoke of an expectative grace granted to him by Urban VI,⁴ which had

¹ C.P.L., VI, p.61.

² C.P.R., 1405-8, pp.479-80.

³ C.P.R., 1408-13, p.264.

⁴ Urban VI died 15 October 1389; Handbook of Dates for Students of English History, ed. C.R. Cheney (London, 1961), p.38.

been executed by his acceptance of the prebend of Garthprengy in the collegiate church of Abergwili. He stressed that he had been inducted into corporal possession some time before the statute of Provisors of 1390. His tenure of the prebend was thus protected by the clause of the statute which confirmed the possession of provisors inducted before 29 January 1390.¹ Yonge's acquisition of the benefice had not remained unchallenged, and he had obtained the king's ratification of his estate in 1392,² probably in order to combat more effectively the collations to the prebend made by the bishop of St David's.

John Gilbert, who became bishop of St David's in 1389, seems to have collated John Godemanston to the prebend at the vacancy which Yonge sought to fill by his provision. Yonge stated that when Godemanston had resigned Garthprengy, the bishop had followed his first collation with a similar grant to Emond Warham. Afterwards, 'le dit Emondveiant qil nauoit droit a dite prebende', a royal presentation had been secured for one Andrew Hore by collusion between the latter and Warham.³ A writ of Quare impedit had been sued on the king's behalf

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Statutes 13 Richard II, statute 2, c.ii.

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C.P.R., 1391-6, p.16.

3

February, 1392. The grant was made by reason of the temporalities of St David's being lately in the king's hand (C.P.R., 1391-6, p.32). The bishopric had become vacant on the death of Bishop Houghton sometime before 10 February 1389, and the temporalities had been restored to John Gilbert on 12 July 1389 (Le Neve, Fasti, rev. ed., XI, pp.53-4).

in Common Pleas against the bishop as patron, and Warham as incumbent. The king had recovered his title to present by default 'par lour accorde'. Hore had been instituted and inducted, and Yonge given no opportunity to defend his rights against the crown.

In order to complete the downfall of his opponent, Hore had gone on to sue a writ of Praemunire facias against Yonge, and his proctors, executors, and notaries, alleging that these persons were suing to execute a provision not consummated on or before 29 January 1390, and that they had thrust out the king's presentee from his prebend. Yonge petitioned to the king for the grant of a writ of Scire facias to bring his opponent before Chancery, and sought the supersession of the suit in Common Pleas meantime. His petitions were granted.¹ A writ of Scire facias was issued to Hore, and in July 1393 a Supersedeas omnino was sent to the justices of the Bench.² Other evidence suggests that Yonge was eventually successful in retaining possession of his prebend, despite the ingenious tactics of his opponents.³ Thus whilst English ecclesiastical patrons and their

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P.R.O., Ancient Petitions, S.C.8/255/12712 and 296/14761.

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P.R.O., Chancery Files, C.202/C.98/77. C.C.R., 1392-6, p.223.

3

An entry under November 1393 in the papal registers describes Yonge as prebendary of Garthprengy (C.P.L., IV, p.445). Similarly, an entry under 1399 still describes him as such (C.P.L., V, p.239). From the evidence of the papal registers it seems possible that Yonge was a servant of the queen.

presentees, resentful of papal encroachment on their rights, were ready to make collusive use of royal patronage and the common law courts to thwart provisors, their efforts were to some extent curbed by the willingness of the crown to grant such papal grantees the means of securing redress, provided that they sought justice from the king by petition like other ousted incumbents, and did not seek trial of the case at Rome in prejudice of royal rights.

The king's rights of presentation to ecclesiastical benefices were a valuable form of patronage, which enabled the crown to reward royal servants suitably for their service at no cost to the Exchequer. Royal exploitation of these rights in the later middle ages provides an instance of the growing power of the crown over the Church and its resources. The king intensified his prerogatives in this regard and employed the common law courts to enforce his claims. The jurisdiction of these courts over advowson was resolutely maintained, and the provision of remedy to those injured by the exercise of royal patronage was kept firmly in the king's hand. The English ecclesiastical courts and the Roman curia were alike prohibited from intervention in disputes resultant on royal presentations. The papacy constituted the only challenge to the crown in the matter of patronage; but petitions demonstrate the king's ability to counter any threat to his rights from provisions and reservations. Moreover, by the early fifteenth century, anti-papal legislation had placed provisions entirely under royal control, since the king's

licence was necessary for their execution, and had severely reduced the number of those that took effect.

Because this was a period in which the crown was extending its claims, the question of how far the king was willing to provide against injustice caused by the exercise of royal patronage is the more significant. The machinery of administration was inadequate to prevent numerous complaints of injustice, many of which were prompted by real grievances. Such plaintiffs were entirely dependent on the king's grace for securing redress. Indeed the crown had insisted upon keeping the provision of remedy for ousted incumbents a matter of petition for grace, when the commons had proposed that the chancellor be given power to deal with this problem without the need for recourse to the king. However, petitions supply impressive evidence of the crown's acceptance of the notion that a proper trial of the king's title to present should be accorded plaintiffs against unjust royal grants. An effective means of obtaining redress against royal presentees was available to ousted incumbents through petition and suit in Chancery. The many and various attempts of clerks to exploit royal prerogatives to the detriment of other patrons and incumbents were curbed by this generally efficient process for securing trial of the rights of all parties.

Chapter III

LORDSHIP, LIBERTIES, AND ROYAL PREROGATIVES

The question of how far the clergy were able to secure redress from the crown for injustices caused by the king's exercise of royal patronage was discussed at length in the last chapter. In the present study another aspect of the subject of proceedings against the crown will be considered. The prelates and corporate foundations of the medieval Church were territorial magnates, exercising a temporal lordship not different in essentials from that of lay lords. Much of the time and energy of leading churchmen was spent in defending their rights and administering their estates. The maintenance of the privileges of their houses and sees unimpaired was a solemn obligation. The relations of such ecclesiastical lords with the crown, the first landlord in the realm and feudal overlord, form the subject of a small group of petitions, which are concerned with the efforts of churchmen to safeguard their rights and privileges in what was a period of crisis for many manorial lords.¹

While there is no evidence that the crown sought to extend its own rights at the expense of other lords,

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For a discussion of the difficulties of landowners in the economic depression of the later middle ages, see M.M. Postan, in The Cambridge Economic History of Europe, I, ed. M.M. Postan, 2nd edition (Cambridge, 1966) pp.548-632.

the repair and maintenance of the king's estate was a constant preoccupation of his officials. Some conflict of interest between the king and other lords could not be avoided, for the royal administration was always active in asserting the real and suspected rights of the crown. Moreover, since all franchises held by mesne lords were regarded as exercises of royal rights by private persons, their holders might be required at any time to show sufficient warrant for the rights they claimed.¹ A number of suits will be examined, which provide evidence of the extent to which the king was willing to provide justice for complainants against royal encroachment on the rights and franchises of mesne lords. They illustrate the vital importance of the petition as the means of securing redress from the king for his acts and actions done in his name, and indicate how far concern to protect royal rights was matched by a readiness to hear the claims of these ecclesiastical lords and to render to each his own.

The period following the Black Death was one of widespread recalcitrance among bondmen,

who, in the general dislocation resulting from the plague, redoubled their efforts to throw off the burdens and restraints of serfdom which hampered them on the road to prosperity and full enjoyment of the opportunities afforded by the growth of leaseholds.²

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See D.W. Sutherland, Quo Warranto Proceedings in the Reign of Edward I, 1278-94 (Oxford, 1963), chapter 1.

2

M. McKisack, The Fourteenth Century, p.335.

One aspect of this unrest was a movement by villeins circa 1377 to claim and exploit against their lords the privileges of tenure on ancient demesne. The manors held by the crown in 1066 were technically known as ancient demesne; and even when the king had granted them away, he retained a special interest in these estates and special rights over the tenants on them. Such tenants enjoyed a privileged position which gave them the protection of royal writs, the little writ of right close and the Monstraverunt, against disturbance in their holdings and infringement of custom. In contrast with villeins in general, whose tenure was unprotected at common law, tenants in ancient demesne were put on a level with the freeholder in the protection that they received from the king's court.¹

Groups of villeins had attempted to claim tenure on ancient demesne for at least a century before 1377;² but in that year there is evidence of a widespread attempt by peasants to justify withdrawals of services from their lords by means of exemplifications of extracts from

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See Sir F. Pollock and F.W. Maitland, The History of English Law, I, pp.383-406. R.S. Hoyt, The Royal Demesne in English Constitutional History: 1066-1272 (Cornell University Press, 1950), ch.VI.

2

See R.H. Hilton, 'Peasant Movements in England before 1381', Economic History Review, 2nd series 2 (1949), p.125. Also Sir F. Pollock and F.W. Maitland, The History of English Law, I, p.378 and *ibid.*, note 4.

Domesday Book obtained in Chancery.¹ Since their bondmen based their resistance on pretensions to a privileged relationship with the crown, certain ecclesiastical lords found it necessary to appeal to the king for aid in enforcing their rights. The collegiate church of Ottery St Mary, Devon, petitioned to the council in September 1377, asserting that £36 of the £76 paid annually in rent by their tenants at Ottery was in arrears.² The warden of the church had distrained for these dues, but on each occasion the distraints had been liberated by four of the tenants in question:

par garant qils ount dascunes lour meintenours
qont tut loffice et poair de Viscount du dit Counte
par cause qe les ditz meintenours ont enpris de
prouer le dit manoir estre Aunciene demesne....³

I

The ancient demesne of the crown was the land which had belonged to the king in 1066, and the evidence of Domesday Book was accepted as conclusive on this point. The lawyers of the fourteenth century had adopted the rule that no testimony was admissible as to whether or not a manor was ancient demesne save that of Domesday Book (Sir F. Pollock and F.W. Maitland, The History of English Law, I, p.399). The Patent Rolls for the period between March and August 1377 record 17 exemplifications of extracts from Domesday Book, mainly for manors in Wiltshire, but with some examples in Surrey, Hampshire, and Berkshire. In all but two cases they were secured by the tenants of ecclesiastical lords (C.P.R., 1374-7, p.452; *ibid.*, 1377-81, pp.9, 10, 12, 15, 16, 18 and 23).

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The college had been founded in 1337, contained some 8-9 prebends, and had a net income circa 1535 of over £303. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.338.

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P.R.O., Ancient Petitions, S.C.8/63/3142.

The allegation that ancient demesne was involved had evidently been sufficient for the royal officers in the county to give some countenance to the tenants' proceedings.

The suppliants denied that Domesday Book showed the land in question as Terra Regis, and rightly asserted that it was described there as the land of the church of St Mary Rouen.¹ It was frank fee, and could not be pleaded by little writ of right close. Yet the college was in real difficulties as to how it might obtain the rents due. Its tenants did not hold their tenements by charter, but 'par roule de Court et par verge', so that the college could not recover the rents by common law assize. Equally, the tenants could not be ousted from their holdings, 'pur ceo qils tenont lour terres par tielle custume come de bas tenure del aunciene demesne'. Royal aid was sought in dealing with the tenants' maintainers. The suppliants proposed that six of these offenders be summoned before the council to answer for all.

The council, discerning a danger of rebellion from such activities, lent its aid to the college and to other lords in a like situation. The sheriff was ordered to aid the college in making reasonable distraint on the

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This is confirmed by Domesday Book. See Domesday Book, ed. H. Farley (2v. in 1, London, 1783), Devenescire, f.104, col.2.

defiant tenants for rents and services due and accustomed.¹ Action was also taken to suppress the practice of using extracts from Domesday Book in support of withdrawal of services. Commissions were issued in September and October 1377 for inquiries into confederations of tenants in Wiltshire, Hampshire, and Surrey. The commissioners were given power to bring offenders before them and to compel them to find security for good behaviour. The recalcitrant were to be committed to the nearest gaol.² The council issued a declaration that lords ought not to be deprived of their services by pretext of such

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P.R.O., Ancient Petitions, S.C.8/63/3142, and C.P.R., 1377-81, p.20. The church of Ottery St Mary failed to settle its difficulties with its tenants in 1377. In 1397 the college secured a special commission of Oyer and terminer against its tenants, who were alleged to have long withdrawn due services and leagued together to resist the warden and his ministers (C.P.R., 1396-9, p.309). Soon afterwards the warden and canons appealed to the king for aid against their tenants, who held by customary tenure, but were pretending to hold free tenements. Both parties were summoned before the council, and there ordered to treat together for a settlement of the dispute. They could not agree; and the warden and canons complained that their opponents had instigated assizes concerning tenements in Ottery against the college and each other, 'dauoir trie les ditz tenementz par la commune leye et noun par custume de manoir'. The petitioners sought writs to the justices of assize to suspend proceedings, until the tenants' claim of free tenement had been fully discussed before the council. Further they asked that the council be charged to determine the dispute as hastily as possible. The king granted the petition. P.R.O., Ancient Petitions, S.C.8/251/12549.

2.

C.P.R., 1377-81, p.50.

exemplified extracts from Domesday Book, and might distrain their tenants with the assistance of sheriffs, mayors, and other royal ministers.¹

When these measures proved insufficient to repress such peasant unrest, lords in difficulties were obliged to seek further assistance from the crown. The abbot of Chertsey² sought redress against his tenants of Chabham, Thorp, Egeham, and one other vill, in the parliament which assembled in October 1377. His villein tenants were said to hold their tenements by the rents and services customary since the foundation of the abbey in 722. So early a date ruled out the possibility that a claim to ancient demesne tenure could be substantiated by Domesday Book.³ Nonetheless, in alliance with the tenants of other lords, the abbot's tenants had secured 'une patent appelle exemplificacion' and now supposed themselves of free condition. They had withdrawn their services and forcibly resisted distraint by the abbey's ministers. When in accordance with the council's declaration, the abbot had got a writ to the sheriff of the county ordering him to aid in distraining the tenants, they had broken

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C.P.R., 1377-81, p.24.

2

The Benedictine abbey of Chertsey in Surrey had a net income in 1535 of over £659. The original foundation of 666 had been destroyed by the Danes, but the abbey had been refounded some years before 964 with 13 monks from Abingdon, who were replaced by other monks in 964. There were 20 monks in the house in 1535. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.62.

3

None of the Chertsey manors involved in this dispute is described as Terra Regis in Domesday Book. See Domesday Book, ed. H. Farley, Sudrie, fol.32b, cols. 1 and 2.

the resultant arrest of their property and declared,
'sils ne purront auoir lour purpos que mille des hommes
en ceste pais serront mortz'.¹

However, the tenants of Thorp, Egeham, Coveham, and Chabham were sufficiently convinced of their claim to the special protection of the crown that they sued to the king against their lord. They stated that the tenants of these manors had been 'tenauntz immediatez' of the crown, until King Edgar² had granted the manors to the abbey of Chertsey in perpetuity. Thereby such tenants had become tenants of the abbot, holding as freely of him as they had held of the crown before the grant, and by the same services. The present abbot and his immediate predecessors had claimed the right to tallage them every year at will, and had distrained for payment of these tallages, against the form of their tenure and the will of the donor. Many of the tenants were of free birth and could alienate their land and tenements, goods and chattels, to whom they pleased. By such wrongful impositions the abbot would be able to secure all their goods when he wished, if he had his will. The king was asked to provide a remedy, which would prevent the levying of these tallages and allow the tenants to hold their lands and tenements as freely of the abbot as formerly of the crown.³

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P.R.O., Ancient Petitions, S.C.8/103/5106.

2

Edgar became king of the Mercians and Northumbrians in 957, and king of all England in October 959. He died in 975. Handbook of British Chronology, p.28.

3

P.R.O. Ancient Petitions, S.C.8/144/7173.

The tenants' petition suggests that the abbot of Chertsey may have attempted to compensate himself for a fall in agricultural income by increasing his exactions from his villeins in the form of tallages. Since the lands in question were not ancient demesne as defined by the law at this time, the king showed no inclination to intervene on the side of the rebellious tenants. Their petition seems to have received no reply. The abbot of Chertsey was referred for redress to an ordinance enacted in the parliament of 1377 in response to a commons' petition. The commons had complained of the misinterpretation of exemplifications by villein tenants, which caused them to withdraw services due to their lords and to consider themselves free 'de toute manere Servage due si bien de lour corps come de lour tenures'. The same tenants had allied together in resisting distrainments, to the great loss of their lords. The ordinance declared such exemplifications of no value in changing the legal condition of villeins or the terms of their tenure. Lords were not to be prejudiced from receiving services anciently due by letters patent of this kind. On the contrary, they were to be granted special commissions of Oyer and terminer to deal with their rebellious tenants.¹ The abbot of Chertsey was

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R.P., III, pp.21-2; Statutes 1 Richard II, c.vi. Eight special commissions of this type were issued in April and May 1378 (C.P.R., 1377-81, pp.204, 251 and 254).

one of a number of lords who made immediate use of the new commissions.¹

The royal government had no desire to countenance villein pretensions to a privileged relationship with the crown that damaged the position of mesne lords, threatened the social order, yet brought no obvious profit to the king. However, if the legitimate interests of the crown were involved in a dispute, it behoved other lords to take full account of this factor in their proceedings. A litigant ill-advised enough to prosecute suits at common law without due regard for royal rights was made to feel the full weight of royal displeasure. The case concerned the stannaries, which provided a substantial income for

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C.P.R., 1377-81, pp.204 and 251. Two writs to the Treasurer and Chamberlains dated February 1378 and requesting the return of certain information into Chancery may be connected with the abbot's proceedings against his tenants. The first writ ordered a search of Domesday Book; and the return comprised a list of places recorded therein under the title 'Terra ecclesie de Certesyg'. The second ordered a search of the plea rolls for a suit in the royal courts in 1334, which proved to be an action by the men of Coveham against their lord, the abbot of Chertsey. The latter had failed to heed a writ Monstraverunt secured by his tenants on the grounds of tenure on ancient demesne. The tenants had complained to the king of an attempt by the abbot to increase customary services. When the abbot had appeared, he had denied that Coveham was ancient demesne. An inspection of Domesday Book proved his plea to be just. He was granted a sine die, and his tenants were in mercy for their false claim (P.R.O., Miscellanea of Chancery, C.47/80/1/13). The struggle on these Chertsey manors was still in progress in 1410, when the abbot obtained a further special commission against his bondmen and tenants of Thorp, Egeham, Chabham, and Coveham (C.P.R., 1408-13, p.310).

the crown, particularly from coinage dues.¹ They had long enjoyed a privileged status under royal charter. The tanners had the right of 'bounding', that is of searching for tin wherever it might be suspected, regardless of the rights of landlords. They were quit of pleas of villeinage and all pleas in the royal courts, except those touching land, life and limb.² A number of complaints to the king of the destruction of arable, meadow, and other property, had resulted from their activities in Devon and Cornwall, but without effect on their privileged position.³

A group of Devonshire tanners sued to the council, probably in 1434, stating that late in 1433 they had reopened an old tin-mine in the parish of Buckfastleigh after the custom of the stannery. They alleged their forcible ejection from the workings by the abbot of Buckfast⁴ early in the next year. The abbot had begun proceedings against them at common law. His actions were

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Coinage duty paid in 1435 amounted to £103.9s.10d for Devon, and £1,604.3s.7d for Cornwall. In 1443 the corresponding sums were £72.12s.4d and £1,507.10s.0d. G.R. Lewis, The Stannaries: A Study of the English Tin Miner (Cambridge, Mass., 1924), appendix K, p.260.

2

See G.R. Lewis, The Stannaries, Ch.VI; and L.F. Salzman, 'Mines and Stannaries', in The English Government at Work, 1327-36, III, ed. James F. Willard, William A. Morris, and William H. Dunham Jr (Cambridge, Mass., 1950), pp.67-104.

3

See, for example, R.P., I, p.297; II, pp.190, 343-5 and 371.

4

The Cistercian abbey of Buckfast in Devon had a net income in 1535 of over £466. There were 14 monks in the house in 1377, and the abbot and ten monks signed the deed of surrender in 1538. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.105.

characterised as 'gret losse to oure...souereyne lorde', on account of the coinage dues and other royal interests in the workings. The tanners sought a writ sub pena to bring the abbot before the council for examination, in order that an ordinance might be made allowing the mine to be worked as of old, and their opponent forced to find sureties for keeping the peace towards them.¹

The council's reaction to this plaint is not noted on the bill, but the abbot was summoned to appear before that body by a letter dated 5 June 1435, which asserted the king's interest in the mines of Devon and Cornwall. The letter noted that although the tanners had a complaint pending before the council, the abbot had persisted with an assize of Novel disseisin that he had brought against these men. He was ordered to supersede his suits, until the council had dealt with the plaint before them. Meantime the council commanded him not to disturb the tanners in their work.²

Abbot Thomas refused to be deflected from his purpose, for one of the tanners again sued to the king for aid in 1436. Nicholas Brendon asserted that he and others had been condemned to pay the sum of £40 as a result of a judgment against them in the assize of Novel disseisin. If the defendants had tried to plead the king's interest in the suit, Brendon made no mention of the fact in his petition; and the council had evidently not dispatched an order to the justices to halt the

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P.R.O., Ancient Petitions, S.C.8/93/4644.

2

P.R.O., Council and Privy Seal Records, E.28/file 55.

proceedings. The tinnars must have re-entered the workings after the assize, trusting in royal protection to shield them from the consequences of their action, because in April 1436 the abbot sued a writ of Redisseisin against them and they were condemned to pay £240.¹

Brendon stated that the tinnars had then approached the king with a petition for redress, but that the abbot had countered by having him arrested and imprisoned, so that he might not be able to sue to the crown for remedy.² He requested the abbot's summons before the king, where he might be charged to cease execution of these judgments and to allow the tinnars to continue their work, until the council was able to determine the dispute. In

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P.R.O., Re-disseisin Rolls, C.69/25. These rolls 'contain the enrolment of special writs addressed to sheriffs for the restoration to tenants of lands, etc., of which, having been adjudged in actions of novel disseisin to have been unlawfully dispossessed, they had again been disseised by the original disseisors. For this "re-disseisin", if the plaintiff recovered, the defendant suffered imprisonment and also paid a fine to the King besides double damages to the person aggrieved' (M.S. Giuseppi, Guide to the Contents of the Public Record Office, rev. ed. (2 vols, London, 1963), I, p.24). See also the Provisions of Merton, cap. III (Statutes 20 Henry III, c.iii), the Statute of Marlborough, cap. VIII (Statutes 52 Henry III, c.viii), and the Statute of Westminster II, cap. XXVI (Statutes 13 Edward I, statute 1, c.xxvi).

2

The Provisions of Merton had laid down that persons convicted of having again disseised plaintiffs who had recovered property by action of Novel disseisin against them, were to be immediately taken and imprisoned until released by the king for a fine or otherwise (Statutes 20 Henry III, c.iii). The abbot had evidently proceeded to execute the judgment on his writ of Redisseisin against Brendon, when the latter tried to approach the king.

addition he asked for writs to obtain his own and another's release from prison, and supersession of execution of the writ of Redisseisin.¹

Soon afterwards Abbot Thomas laid before the commons a petition which gave his own side of the case. He complained of the loss of profit occasioned by the tanners' activities on his property, and defended his actions in the royal courts on the grounds that this was a matter determinable by common law. As a result of his opponents' complaints he had been summoned before the council, and kept in attendance on it for the greater part of two years, whilst the case had been adjourned from day to day.² This was against the common law and the statutes, and brought insupportable cost to him and impoverishment to his house. He sought the commons' prayer to the king for his release from attendance upon the council, so that he might return to the rule of his house.³ However, he was clearly unwilling to compromise on his rights. The records of the council note under 1438 a proposal that new men be sent to work the

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P.R.O., Ancient Petitions, S.C.8/93/4643.

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J.F. Baldwin has noted that in the midst of its affairs the council reserved no particular days or hours for judicial business. The parties were required to wait from day to day for a convenient moment. When all was ready, the name of the person was cried at the door of the council chamber. J.F. Baldwin, The King's Council in England during the Middle Ages, p.294.

3

P.R.O., Ancient Petitions, S.C.8/93/4642.

disputed mine, with the object of reversing the judgments against the imprisoned tinnners.¹

The council could not override the judgments of the common law courts, but it could keep the abbot in constant attendance upon it until he was ready to adopt a less unyielding attitude. A petition from his successor in 1441 alleged that Abbot Thomas had been kept in attendance for the greater part of six years up to his death in the previous year. The new abbot had been similarly summoned to appear before the king and council. Still no settlement had been reached, and he sought leave to return to his house, provided that a recognisance of 1,000 marks was made for his appearance at Michaelmas next.² Possibly the death of Abbot Thomas had taken some of the acrimony from the dispute, for a recognisance of the specified type is enrolled under June 1441.³ The abbot made further such recognisances in 1443 and 1444,⁴ but I have not been able to trace the case beyond this point.

The council could not ignore such flouting of its mandates and total disregard for the king's interest in the stannaries. Abbot Thomas was made to pay a heavy price for his actions, which challenged royal prerogatives

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Proceedings and Ordinances of the Privy Council of England, 10 Richard II. 1386-33 Henry VIII. 1542, ed. Sir N.H. Nicolas, (7 vols, London, 1834-37), V, pp.87 and 91.

2

P.R.O., Council and Privy Seal Records, E.28/file 71.

3

C.C.R., 1435-41, p.489.

4

C.C.R., 1441-7, pp.128 and 208.

and set the common law above them. His success would have constituted a very unfortunate precedent from the royal point of view. That the clash might have been avoided with less obstinacy on the abbot's side is indicated by a comparable petition from another ecclesiastical lord, although the case is different from the preceding one in the important respect that it did not involve royal revenue. No less concern to protect royal prerogatives was shown in the proceedings, but the suppliant was allowed a solemn inquiry into his claims, which ultimately resulted in a full vindication of his rights. In 1433 the abbot and convent of St Mary's, York, sought redress in parliament for an assault on their property and rights in the royal forest of Galtres.¹ The commons of Galtres were said to have broken the abbey's fence in Bouthom, and threatened similar action

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Galtres Forest, Yorkshire, extended from York about 20 miles northward, covering Bulmer wapentake (N. Neilson, 'The Forests', in The English Government at Work, 1327-1336, I, ed. J.F. Willard and W.A. Morris, (Cambridge, Mass., 1940), p.449). 'The Forest, as such, belonged to the king. It must not, indeed, be confused with the royal *demesne*: for there were royal woods which were not Forest, and on the other hand, a forest often comprised estates which were the property of subjects, even of great lords. But it belonged to the king in the sense that it was created for his benefit, that within its limits none save himself and those authorised by him might hunt the red deer, the fallow deer, the roe, and the wild boar, and that it was subjected, throughout its extent, to very severe laws, enacted arbitrarily by the kings for the protection of the "vert and venison", that is to say for the preservation of the beasts of the Forest and the vegetation which gave them cover and food'. CH. Petit-Dutaillis and G. Lefebvre, Studies and Notes Supplementary to Stubbs' Constitutional History, (Manchester, 1930), pp.150-1.

at its park of Overton and at Paynlathes Croft, in support of a claim to common within the ground enclosed as part of the forest. They had also disturbed the right of the abbey and its tenants to common pasture within the forest.

St Mary's had at first purposed taking action against the misdoers by the ordinary judicial channels, and had secured a commission of Oyer and terminer.¹ However, the commission had been respited at the instance of the earl of Salisbury, keeper of the forest beyond Trent, to whom the commons of Galtres had appealed. Both parties had committed the quarrel to the earl's arbitration. Salisbury had felt that judgment of the main issue lay beyond his competence. He had ordered the rebuilding of the destroyed fence at the cost of the commons, but would proceed no further 'in als much as it touched the enheritaunce and right' of the crown. Ultimately the king alone could pronounce judgment on the abbey's claim to franchises in the royal forest, and the earl had assigned the parties a day for appearance before the king and council in parliament.

As a result the abbot of St Mary's sued in the parliament of 1433 for the appointment of certain lords of the council, judges, and others to deal with his plaint. The king responded with the appointment of a

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C.P.R., 1429-36, p.302. The great Benedictine abbey of St Mary's York had a net income in 1535 of over £1,650. The house was surrendered in 1539 by the abbot and 50 monks. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.82.

select committee,¹ which was to summon both sides, examine their evidence, and report back to the king in parliament as swiftly as possible. Although warned by Salisbury to appear before these commissioners, the commons of Galtres defaulted, and a second summons also failed to secure their appearance. The abbot on the other hand was able to present royal charters and other evidence, which were judged sufficient title for the rights he claimed. On the basis of these findings the king prohibited by proclamation in Galtres and elsewhere all actions by royal ministers and others in prejudice of the forest rights of the abbey, and set the penalty for disobedience at £500, confiscation of weapons, and imprisonment at the king's will. Those who still claimed rights within the abbey's property were to sue in the royal courts according to the form of law.²

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With the advice and assent of the lords, the king assigned the bishops of Ely and Norwich, the earls of Salisbury, Northumberland, and Suffolk, Lords Tiptoft and Hungerford, and Justices Cheyne, Babyngton, and Juyn, to hear the plea and report back to the king in parliament. R.P., IV, p.458.

2

R.P., IV, pp.458-9. Ten years later the dispute between the abbey and the men of the Forest was still alive, for the abbot and convent again petitioned to assure their privileges in Galtres. Despite the judgment given in 1433, certain men of Galtres were believed to plan the overthrow of the abbey's enclosures and the assertion of their rights of common therein. The abbey sought and obtained confirmation of the licence granted by King John for these and other enclosures to be made, although this licence had still only been partially executed. P.R.O., Council and Privy Seal Records, E.28/file 72; C.P.R., 1441-6, pp.282-3.

Concern to protect royal prerogatives in the preceding case compelled the plaintiff to proceed by petition and to submit to a special form of trial in parliament. Nonetheless, he was able by these means to secure a full acknowledgement of his rights from the crown. Similarly, when the assertion of the king's rights as feudal overlord by his ministers caused injustice to other lords, the injured parties often had to have recourse to petition in order to obtain redress. In the later middle ages English feudalism was to all intents and purposes a fiscal system, for its military aspect had undergone a long decline in importance before the fourteenth century. In the counties the escheators had been established to keep a systematic watch over royal revenues derived from feudal tenure and to safeguard the king's rights to feudal incidents. Indeed the main motive behind their appearance in the thirteenth century was a more intensive exploitation of wardship and marriage and primer seisin.¹ A lord might find his property seized into the king's hand by the escheator, if the rights of the crown over tenants in chief were believed to have been infringed. Although a procedure had been established whereby lords could

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See J.M.W. Bean, The Decline of English Feudalism, 1215-1540 (Manchester, 1968), chapter 1, and E.R. Stevenson, 'The Escheator', in The English Government at Work, 1327-1336, II, ed. W.A. Morris and J.R. Strayer, (Cambridge, Mass., 1947), pp.109-67.

recover property wrongly seized,¹ they might still find it necessary to seek restitution by petition.

The abbot of Fountains petitioned to the king in 1362 as a result of the activities of the escheator of Yorkshire.² An inquest held by that officer in pursuance of his duties had found that a former abbot of Fountains had held the vill of Staynburn and a moiety of Rigton by knight service and other dues from Robert de Insula, who held them in chief by knight service as parcel of his manor of Harewode. Robert and his heir were said to have released and quitclaimed to the late abbot and his successors without royal licence all services due from the property.³ In consequence of the

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A statute of 1360 had established that when the escheator had seized property into the king's hand on the grounds that a tenant of the crown had alienated without royal licence, or that the heir to a tenant by knight service was a minor, the person whose property had been seized was to be received in Chancery to traverse the findings of the escheator and the process was to be sent into King's Bench for trial (Statutes 34 Edward III, c.xiv). In 1362 this enactment was confirmed (Statutes 36 Edward III, statute 1, c.xiii).

2

The Cistercian abbey of Fountains in Yorkshire was the wealthiest of the English houses of the order. Its net income in 1535 was £1,115. There were 33-34 monks and ten lay-brothers here in 1380-1, and the abbot and 31 priest monks surrendered the abbey in 1539. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.108.

3

A royal licence was necessary for all alienations into mortmain. In addition alienations of any sort by tenants in chief had to be licenced by the crown. See Sir F. Pollock and F.W. Maitland, The History of English Law, I, pp.335-49; and K.L. Wood-Legh, Studies in Church Life, ch.III.

release the abbot and convent held the lands in question from the king in chief by knight service.¹ After Robert's grant the late abbot had died about 12 years previously, and the present abbot had entered on the property in Staynburn and Rigton without process of the king's court or performance of the services owed to the king. For these reasons the escheator had seized the lands into the king's hand.²

In answer to the abbot's petition for redress, the king ordered the immediate restoration of the lands and their issues, on the grounds that no trespass had been found in the acquisition of the tenements by the abbey. The inquest's allegation that services due to the crown had not been performed remained to be answered, and the abbot was warned to appear in Chancery to show why he

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It was a condition of alienation by tenants in chief that the alienee, if the land was conveyed in fee or in tail, took the same tenurial position as the alienor had held in chief. See J.M.W. Bean, The Decline of English Feudalism, pp.66-103.

2

Since a statute of 1327 a landowner who alienated lands held in chief had been allowed to obtain either a licence from the crown prior to his alienation or a pardon after the alienation had been made. In the event of an alienation being made without licence, the crown had the right to seize the land and receive its issues until a pardon had been granted. The fines demanded for pardons or licences were to be reasonable. J.M.W. Bean, The Decline of English Feudalism, p.101. Statutes, 1 Edward III, statute 2, c.xii.

should not perform them.¹ His answer was a denial of the alleged release and quitclaim by Robert de Insula and his son. He placed himself on a verdict of the country. A jury was summoned in King's Bench which rebutted the findings of the escheator's inquiry, and the abbot went sine die.²

If a mesne lord considered that in asserting the king's rights over his tenants in chief royal ministers had trespassed on his own rights over his tenants, he likewise had to proceed by petition in order to challenge the royal title. No suit could be brought against the crown by writ in the common law courts.³ The falling agricultural revenue of many lords in the economic depression of the later middle ages made feudal incidents the more important as a source of profit.⁴ However, this was also a period in which

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P.R.O., Ancient Petitions, S.C.8/47/2338. For the restoration of the seized property to Fountains, see C.C.R., 1360-4, p.367. Other entries indicate that this escheator had been very active at this time in pursuing such alleged withdrawals of royal rights (*ibid.*, pp.366-7).

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P.R.O., Coram Rege Rolls, K.B. 27/408/rex 52.

3

See Sir F. Pollock and F.W. Maitland, The History of English Law, I, pp.515-8; and L. Ehrlich, 'Proceedings against the Crown (1216-1377)', pp.83-4.

4

M.M. Postan has stated that 'The magnates found it difficult to maintain themselves on their purely agricultural incomes. Some of them tried to supplement their incomes in other ways. Most of them must have found feudal revenues, profits of courts and of local influence relatively more important as agricultural revenues fell, and offices of state or shares in the spoils of political power must have
(footnote continued p.217)

enfeoffments to uses were inflicting increasing losses on the feudal revenues of mesne lords,¹ and their anxiety to secure what feudal incidents they could against the extensive claims of the crown is reflected in the readiness of such lords to seek a hearing of their claims in the face of the strongest royal title.

In 1422 the bishop of Lincoln raised an interesting question of feudal law as a result of the seizure of a wardship into the king's hand.² The crown enjoyed a privileged position vis-à-vis other lords with respect to wardship. If a deceased tenant had held of the king by knight service or by grand serjeanty, the crown was entitled to the wardship of the heir's body and to his marriage, no matter how many other lords were involved, and without regard to the relative antiquity of the various titles by which the tenant had held his

(footnote 4 continued from p.216)
 become more tempting than ever. So also were the profits of the sword for those who could wield it'. M. M. Postan, 'Some Social Consequences of the Hundred Years' War', Economic History Review, 12 (1942), p.11.

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See J.M.W. Bean, The Decline of English Feudalism, chapter 4.

2

The bishop in question was Richard Fleming, who had been translated to the see in 1419. His interests lay mainly in ecclesiastical affairs, and in June 1423 he appeared as president of the English nation at the general council of Pavia. On his return to England he fell into disfavour with the government of the minority in 1424 through his acceptance of translation to the archbishopric of York without royal permission. Eventually he had to submit to re-translation to Lincoln. He died in 1431. Dictionary of National Biography, s.v. Fleming, Richard.

tenements.¹ Further the king was entitled to the wardship of all the lands of this tenant, no matter of whom he had held them.² The question apparently posed by Bishop Fleming was whether or not prerogative wardship still applied, if a mesne lord had already been legally seized of custody of an heir and of his lands, before the minor inherited land held in chief from another ancestor.

The bishop related that Sir Richard Camoys had held the manor of Ingescourt by knight service from his predecessor, and at his death both his sons, Ralph and Hugh, had been minors. The bishop of the time, Philip Repingdon (1404-19), had seized the heir, Ralph Camoys, and the manor into his custody. Repingdon had resigned the see in November 1419. Soon after Fleming's succession to the bishopric Ralph Camoys had died still a minor. Repingdon had tried to claim the wardship of the next heir, Hugh Camoys; but there were no grounds on which such a claim could be sustained, and Bishop

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When the king was not involved, but the dead man had held by knight service or military serjeanty of several mesne lords, each lord got the wardship of the tenement which was held of him. As to wardship of the heir's body and the right of marriage, 'the general rule traced back the titles under which the dead man held the various tenements and preferred that lord from whom, or from whose ancestors, the most ancient title was derived; that lord would usually have been, not merely the dead man's lord, but his liege lord'. Sir F. Pollock and F.W. Maitland, The History of English Law, I, pp.320-1.

2

Sir F. Pollock and F.W. Maitland, The History of English Law, I, pp.321-2. Prerogativa Regis, caps I-VI (Statutes 17 Edward II, statute 1, cc.i-vi). See also R.P., II, p.258.

Fleming's right had eventually been acknowledged. Then, in March 1421, Hugh's grandfather, Thomas Camoys, had also died. The crown had ordered inquisitions post mortem, as he was believed to have been a tenant in chief.¹ An inquiry before the escheator of Oxford had found that Thomas Camoys, amongst other properties, had been seised at his death in the right of his wife, also deceased, of a messuage and two carucates held of the king by the service of half a knight's fee. The jury had reported that the minor Hugh was the heir of Thomas Camoys. On the basis of these findings, custody of Hugh had been seized into the king's hand.²

The bishop disputed the king's title to the wardship and asked that right should be done to him. In response to his petition the king and lords in parliament referred the matter to the chancellor for settlement as the law of the land demanded,³ and

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It was the escheator's duty to seize the lands of a deceased tenant in chief into the hand of the king, as soon as he learned of the tenant's death. An inquisition would then be held by the escheator in response to a writ diem clausit extremum from the central government. The writ sometimes served to set in motion the machinery of the escheator's office in seizing property for the king, and they were frequently procured by interested persons. However, the escheator also acted on his own authority in making seizures. The inquisitions post mortem were surveys recording the amounts of land held, and the location and tenure of each unit of the estate. They did not determine the value of the estate. E.R. Stevenson, 'The Escheator', pp.109-67.

2

P.R.O., Inquisitions Post Mortem, C.138/57/29. P.R.O., Ancient Petitions, S.C.8/256/12791.

3

P.R.O., Ancient Petitions, S.C.8/256/12791. P.R.O., Warrants for the Great Seal, C.81/674/444.

preliminary steps towards a trial of the case were taken. Two commissions of inquiry were instituted in 1423.¹ The council had decided a similar suit in 1346 in favour of the mesne lord,² but Fleming seems to have been unsuccessful. In August 1426 Hugh Camoys died still a minor, and the inquisition post mortem taken following his death described him as in the king's hands at the time of his decease.³

Provided that mesne lords were able to demonstrate a stronger claim in law than the crown to such incidents of tenure, they had the means to recover their rights from the king through petitions and trial of their suits on the common law side of Chancery. Notwithstanding the special prerogatives of the crown in cases of treason, the bishop of London was able to make a full recovery of the wardship of the manor of Iseldon

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C.P.R., 1422-9, pp.91 and 173-4.

2

The case appears in the Year Book of that year: 'Le Count de Warwyke si avoit seisi certeinz terres et leire soun tenant qe tient de luy en chivalrie, et puis autres terres descenderent al enfant de part un autre auncestre, qe furent tenuz du Roi par service de chivaler. Et le Roi, par resoun de sa prerogative, chalengea la garde des terres qe furent tenuz de Count et del heir. Et pur ceo qe le Count si fuit seisi primes de corps, et des terres tenuz de luy, avant qe les terres qe furent tenuz du Roi si descenderent al enfant apres qe le Count si fuit seisi del heire et des terres, a quel temps nulle navoit droit, forqe le Count, daver garde, [par] quei fuit ajuge par tut le Counseille qe le Roi navereit mie la garde du corps ne de la terre'. Year Book 20 Edward III, ed. L.O. Pike, (2 vols, Rolls Series, 1908-11), II, pp.138-41.

3

P.R.O., Inquisitions Post Mortem, C.139/28/26.

and the heir of Sir James Berners, who had been condemned as a traitor in the Merciless Parliament of 1388.¹ Whereas the felon's land escheated to his lord (subject to the king's wasting the tenement for a year and a day), the traitor's was normally forfeited to the king. The lord lost his seignorial dues unless the king took pity on him, for the king would hold the traitor's land and no one could be his lord. The former tenure was revived only if the king granted out the land.² However, with respect to forfeitures in the Merciless Parliament the king, lords, and commons had made a declaration specifically exempting the entailed lands of those condemned from forfeiture to the crown.³ The bishop based his suit on this ordinance.

1

For the proceedings against Berners in the Merciless Parliament, see R.P., III, pp.241-3. The bishop of London at this time was Robert Braybrooke, who had been provided to the see in 1381. He had been chancellor in 1382-3. During the crisis which culminated in the events of the Merciless Parliament, he had attempted in 1387, at the instance of the duke of Gloucester, to mediate between the king and barons, and had been dismissed the king's presence for his spirited response to an attack on the duke by the earl of Suffolk. He was a trier of petitions in most of Richard II's parliaments. He died in 1404. D.N.B., s.v. Braybrooke, Robert de.

2

Sir F. Pollock and F.W. Maitland, The History of English Law, II, p.500 and ibid., n.4. See also the Statute of Treason promulgated in 1352 (Statutes 25 Edward III, statute 5, c.ii).

3

Statutes 11 Richard II, c.v. C.D. Ross has provided evidence that this clause of the statute was fully observed by the crown; C.D. Ross, 'Forfeiture for Treason in the Reign of Richard II', English Historical Review, 71 (1956), pp.560-75.

Bishop Braybrooke petitioned to the king in 1391, stating that the manor of Iseldon was held of the bishopric, as of the castle of Stortford, by knight service. In 31 Edward I (1302-1303) the manor had been entailed on the heirs of one Esmond Berners through a fine then made. He traced the descent of the entail from Esmond to Sir James Berners, from whom the right in the manor had descended at his death to his son Richard. As Richard was a minor, the bishop claimed the wardship and challenged the king's seizure of the manor in 1388. The case was referred to the chancellor for trial.¹ In June 1391 a commission of inquiry was instituted, whose findings fully substantiated the statements of fact made in Braybrooke's petition. The jury concluded their evidence with an assertion that wardship of the heir and custody of the manor should have belonged to the bishop since the forfeiture and death of Sir James Berners.²

Once it had been established that the bishop's claim was well-founded, the royal farmers of the manor were summoned into Chancery by writ of Scire facias to answer his plaint. They put forward the plea that he should not have restitution, because by judgment rendered in parliament it had been determined that all lands belonging to Sir James Berners should be forfeit to the king. Further, between the sentence on Berners

1

P.R.O., Ancient Petitions, S.C.8/306/15299.

2

C.P.R., 1388-92, p.443. C.I.M., V, 1387-93, case 312, pp.178-9.

and his execution there had been a period of time during which the condemned man had been out of possession of the manor, and the king seised of it in law by force of the judgment. Hence the king had been seised of the manor in his demesne as of fee during Berners' life, and the latter had been out of possession at the time of his death. In answer to this Braybrooke put forward the details of the entail, and made a counter-assertion that Berners had died seised of the manor, without the king taking it into his hand during the condemned man's lifetime. He claimed livery of the wardship and manor under the clause of the 1388 ordinance which excepted entailed lands from forfeiture to the crown.¹ After deliberation with the justices, serjeants-at-law, and others of the council, the chancellor gave judgment that the king's hand be removed from custody of the manor and heir. These were to be handed over to the bishop until Richard Berners reached his majority.²

The serious consequences for a mesne lord of the condemnation of his tenant for treason may be illustrated

1

'The notion...that a tenant in tail had only an interest for his life, together with the principle that successive tenants in tail take as heirs in turn of the donee and not of one another, may have produced the rule that a traitor's or felon's entail is forfeited for his life only, the heir in tail taking after his death'. T.F.T. Plucknett, A Concise History of the Common Law, p.675, n.3.

2

P.R.O., Judicial Proceedings (Common Law Side), Placita In Cancellaria, Tower Series, C.44/17/13, C.C.R., 1389-92, pp.405 and 560.

by another petition prompted by the forfeiture of a victim of the Merciless Parliament. The abbot of Quarr¹ asserted in 1393 that John Cary, formerly chief baron of the Exchequer,² had held the manor of Holewaye Lieu of the abbey in the right of his wife by homage, fealty, and 10s.0d per annum. After Cary's condemnation for treason,³ the manor had been seized into the king's hand and the services had been withdrawn ever since. The abbot sought an order to the chancellor to do him right. Here again the crown was ready to provide the suppliant with an opportunity to demonstrate that he had suffered an injustice. Richard II ordered the chancellor to summon the justices and serjeants-at-law, and to provide justice as the laws and customs of the realm required.⁴ Shortly afterwards a commission of inquiry was instituted into the statement made by the abbot.⁵ Unfortunately for him its findings provided no basis for further pursuit of his alleged rights. The jury assembled at Exeter in December 1393 returned that

1

The Cistercian abbey of Quarr on the Isle of Wight was a small house, with a net income in 1535 of over £134. There were ten priest monks at Quarr in 1536. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.113.

2

Cary had been chief baron of the Exchequer between 1386 and 1388. See T.F. Tout, Chapters, III, p.450.

3

See R.P., III, p.244. Cary's sentence of death was commuted to exile, and he was still alive in 1393. He died at Waterford in 1395 (C.C.R., 1396-9, p.24).

4

P.R.O., Ancient Petitions, S.C.8/250/12486. P.R.O., Warrants for the Great Seal, C.81/543/9041.

5

C.P.R., 1391-6, p.358.

there was no manor of Holewayelieu in county Devon, but that John Cary had held the manor of Holewaye, which was in the parish of Lieu, in the right of his wife. Whether he had held it of the abbot of Quarr, the jurors did not know.¹ I have found no evidence that the abbot pursued the matter further.

The king was not seeking to deprive other lords of their rights, but in order to protect his own prerogatives he demanded that suppliants be able to establish their claims by good and sufficient proofs. A complaint that the crown had disseised a subject of some portion of his rights of lordship would normally obtain for the plaintiff trial of his title. On the other hand, a petitioner might experience real difficulty in securing a speedy conclusion to such a suit. The bishop of Durham found himself dispossessed of a passage over the Tweed and its profits for at least 20 years after its seizure by a royal official circa 1356, during which time he made repeated attempts to recover his rights without apparent success.

Evidence produced in the case provides details of Durham's precarious hold on the passage over the previous sixty years. An inquest assembled in 1334 stated that the means of crossing the Tweed until the reign of the Scottish king John Balliol (1292-6) had been a bridge between Berwick and Tweedmouth. After the fall of the bridge, and the capture of Berwick by Edward I in

¹

C.I.M., 1392-9, VI, case 47, p.21.

1296,¹ a ferry had been instituted by the bishop of Durham from Tweedmouth to Berwick, and another from Berwick to Tweedmouth by the king.² Durham's right to a share in the profits of the passage had been questioned by the crown in 1307. A commission of inquiry in that year reported that since 1298 the bishop had appropriated half the profits of the Tweed passage, to the prejudice of the king and one John Hayward, to whom a royal grant of the passage had been made. By what right or title Bishop Bek had done this, the jury were ignorant. However, Edward II had been satisfied of Durham's title, for he had restored the passage to Bishop Kellaw with the other temporalities of the bishopric, when he succeeded Bek in 1311.³ Seven years later the Scots had recaptured Berwick,⁴

1

For Anglo-Scottish relations under Edward I up to 1296, see Sir M. Powicke, The Thirteenth Century (Oxford, 1953), ch. XII. Berwick was stormed and sacked by the English in the campaign against John Balliol, which ended in his surrender of the kingdom of Scotland to Edward I in July 1296. After its fall, the English king strengthened the defences of Berwick, and planned a new town which would be the financial capital of Scotland, as well as a centre of trade and stores. Ibid., pp.614-5.

2

P.R.O., Coram Rege Rolls, K.B.27/404/48. Registrum palatinum Dunelmense, ed. T. Duffus Hardy, (4 volumes, Rolls Series, 1873-8), IV, pp.190-1.

3

C.P.R., 1301-7, p.546. P.R.O., Coram Rege Rolls, K.B.27/404/48.

4

Berwick fell to the Scots in the disastrous years for the English in the North, which followed the battle of Bannockburn in 1314. See M. McKisack, The Fourteenth Century, pp.32-41.

and for several years had prevented the bishop from enjoying his rights on the grounds that the whole Tweed was part of the realm of Scotland. When the town had fallen to Edward III in 1333,¹ Bishop Bury had petitioned to the king for redress. He had secured a commission of inquiry in 1334, whose findings affirmed that Bishops Kellaw and Beaumont² had been seised of the passage to Berwick before the intervention of the Scottish king Robert Bruce (1306-29). Edward III had ordered restoration of the passage to the bishopric,³ which remained seised until the chamberlain of Berwick took it into the king's hand a little over 20 years later.

1

Robert Bruce had died in 1329, and his successor, David II, was only 5 years old at that time. The young king was faced with a pretender in Edward Balliol, who acknowledged Edward III of England as his liege lord and undertook to give him extensive territories in the lowlands and on the border. The English invested Berwick, and on 19 July 1333 the Scottish force which attempted to relieve it was decisively defeated at Halidon Hill. Berwick capitulated. See M. McKisack, The Fourteenth Century, pp.115-7.

2

Richard Kellaw was bishop of Durham from 1311 to 1316; Lewis de Beaumont from 1317 to 1333; and Richard de Bury from 1333 to 1345. Handbook of British Chronology, pp.220-1. Bury was the former tutor of Edward III, who heaped honours on him and held him in high regard. He had been provided to Durham at the king's request. He was keeper of the privy seal 1329-34, treasurer in 1334, and chancellor 1334-5, D.N.B., s.v. Bury, Richard de.

3

Registrum palatinum Dunelmense, ed. T. Duffus Hardy, IV, pp.190-1. P.R.O., Coram Rege Rolls, K.B.27/404/48.

Bishop Hatfield petitioned to the king and council circa 1361, in an effort to recover the rights of his church. He put forward the claim that his lordship extended over the waters of the Tweed, the boundary between England and Scotland, as far as mid-stream, wherever the lands of the bishopric adjoined the river. He and his predecessors had always been seised of all profits from this half of the river, until the late chamberlain of Berwick had seized into the king's hand the passage of the Tweed on both sides of the river, in the belief that it pertained to the town of Berwick.¹ The seizure may be linked with the dramatic events at Berwick in 1355-6. The Scots had surprised the town late in 1355; but it had been re-taken by Edward III in the following year.² Shortly afterwards, in June 1356, the king had granted the ferry to one Richard le Paneter.³

1

P.R.O., Ancient Petitions, S.C.8/44/2153. Bishop Hatfield had been provided to Durham in 1345 at the king's request. He seems to have entered the king's service at an early age, and was receiver of the Chamber 1338-44, and keeper of the privy seal 1344-5. His relations with the court caused him to be often absent from his diocese. Between 1350 and 1357 he was placed at least six times upon commissions to treat for peace with Scotland, and further such appointments followed in 1360 and 1362. He died in 1381. D.N.B., s.v. Hatfield, Thomas of.

2

A French and Scottish raiding force took Berwick town in 1355, but the castle there foiled the assailants. All was recovered by Edward III in January 1356. A. Lang, A History of Scotland from the Roman Occupation, I (Edinburgh, 1900), p.259.

3

C.P.R., 1354-8, p.415. The grant was renewed in 1358; C.P.R., 1358-61, p.29.

The bishop's petition secured the summons of the grantee before Chancery by writ of Scire facias in May 1361, by which time there had already been a delay of five years in bringing the matter to trial.

When Paneter appeared in Chancery to answer Hatfield's plaint, the pleading made no progress beyond an exception by the defendant against the writ on the grounds of error. The record comes to an end in a series of adjournments of the plea.¹ The bishop may have left off his suit until the grantee's death, for the next evidence that the dispute was still in progress comes in 1367. A commission of inquiry was then appointed;² and three days after its inception the king granted the keeping of the passage to Walter Tyrell, as Paneter was now deceased.³ I have been unable to locate any trace of the commission's findings. Again there was a period of apparent inactivity, before Hatfield secured in 1372 the grant of a writ of Scire facias ordering the appearance of Tyrell in Chancery. Further delay drew a protest from the bishop, in which he complained that he had continually sued in Chancery for his right, but 'ne poet nul fyn auoir'.⁴ In 1374 the

¹

P.R.O., Coram Rege Rolls, K.B.27/404/48.

²

C.P.R., 1364-7, p.427.

³

C.P.R., 1364-7, p.384.

⁴

P.R.O., Ancient Petitions, S.C.8/44/2185.

immediate progress. First Tyrell delayed proceedings by securing royal aid, on the grounds that he held the passage for life by royal grant with reversion to the king.¹ After Hatfield obtained a royal licence for the plea to proceed in November 1376,² his opponent then gained another postponement of pleading by alleging the existence of records and memoranda in the Treasury, which would prove his and the king's right. A search was instituted for these documents, but nothing appears to have been found, for no such records were produced in the case.

At length Tyrell gave his answer to the petition. He argued that in the time of Henry III there had been a bridge over the Tweed sufficient for the carriage of all goods and merchandise over the river. The king, and not the bishops of Durham, had had the passage over the river at that time. When the bridge had fallen through a former bishop's neglect, the common crossing there had been extinguished. The king had the right

1

L. Ehrlich has noted that 'no plea which would incidentally concern the king's interests, even by involving the interpretation of his charter, could be proceeded with by the justices without the king's order.... Although for a party aid from the king was a good means of delaying the proceedings and perhaps defeating the action altogether, yet the underlying idea was that of protecting the interests, not of the party, but of the king. Where the king's interests could not possibly be affected aid would not be granted.' L. Ehrlich, 'Proceedings against the Crown', pp.152-3. See also Statutes 4 Edward I, statute 3, cc.i-iii.

2

C.C.R., 1374-7, p.401.

to the passage as situated on an arm of the sea and on the boundary between the realms of England and Scotland. Hatfield replied with a restatement of the findings of the 1375 inquiry, and added that Bishop Farnham¹ and all his predecessors had been seised of the passage and its profits throughout their lordship on the English side of the Tweed. The plea was adjourned at this point to the following term, and there breaks off before an issue had been reached or judgment given.²

Part of the responsibility for the long delay in arriving at a judgment on Hatfield's claim to the Tweed passage may have lain with the bishop himself. After the failure of his first suit in Chancery, the available evidence does not suggest that he prosecuted his suit with great vigour for a number of years. Possibly, as a busy servant of the crown, he was unable to devote his full attention to a relatively minor invasion of the rights of his bishopric. Nonetheless, the tardiness with which the examination of his plaint went forward is striking. In the trial of disputes of this kind much may have depended on securing the favour

1

Nicholas Farnham was bishop of Durham from 1241 to 1249 (Handbook of British Chronology, p.220).

2

P.R.O., Coram Rege Rolls, K.B.27/463/70. This entry on the roll is marked as cancelled because the plea had been entered elsewhere in full. Despite a search of the King's Bench rolls for several terms pre- and post-Michaelmas 1376, I have been unable to locate the full entry of the plea.

of the crown, whose attitude would be partly determined by the degree to which royal interests were felt to be involved in the matter. A suit brought against the men of Newcastle by a later bishop of Durham, which has certain points of similarity with the Tweed dispute, will serve as an example of the highly accommodating treatment accorded in some such pleas to those enjoying royal favour.

Bishop Langley¹ petitioned to the king in 1410, and asserted the immemorial rights of the county and liberty of Durham between the waters of Tyne and Tees, which included lordship over moieties of the two rivers and half the bridge between Gateshead and Newcastle-upon-Tyne. He complained of an invasion of his liberty, not on this occasion by a royal minister, but by the men of Newcastle. In the second year of Bishop Fordham's episcopate (1381-8) the mayor and commonalty of that town were said to have begun construction of a tower on Durham's side of the bridge, and to have removed the boundary stones there. The tower had been completed in the time of Bishop Skirlaw (1388-1406), and since then

1

Langley was attached in his youth to the family of John of Gaunt, duke of Lancaster, and the accession of Henry IV ensured his promotion. He was keeper of the privy seal from 1401 to 1405, when he became chancellor. In 1406 he was provided to the see of Durham. He resigned the great seal in 1407, but continued his service to the Lancastrian kings in other capacities. In 1417 he again became chancellor, and retained this office until 1424. He continued to serve on the royal council after his resignation of the great seal. He died in 1437. Dictionary of National Biography, s.v. Langley or Longley, Thomas; and R.L. Storey, Thomas Langley and the Bishopric of Durham, 1406-37 (London, 1961).

the townsmen had prevented the bishop from exercising the royal franchise of the bishopric over his half of the bridge, which presumably included the right to take tolls from its users. The townsmen claimed that the whole bridge lay within the county of the town of Newcastle, which they held of the king in fee farm.¹ Because the interests of the crown were involved in the dispute, in as much as the mayor and commonalty justified their action by the assertion that the bridge formed a part of what had been farmed to them by royal grant, Langley's plea for remedy was referred to Chancery.²

When the parties appeared before the chancellor, the townsmen sought leave to treat amicably with the bishop and this was granted. Langley offered a settlement under which the defendants would take an oath that the liberty of Durham extended to a certain spot on the bridge, to be defined by the oath-takers. He himself would agree not to exercise his temporal jurisdiction beyond the delimited point during his own life, saving the right of his church. By 1412 the men of Newcastle had agreed on the form of the oath, but it was rejected by the chancellor. The plea

1

In 1400 the town of Newcastle had been informally incorporated as a county of itself, electing a sheriff instead of the former bailiffs. C.Ch.R., V, p.397. See also British Borough Charters, 1307-1660, ed. M. Weinbaum (Cambridge, 1943), p.89.

2

P.R.O., Ancient Petitions, S.C.8/108/5361.

terminated unresolved in the next year, when Henry IV died.¹

From this point the treatment of the case reveals a marked royal favour towards Langley, which reflects his prominence in the service of the Lancastrian kings. He petitioned for remedy in the first parliament of Henry V's reign, alleging that if he had to sue at common law great difficulty would arise. The bishop was perhaps moved to petition by factors other than the problems of proceeding in the ordinary courts with a plea involving the interests of the crown. Considerable difficulties arose at a later stage of the plea, when a suitably impartial jury had to be empanelled to give a verdict on the issue reached by the parties. Langley may have considered that the nature of the case demanded a flexibility of approach, which the rigid procedures of the common law could not provide. The royal reply showed the willingness of the crown to aid him in securing a speedy conclusion to the dispute. The chancellor was empowered to do right to the parties according to his discretion, and given full parliamentary authority to proceed with the case in the absence of the mayor and commonalty, if they should fail to appear in person or by attorney.²

1

P.R.O., Judicial Proceedings (Common Law Side), Placita In Cancellaria, Tower Series, C.44/27/2.

2

In general, the common law was reluctant to give judgment by default. See T.F.T. Plucknett, A Concise History of the Common Law, p.365.

The proceedings in Chancery reveal a similar concern to avoid delay. When the parties appeared, the mayor and commonalty put forward a number of exceptions '*tam ad iurisdiccione[m] Curie quam in adnullacionem petitionis et indorsamenti ac brevis*'. These were rejected. Next the defendants alleged that there were charters and other evidence relating to the king's right in the Treasury, and sought writs to the treasurer and chamberlains for scrutiny of these. The request was refused. Finally, the mayor and commonalty prayed aid of the king, as holding the town at fee farm by charter of King John. This was granted; but by the following legal term the bishop had obtained licence for the suit to proceed. The defendants then made a formal denial of Langley's assertion that from time immemorial Bishop Fordham and his predecessors had been seised of the disputed half of the Tyne bridge, and of franchises, jurisdiction and royal rights over it. They offered verification of this statement, and Langley placed himself on the verdict of the country in support of his contentions.

The problem of obtaining an impartial jury then arose. Gateshead was within the county and liberty of Durham, where royal writs did not run,¹ and the bishop objected to a jury drawn from Northumberland on the grounds that it would be favourably inclined towards the mayor and commonalty. He requested that the jury

1

On the relationship between the palatinate and the royal judiciary, see G.T. Lapsley, The County Palatine of Durham (Harvard Historical Studies, VIII, 1900), Chapters V and VI.

be drawn from Yorkshire. The townsmen opposed this, pointing out that county Northumberland was only half a mile from the bridge, whereas county Yorkshire was more than 26 miles away. Rather than give either party its way, the chancellor used the discretion granted to him by parliament to make a compromise decision. The jury was to be drawn from Cumberland and Westmoreland, the first of which adjoined Northumberland, and the second Durham.

At this point the chancellor seems to have hesitated to proceed further without higher authority. As Langley had found that another difficulty had arisen through the decision concerning the jury, he again approached the king for aid. He petitioned in the Leicester parliament of 1414, expressing his anxiety that the array of a jury by the sheriff of Cumberland might be challenged and annulled, because the sheriff had married a cousin of the bishop. He asked that the writ be directed instead to the coroners of the county, who would perform the sheriff's office. In addition he sought parliamentary authority for the chancellor to deliver the records of the plea into King's Bench, so that the issue reached might be tried there and judgment given. His requests received royal approval.

After some defaults the jury appeared and gave its verdict that Bishop Fordham and all his predecessors had been seised of one third (not one half) of the bridge over the Tyne from time immemorial, until the mayor and commonalty had built the tower on the bishop's property and removed the boundary stones. Judgment was

given by the justices that the bishop recover his third of the bridge, and that the boundary stones be replaced at the cost of the townsmen.¹ On 25 January 1417 the bishop took seisin of the recovered portion of the bridge.²

Langley had received every help from Henry V towards a settlement of his quarrel with the townsmen, which was essentially a dispute as to the location of the boundary between two franchises. The crown had a close interest in all matters concerning liberties held by its subjects, for every franchise-holder was regarded as holding something which in principle belonged to the king.³ Consequently, franchise-holders had to be prepared at any time to show a sufficient warrant for the liberties they exercised in response to a challenge from the crown, whose ministers subjected the exercise of franchises to a constant scrutiny. A petition from the early years of Richard II's reign shows clearly that the justices would allow no franchise, whilst the least doubt remained as to the authenticity of the claimant's title. Ultimately an appeal would have to be made to the king himself for a judgment on a dubious claim.

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P.R.O., Coram Rege Rolls, K.B.27/614/13.

2

Historiae Dunelmensis Scriptores Tres, Gaufridus de Coldingham, Robertus de Graystanes, et Willielmus de Chambre, ed. J. Raine, (Surtees Society, 9, 1839), Appendix CLXXXII, pp. ccvii-ccviii.

3

See D.W. Sutherland, Quo Warranto Proceedings, chapter 1.

In 1384 the abbess of Wherwell petitioned to the king concerning a plea in King's Bench, which had arisen as a result of a presentment by a jury of the hundreds of Hampshire.¹ The jurors had stated that one Henry Harold of Wherwell had murdered his wife in March 1377, and subsequently fled to the church of Wherwell. His goods and chattels worth £35. 4s 8d had been seized into the hand of the abbess. As the king had the right to all chattels of felons and fugitives, except where he had granted to other lords the right to take those of their own men,² the justices had summoned the abbess by writ of Scire facias to show why she should not be answerable to the crown for the forfeited chattels.

The abbess had put forward the plea that she and all her predecessors had possessed certain liberties in the hundred of Mestowe since time immemorial. These included the right to view of frankpledge, whatever pertained to the view and hundred, assize of bread and ale, waifs and strays, chattels of fugitives within the bounds of the hundred, and infangtheof and outfangtheof. As Harold had killed his wife within the bounds of the hundred, and fled to the church of Wherwell, she claimed the right to seize his goods and chattels. The abbess appears to have put forward no royal grant as warrant for

1

The abbey of Wherwell in Hampshire was a large house for Benedictine nuns. Its net income in 1535 was over £339. In 1539, after the suppression, the abbess and 24 nuns were granted pensions. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.220.

2

See Prerogativa Regis, cap. XVI (Statutes 17 Edward II, statute 1, c.xvi).

her franchise, and her title thus rested on prescription.¹ The king's attorney had made a formal denial that the abbess and her predecessors had been seised of the right to chattels of fugitivessince time immemorial, with the result that the verdict of a jury had been sought on this point.

The jury's return had stated that the abbess and all her predecessors had been seised of chattels of this kind within the hundred, but in support of this assertion had cited only one example of the exercise of the franchise, which had occurred in the time of Edward II. The jurymen had added that the king was patron of the house, and that neither he nor his predecessors had been seised of such chattels within the hundred, except in time of vacancy of the abbey. Despite this clear verdict in favour of the abbey, the justices had differed in their opinion of some unspecified aspect of the case. A series of adjournments had followed for the next seven years, during which time they had steadily refused to give judgment for the abbess.²

In order to break this deadlock, the abbess and convent of Wherwell presented a petition to the king in 1384 and sought approval for their possession of the

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That is, on uninterrupted seisin from before 1189. For a discussion of the establishment of the principle that tenure from time out of mind was an adequate title for liberties during the Quo warranto campaign of Edward I, see D.W. Sutherland, Quo Warranto Proceedings, Chapter IV.

2

P.R.O., Coram Rege Rolls, K.B. 27/466/9.

franchise from the final authority in such matters. They asked for a grant of the liberty in perpetuity and an order to the justices to allow their claim in the plea pending before them.¹ However, the abbey had failed to convince the justices of its title to the franchise; and in these circumstances the king was evidently unwilling to make a permanent alienation of the rights of the crown, though prepared to be gracious to a house in his patronage by granting away his own interest in such forfeitures. Richard II allowed the abbess and convent the enjoyment of the franchise during his own life, but specifically refused them a grant in perpetuity.² A writ to the court of King's Bench freed them from further proceedings for the seizure of Harold's forfeited chattels.³

A franchise-holder could answer a royal challenge to his possession of a liberty either by producing a royal grant or by proving tenure from time out of mind.⁴ For their own security the holders of liberties sought confirmation of their privileges from successive rulers. Even the occupant of the great palatinate of Durham felt the necessity to assure his untroubled enjoyment

¹

P.R.O., Ancient Petitions, S.C.8/244/11191.

²

P.R.O., Warrants for the Great Seal, C.81/1340/38.
C.P.R., 1381-5, pp.488-9.

³

P.R.O., Coram Rege Rolls, K.B.27/466/9.

⁴

D.W. Sutherland, Quo Warranto Proceedings, p.178.

of the liberty by petitioning in 1391 for a royal ratification of his charters. Bishop Skirlaw requested a confirmation in parliament of all privileges, franchises, liberties, exemptions, and immunities, granted to his church by charters and letters patent of the king and his predecessors. He asked that his patent contain the clause licet, whose purpose was to prevent any challenge to liberties on the grounds of past disuse or abuse, and that the grant be made without fine or fee. Richard II gave his assent, with the agreement of the lords in parliament, but specified that a reasonable fine was to be taken from the bishop. Skirlaw eventually had to pay 100s 0d for his confirmation.¹

When the charters of liberty-holders needed adjustment to changing circumstances, or an authoritative ruling was desirable on obsolete terms likely to cause them difficulties, a royal warrant was essential for the purpose and had to be sought from the crown by petition. The abbot and convent of Cirencester presented a petition of this type in 1391.² The abbey had received from Richard I a grant of the

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P.R.O., Ancient Petitions, S.C.8/107/5305. C.Ch.R., V, p.328.

2

The Augustinian abbey of Cirencester in Gloucestershire was one of the largest and wealthiest houses of the order. Its net income in 1535 was over £1,051. In 1307 there had been 40 canons, but after the Black Death numbers were reduced, and in 1428 there were 24 canons. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.134.

manor of Cirencester and the vill of Mynty, with the seven hundreds appurtenant to the manor and various franchises. Edward III had confirmed the grant.¹ The abbot and convent requested a further confirmation from Richard II, with modifications designed to clarify one clause, 'porce que les ditz paroles sont anciens paroles et diffuses'. Whereas their present charter granted that they should have the liberty of flemenfrit, and that chattels of thieves and amercements arising from murders and other forfeitures should go to the canons, the abbot and convent asked that their confirmation should grant them all chattels and goods of felons and fugitives within the manor, vill, and seven hundreds, and all other places named in the charter. They were to be allowed to put themselves in seisin of such goods and chattels without impediment. In addition the petitioners sought writs to the Exchequer, commanding the treasurer and barons to allow these franchises to the abbey and to acquit them of any demands for forfeitures of this nature. The king gave his assent.²

Such confirmations provided only a partial protection for franchise-holders. Changes in the law and exceptional situations not covered by sufficiently specific words in their charters caused their liberties to be challenged by the ministers of the crown, and

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C.Ch.R., V, p.212; 1368.

2

P.R.O., Ancient Petitions, S.C.8/249/12440. P.R.O., Warrants for the Great Seal, C.81/524/7197. C.Ch.R., V, pp.322-3. The abbey paid 20 marks for the confirmation.

compelled them to seek a favourable ruling from the king. At Ely the bishops had been claiming from the king's justices the right to have the chattels of all their men condemned as felons, and the year and a day's waste of their lands, before the middle of the thirteenth century, and certainly as a matter of common form by the time of the Quo warranto enquiries of Edward I.¹ The tendency of the Exchequer to question this franchise had led the bishop and the prior and convent of Ely to obtain ratification of their rights from the crown on a number of occasions during the first half of the fourteenth century.² In the unprecedented circumstances of the 1381 revolt, Ely's title under the general words of its charters to the forfeited lands and chattels of the rebels was disputed by the king's officers, who seem to have held that offences committed during the rebellion constituted treason as defined by the statute promulgated in 1352, and were not covered by Ely's franchise. Under the terms of the 1352 enactment the lands and goods of those convicted of treason were forfeited to the crown, whether they held of the king or of another lord. No

1

E. Miller, The Abbey and Bishopric of Ely (Cambridge, 1951), p.203.

2

1318: C.Ch.R., 1300-26, III, pp.397-8. Rotuli Parliamentorum Anglie Hactenus Inediti, ed. H.G. Richardson and G. Sayles (Camden Society, 3rd series 51, 1935), pp.68-70. 1328: C.Ch.R., 1327-41, IV, p.79. 1343: C.Ch.R., 1341-1417, V, pp.21-2. 1348: C.Ch.R., 1341-1417, V, pp.95-6.

exception had been made in the case of the tenants of any franchise-holder.¹

The bishop of Ely presented at least five petitions in the period after the revolt, seeking to secure recognition of his franchisal claims from the crown.² Immediately after the suppression of the rebellion, he sued to the king and council and urged his right to all kinds of forfeitures within the Isle of Ely and elsewhere within his lordship. Many tenants and men of the bishopric had been condemned to death by the royal justices for their part in the uprising;³ but in

1

Statutes 25 Edward III, statute 5, c.ii. The statute made treason to consist in (a) compassing or imagining the death of the king, his consort, or his eldest son, (b) violating his consort, or eldest unmarried daughter, or the wife of his eldest son, (c) levying war against the king in his realm, or adhering to his enemies in his realm, giving them aid and comfort in the realm or elsewhere, (d) forging the great seal or the coinage, and knowingly importing or uttering false coin, (e) slaying the treasurer, chancellor or judges while sitting in court.

2

P.R.O., Ancient Petitions, S.C.8/183/9108, 216/10756, 109/5411, 109/5416, 109/5414. The bishop of Ely at this time was Thomas Arundel, third son of Richard tenth earl of Arundel. He had been provided to the see in 1373. He did not become prominent in public affairs until later in the reign of Richard II. For details of his early career, see M. Aston, Thomas Arundel: A Study of Church Life in the Reign of Richard II (Oxford, 1967).

3

The Isle of Ely, Cambridgeshire, Huntingdonshire, and East Anglia all had a part in the rebellion. In the Isle of Ely, 'one Adam Clymme rode around calling the peasantry to rebellion, and Richard of Leicester led his forces into the abbey church and reiterated the summons from the pulpit...this group seized and beheaded Sir Edmund Walsingham, a justice of the peace, broke open
(footnote continued on p.246)

contravention of Ely's liberties the escheators had seized their goods and chattels for the crown. Bishop Arundel sought writs to the escheators to remove their hand, and an order to the barons of the Exchequer not to take further proceedings against him in this matter. The crown evidently considered that the case needed more careful consideration, for its discussion was put off until the following parliament.¹ Meantime the king committed the disputed lands and goods to the custody of the earl of Arundel, who was Bishop Arundel's brother.²

Four parliaments passed by without settlement of Ely's claims.³ The bishop could do no more than continue to press his suit with the king and council.⁴

(footnote 3 continued from p.245)
the bishop's prison and destroyed his rolls; only at Huntingdon and Ramsey abbey were the men of Ely repelled, thanks to the vigorous action of a minor chancery official'. M. McKisack, The Fourteenth Century, p.416.

1

P.R.O., Ancient Petitions, S.C.8/216/10756.

2

C.F.R., 1377-83, p.265. C.C.R., 1381-5, p.42.

3

There were parliaments November-February 1381, 7-22 May 1382, 6-24 October 1382, and 23 February-10 March 1383. Handbook of British Chronology, p.527.

4

Entries on the Close Roll under 1 November 1382 and 1 March 1383 show that discussion of the case was put off from parliament to parliament. On each of these occasions the bishop was given a day to be at the next parliament (C.C.R., 1381-5, pp.182 and 255). The duke of Lancaster was also concerned at this time to prevent interference by the escheators with the goods and chattels forfeited by his tenants, and joined with Bishop Arundel in presenting a petition on the subject. P.R.O., Ancient Petitions, S.C.8/109/5411.

Finally, in August 1383, Arundel obtained the favourable decision he was seeking, when he and the prior and convent of Ely presented a joint petition which tacitly acknowledged a weakness in the wording of their charters. The suppliants affirmed their right to all forfeitures within the Isle of Ely and elsewhere by royal charter. Under the general words of these royal grants they claimed the lands, tenements, goods and chattels forfeited by the 1381 rebels and seized by the escheators into the king's hand. They asked for a grant of the forfeitures in frankalmoin. In addition a prayer was put forward for the revision of Ely's charters in the light of this case. The general words of former grants were to be clarified by an acknowledgment of their right to all kinds of forfeitures

en chescun caas de perdicion touchantz
surrexions ou leuees des communes forsiblement
a feor de guerre, fausours de monoie et
contrefaitoures du seal le Roy, ou autre
quecunque perdicion dont la forfaiture au
Roy ou ses heirs en ascune manere pourra
apperetenoir deinz le dit Isle perpetuelement
a seisir et a prendre par lour ministres a
lour oeps demesne.¹

Though it was not granted in full, the petition secured a most advantageous settlement for Ely, which may have owed much to Bishop Arundel's close connexion with the ruling group of the minority.² The king and council

1

P.R.O., Ancient Petitions, S.C.8/183/9108.

2

Bishop Arundel's brother, Richard eleventh earl of Arundel, was appointed in 1381 with Michael de la Pole as councillor in constant attendance upon Richard II,
(footnote continued on p.248)

granted the disputed forfeitures to Ely, and declared that in any future revolt by the commons the petitioners were to have all kinds of forfeitures similarly arising within the Isle.¹ The other requested modifications to Ely's charters were not mentioned in the royal reply.

The holders of the most exceptional franchises were in fact dependent on the goodwill of the crown for the peaceful enjoyment of the rights they claimed. The bishop of Durham, occupant of the 'greatest liberty long-established in private hands in medieval England',² had to make a hurried protest in 1388 when it seemed that his claim to prerogative forfeitures of war and treason would be overridden in arbitrary fashion by act of parliament. The palatinate's pretensions to this franchise had already been the subject of dispute with the crown earlier in the century. Succeeding

(footnote 2 continued from p.247)
and governor of his person. The earl had earlier been appointed to the council of regency, and in 1380 put on a commission to regulate the royal household (D.N.B., s.v. Fitzalan, Richard III, Earl of Arundel and Surrey). The king visited Ely in 1383, and it is possible that Arundel used the opportunity to press for settlement of the forfeitures dispute. See M. Aston, Thomas Arundel, pp.151-2.

1

P.R.O., Ancient Petitions, S.C.8/183/9108. P.R.O., Warrants for the Great Seal, C.81/1340/3. C.Ch.R., V, 1341-1417, p.288.

2

J. Scammell, 'The Origin and Limitations of the Liberty of Durham', English Historical Review, 81 (1966), p.449. Scammell comments on Durham's autonomy and theoretical rights that 'In the last resort the franchise's privileges were as long as the king's temper' (ibid., p.472).

bishops had petitioned over a period of 30 years to obtain redress for an infringement of their rights by Edward I. Although the justice of their claims had been admitted, no action had been taken to enforce the bishop's rights and help him eject the beneficiaries of royal grants.¹

At a time when his own disgrace was imminent, Bishop Fordham² hastened in 1388 to assert the right

1

See C.M. Fraser, 'Prerogative and the Bishops of Durham, 1267-1376', English Historical Review, 74 (1959), pp.474-5. J. Scammell has noted that the privilege of having escheats for treason was given to Bishop Beaumont as the price for abandoning Edward II and playing the bishop of Durham's traditional role at Edward III's coronation. 'But though the grant was to be the basis of many subsequent claims to glory it was worthless to Beaumont who, having almost immediately lost favour, was unable to oust the royal grantees.' (J. Scammell, 'The Origin and Limitations of the Liberty of Durham', p.473, n.1). The 1352 statute of Treason, which specified that forfeitures for high treason were to belong to the king, had no clause in it safeguarding the rights of Durham. Statutes 25 Edward III, statute 5, c.ii.

2

During the troubled years of Richard II's minority, Fordham was a thoroughgoing member of the court party. He had been employed for many years in the service of the Black Prince, and was peculiarly devoted to Richard II. He had been keeper of the privy seal of Prince Richard 1376-7, and keeper of the privy seal 1377-81 after his master's accession to the throne. He had been provided to Durham in 1381. For a brief period in 1386 he had been treasurer, but had been removed as a result of the aristocratic reaction against Richard's government. Soon after he presented this petition, his devotion to the king was punished in April 1388 by his translation to Ely, as part of the Appellants' purge of Richard II's supporters. T.F. Tout, Chapters, III, pp.399-400, IV, pp.189-90, V, pp.46-9 and 378-80, and VI, pp.24 and 53.

of his church to the forfeited lands and tenements of Michael de la Pole and Roger de Fulthorp lying within the franchise of Durham, after their condemnation for treason in the Merciless Parliament.¹ He protested against a proposed statute, ordering that all such forfeitures should belong to the king, whether or not they lay within a franchise and despite any liberty enjoyed in the past. By the enforcement of this enactment the royal franchise of Durham would suffer serious hurt, 'et ce pur le fait d'un tenant, que serroit molt contre droit et reson'.

Fordham's petition received a promise of redress. The king expressed his wish that remedy should be provided by the advice of the council.² The statute of 11 Richard II which directed that the king have all the forfeitures of the Appellants' victims, also contained a clause saving the right of lords of franchises.³ The crown proceeded to seize the forfeited property of Pole and Fulthorp within the franchise into its hand, until such time as the bishop should demonstrate his title to

1

For the proceedings in the Merciless Parliament, see R.P., III, pp.228-45. Bishop Fordham moved quickly to protect the rights of his church. The Merciless Parliament met on 3 February 1388, was prorogued from 20 March to 13 April, and finally dissolved on 4 June 1388 (Handbook of British Chronology, p.527). Fordham was translated to Ely on 3 April 1388 (*ibid.*, p.221).

2

R.P., III, p.177.

3

Statutes 11 Richard II, c.v.

it. Although the church of Durham seems to have suffered little actual loss through this seizure,¹ its bishop had still not established his legal right to the forfeitures in 1390. Bishop Skirlaw² petitioned in the parliament of that year, and his plaint produced an order to the sheriff of Cumberland for a proclamation that all who could give the king and council information against the bishop's claim, or who claimed any title or interest in the forfeitures, should appear in the next parliament. The case was to be dealt with there as seemed best to the king and council.³ I have discovered

1

Richard II granted Sir Roger Fulthorpe's lands to the latter's son to be held during the lifetime of his father, and hence the succession was unchanged. Suffolk's lands were restored to Bishop Skirlaw, in order, as is probable, that they might be returned to Michael de la Pole, the second Earl of Suffolk. See G.T. Lapsley, The County Palatine of Durham, p.48, n.1. Also C.P.R., 1388-92, pp.168-9.

2

Skirlaw had entered the royal service as a king's clerk, and during the minority of Richard II was constantly employed on diplomatic missions abroad. From 1382 to 1386 he was keeper of the privy seal. He was provided to Coventry and Lichfield in 1385, and translated to Bath and Wells in 1386. Until 1386 he was a partisan of the king and the court; but the king's advocacy of his secretary Medford for the bishopric of Bath against his claims brought about a permanent coolness between Richard II and Skirlaw. This resulted in his approximation to the side of the Appellants, whose influence gained his translation to Durham when Fordham was degraded to Ely. D.N.B., s.v. Skirlaw, Walter; and T.F. Tout, Chapters, III, p.428, n.1, V, p.49.

3

C.C.R., 1389-92, p.221.

no indication as to whether the bishop's claims were upheld; but in later legislation his right to forfeitures of war and treason was specifically acknowledged.¹

The liberty of Durham faced a far greater threat in 1433. The royal favour on which Bishop Langley had been able to rely in pursuing his plaint against the townsmen of Newcastle-upon-Tyne, became of vital importance to the survival of the palatine liberties of the bishopric at this point in his tenure of the see. The activities of a commission assigned to investigate withdrawals and concealments of royal rights in counties Cumberland, Westmoreland, and Northumberland, resulted in a serious challenge to the franchises of Durham, which compelled Langley to present a petition in parliament in defence of the immunities of St Cuthbert.²

The bishop listed the franchises enjoyed by Durham since time immemorial and drew the king's attention to the vindication of the claims of the bishopric in the parliament of 1293, after the eyre justices in county Northumberland had seized the liberty

1

For example, in the act passed by the parliament of 1461; R.P., V, p.481.

2

The commissioners were to inquire into wardships, marriages, reliefs, escheats, and rights concealed from the king, and also into escapes, falsifications, deceptions, concealments, misprisions, extortions, usurpations, derogations, intrusions, offences and negligences within the counties of Northumberland, Cumberland, and Westmoreland. R.P., IV, pp.428-9. The commission is entered in C.P.R., 1429-36, p.276.

into the king's hand.¹ Richard II had also granted previous bishops confirmation of their rights in 1383 and 1391.² In contravention of the immunities of the palatinate, the commissioners appointed in 1433 had taken an inquisition at Hartlepool, which was within the liberty and outside county Northumberland, and had received presentments at Newcastle concerning matters alleged to have taken place within the liberty. Langley stated that the king's writ did not run in the county and liberty of Durham, or in Norham and Bedlington, and that no royal minister ought to meddle in the affairs of those places whilst the see had an incumbent. Hence the inquiries had been taken without warrant and authority, to the prejudice of the liberties of the see. The bishop sought their cancellation, so that he and his successors would be free from further molestation on the basis of their findings.³

1

The justices had held that the liberties of Durham lay within county Northumberland, and had seized them into the king's hand because the bishop failed to claim his liberties during the eyre, after the sheriff of the county, in accordance with the 1278 statute of Gloucester, had made public proclamation that all who claimed any liberties must appear to describe them and show their warrants. The bishop sued to the king and council, and argued that the sheriff of Northumberland was not the sheriff of Durham. He never entered the liberty, and exercised no part of his office there. The king and council agreed that the power of the sheriff of Northumberland did not extend to the liberty of Durham, where the bishop had his own sheriff. The bishop's liberties were restored to him, as they had been held in the past. R.P., I, pp.117-9.

2

C.P.R., 1381-5, p.362. C.Ch.R., V, p.328.

3

R.P., IV, pp.427-8.

The behaviour of the commissioners has been described as 'an unusually flagrant case of royal encroachment';¹ but in fact the crown seems to have had no intention of infringing the bishop's rights. Langley's petition speaks of the inquiries and presentments as taken at the instance of certain persons

indigne ferentium ipsum nunc Episcopum, et Ecclesiam suam predictam, tanta regalitate dotatos esse, aut se ipsius Episcopi subdii regimini, vel saltem machinantium eandem Ecclesiam, de dictis suis Libertatibus, Privilegiis, Franchesiis et Immunitatibus, superveniente jam et ingruente ipsius Episcopi Senio, exheredare....²

The accusation was directed at a group of Durham tenants, whose responsibility for the affair has been demonstrated by R.L. Storey.³ The proximity of a royal commission had provided an opportunity to several of Langley's discontented subjects for attacking the bishop's rights. They were led by Sir William Eure, who had been driven by litigation from a position of active loyalty to Langley to one of extreme hatred. Nearly every aspect of the bishop's government was described and condemned in the inquest taken at Hartlepool, and most clauses of the report concluded with a statement that the transactions recorded were to the king's prejudice and derogated from his prerogatives. If the crown had purposed any attack on the franchises of Durham, a pretext would not have been lacking.

1

G.T. Lapsley, The County Palatine of Durham, p.241.

2

R.P., IV, p.428.

3

R.L. Storey, Thomas Langley and the Bishopric of Durham, pp.116-34.

Langley's petition for redress was opposed by a counter-petition presented by Eure, 'qui tam pro Domino Rege quam pro se ipso ut asseruit sequebatur'. Eure impugned both the plea of prescriptive right put forward by the bishop and the value of the royal confirmations of the liberties of Durham urged in its support. However, his arguments failed to convince the justices, serjeants-at-law, and others learned in the law, who examined the evidence of the parties together with the king and lords. The verdict given in parliament was entirely in the bishop's favour. The king's judgment indicates that royal gratitude for the services rendered by Langley to the Lancastrian rulers was an important factor in the complete vindication of the franchises of the bishopric, which he was able to secure. Much stress was laid on the advanced age of the bishop and his outstanding service to the crown and realm. The offending inquiries and presentments were quashed, and the bishop and his successors declared quit of all further molestation in this regard.¹

With all his claims to privileges and immunities, the bishop of Durham could not do other than petition for redress and submit to trial of his title in parliament, when his liberty suffered encroachment by the ministers of the crown. Royal supremacy could not be more clearly demonstrated. As in the case of Ely, the vindication of the claims of Durham seems to have

1

R.P., IV, pp.427-31. Langley was born soon after 1360 (see R.L. Storey, Thomas Langley, p.2), and would therefore have been about 70 years old in 1433.

owed much to royal favour towards the suppliant. Since franchises were essentially royal rights in private hands, their holders, both churchmen and laymen, had to be able to demonstrate a sufficient warrant for their possession. In doubtful cases, the king alone could make an authoritative pronouncement on a claimant's rights, and his grace had to be sought by petition.

With respect to the suits discussed above, the king's attitude towards the claims of ecclesiastical lords has not appeared ungenerous. Neither here, nor in his treatment of petitions concerned with other aspects of lordship, has the king shown any inclination to deny a request for justice. An important part of the work of the royal administration lay in protecting the king's interests; and the activities of his officers inevitably led to protests from other lords that their rights had been infringed. Whilst petitions were the only means by which such lords could sue against the crown, no difficulty seems to have been made about granting them trial of their complaints. If they could prove their case, then they were able to make a full recovery of their rights.

Chapter IV

THE CHURCH AND THE STATUTE OF MORTMAIN

nullus religiosus aut alius quicumque terras aut tenementa aliqua emere vel vendere aut sub colore donationis aut termini vel alterius tituli cujuscumque ab aliquo recipere aut alio quovis modo arte vel ingenio sibi appropriare presumat sub forisfactura eorundem per quod ad manum mortuam terre et tenementa hujusmodi deveniant quoquo modo.¹

In these sweeping terms the statute of Mortmain enacted in 1279 had placed an apparently rigid prohibition on the alienation of property to the Church, on pain of forfeiture of the land or tenements concerned. Six years later further legislation had been passed, designed to block attempts to defeat the purpose of the statute by means of collusive actions in the royal courts.² However, the royal government had never enforced a total ban on fresh acquisitions of property by the clergy. The king had assumed to himself a prerogative right to dispense individuals from obedience to the letter of the law.

1

Statutes at Large, I, pp.72-3; 7 Edward I, statute 2.

2

In cases where an ecclesiastical plaintiff recovered a tenement in the royal courts by default of the defendant, it was established that an inquiry was to be held by jury in order to discover whether the plaintiff did have a title to the tenement, or whether the action was a collusive one to defeat the statute of Mortmain (Statutes 13 Edward I, statute 1, c.xxxii). For evidence of the enforcement of the provisions of this act over a century later, see C.C.R., 1396-9, pp.128-9.

Although no such procedure had been authorized by the statute itself, the issue of numerous licences for alienation into mortmain had followed the enactment of the statute, whose ultimate effect had been to give the king sole control over grants to the Church, and a means of taxing these transactions through fines for his assent.¹ Moreover, the appropriation of churches had also been held to come within the scope of the 1279 act, and licences had become equally essential for that purpose as for the amortization of land and rents.² A further important sphere of clerical activity had thus come under the surveillance of the crown at the same time.

As licences were essential for all amortizations and appropriations in the later middle ages, many ecclesiastical petitions are simply requests to the king for leave to acquire property or to appropriate churches. These will be used to illustrate the nature of the licencing system, and evidence will be sought from them of efforts by churchmen to increase their incomes during a period of considerable difficulty for many landowners

1

See Sir F.M. Powicke, The Thirteenth Century, 1216-1307 (Oxford, 1953), p.325, and K.L. Wood-Legh, Studies in Church Life, pp.60-1. J.M.W. Bean has commented on the fines charged for granting licences that they 'can only be described as a new incident of feudal tenure. In its handling of the grievances of mesne lords over mortmain the Crown had followed policies which gave itself, and not its subjects, the chief benefits from the reforms that were achieved.' (J.M.W. Bean, The Decline of English Feudalism, 1215-1540 (Manchester, 1968), p.66). He has noted that in the early sixteenth century it appears to have been accepted legal doctrine that the fine charged was three years' value of the land alienated (ibid., p.66, n.1).

2

See K.L. Wood-Legh, Studies in Church Life, p.127.

both lay and ecclesiastical.¹ A smaller, but equally important group of petitions, consists of clerical complaints to the crown at injustices caused by the actions of the king and his ministers in enforcing the licencing system. They indicate the extent and reality of royal control over all transactions falling within the scope of the statute of Mortmain, at a time when the laity in parliament were urging the king to extend his control over the Church in this sphere. The petitions of the commons against the alleged inadequacies of the existing licencing system, and the response of the crown to repeated demands for further royal intervention in ecclesiastical affairs, will be examined in this study. An attempt will be made to assess how far lay complaints at the activities of the clergy reflected real problems, and to what extent the king was willing to assume greater control over amortization and appropriation.

The constant flow of property into the hands of the Church had consequences that had caused much concern to laymen in the years before 1279. C. Gross has noted the many entries in thirteenth century Hundred Rolls, which 'show that much land in the boroughs had been alienated to the clergy, and that this was felt to be detrimental to the interests of the king and the burgesses through the loss of taxes, rents, and escheats'.² Prohibitions on the alienation of burgage land and tenements to

1

For a discussion of the difficulties of landowners in the later middle ages, see M.M. Postan in The Cambridge Economic History of Europe, I, ed. M.M. Postan, 2nd ed. (Cambridge, 1966), pp.595-600.

2

C. Gross, 'Mortmain in Medieval Boroughs', American Historical Review, 12 (1906-7), p.737.

religious houses had appeared in borough customals and charters as early as the second half of the twelfth century, and had become quite common in the first half of the thirteenth century.¹ Similarly, the loss of feudal dues and services by lay lords as a result of amortization² had brought attempts to deal with this problem in 1217³ and 1259.⁴ The Provisions of Westminster had laid down in 1259 that the religious were not to enter on the fee of anyone without the licence of the chief lord from whom the property was immediately held.⁵ The failure

1

C. Gross, 'Mortmain in Medieval Boroughs', pp.736-7.

2

'If a man gave land to a religious corporation, i.e. made an alienation in mortmain, the lord got a tenant who never died, who was never under age, who could never marry, who could never commit felony. The religious corporation suffered none of those incidents in the life of the natural man which were profitable to the lord....'

W.S. Holdsworth, A History of English Law, II, 4th ed. (London, 1936), pp.348-9.

3

See clause xliii of the second reissue of Magna Carta: 'Non liceat alicui de cetero dare terram suam alicui domui religiosae ita quod illam resumat tenendam de eadem domo, nec liceat alicui domui religiosae terram alicujus sic accipere quod tradat eam illi a quo eam receperit tenendam. Si quis autem de cetero terram suam alicui domui religiosae sic dederit et super hoc convincatur, donum suum penitus cassetur et terra illa domino suo illius feodi incuratur.' (Select Charters, ed. W. Stubbs, p.343.) The same clause appears as clause xxxvi of the 1225 reissue of Magna Carta (Statutes 9 Henry III, c.xxxvi).

4

Article x of the Petition of the Barons in 1258 sought the provision of remedy so that 'religiosi non intrent in feodum comitum et baronum et aliorum sine voluntate eorum, per quod amittunt in perpetuum custodias, maritagia, relevia et eschaetas'. Select Charters, ed. W. Stubbs, p.375.

5

Select Charters, ed. W. Stubbs, p.393, c.xiv.

of this enactment to achieve its purpose was put forward in the preamble to the statute of Mortmain as the reason for the new action taken by the crown. The smaller landowner of the thirteenth century had also had an interest in securing legislation to curb the acquisitive activities of the Church. The knights and gentry had faced a gathering threat to their position from great landowners, the ecclesiastical lords no less than the lay magnates, who were intent on rounding off their possessions.¹

If strong feelings of grievance had persisted beyond the legislation of Edward I and the establishment of the licencing system, the Rolls of Parliament might be expected to provide evidence of this. A petition from 1330 demonstrates that lay hostility towards the continued alienation of property into mortmain existed. No details of the sponsors of the bill are given, but the suppliants stated with asperity that

si notre Seigneur le Roy et son Connseill ne
preynont le plus tost garde, tote sa terre
devendra en mayne de Religioun. Et si notre
Seigneur le Roy voille sagement overer, il fra
enquere come bien de terre est enmortye par
mayn de Religioun puis le Statute, et la verra
il coment sa terre est desue: Dont plusurs
gentz de sa terre prionnt remedie.²

However, it was not until the last quarter of the fourteenth century, when proposals for the disendowment

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See M.M. Postan in The Cambridge Economic History of Europe, I, pp.594-5.

2

R.P., II, p.50.

of the Church were heard in parliament,¹ that the commons began to show a persistent concern to ensure that ecclesiastics should not evade the controls placed on their activities. Their complaint in 1376 of the bribery and corruption employed by the religious in the legal system is evidence of their antagonism, although the sentiments attributed to the religious may also reflect authentic ecclesiastical resentment against the mortmain legislation. The religious were alleged to claim various things without any true title, pleading continual possession from time immemorial or some other untruth triable by inquest. By gifts and promises to the sheriff they then procured the empanelling of juries at their will, from which they were able to secure favourable verdicts. They were said to justify these actions on the grounds that 'puis que purchas a eux est defenduz, qu'eux purront ove melour marche purchaser par tielx Enquestes q'en autre manere....'² At the same time the commons

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For the anti-clericalism of the 1370s and 1380s, see M. McKisack, The Fourteenth Century, pp.289-91. Walsingham reports this reaction by the commons in the 1385 parliament, when faced with clerical opposition to lay grants being made conditional on a specified grant by the clergy: 'Quae responsio tantum commovit turbam communium, ut milites Comitatum, cum quibusdam ex proceribus regni, cum summa furia deprecarentur auferre temporalia ab ecclesiasticis, dicentes clerum ad tantam excrevisse superbiam, quod opus esset pietatis et eleemosynae, per ablationem temporalium quae ecclesiasticos extollebant, eos compellere ad humilior sapiendum. Haec clamabant, haec Regi in scriptis brevibus porrigebant; et tanta fuit eorum in hac parte vesaria, quod hanc petitionem ad effectum posse perducere credebant.' Thomae Walsingham, Historia Anglicana, II, p.140.

2

R.P., II, p.356.

sought to prevent the escape of ecclesiastics from the consequences of unlicensed amortization. They requested measures against the return by the sheriffs of juries favourable to ecclesiastics, when inquiry had to be made into the findings of escheators and other royal ministers in cities and enfranchised towns. Their proposals met with the unsympathetic response that the law used in the past was to be maintained.¹

The commons also considered that feoffments to use provided churchmen with a means of evading the statute.² They petitioned in both the parliaments of 1377, seeking that such uses be adjudged to come within the scope of the statute of Mortmain. In both cases they received the reply that the king did not intend to change the law.³ By 1391 the royal government had had a change of heart, possibly as a result of increasing employment of the device. It was then laid down that possessions held to the use of ecclesiastics were to be amortized by royal

1

R.P., II, p.356.

2

Feoffments to use were the procedure by which A conveyed land by feoffment to B, with the intention that B should not hold it for his own benefit, but for the benefit of a third person, or of A himself. B was said to hold the land 'to the use' of the beneficiary. By the close of the fourteenth century, the use of lands seems to have been common, although the interposition of feoffees to uses between the beneficiary and his feudal lord introduced endless complications into the feudal incidents, and might completely destroy them. See T.F.T. Plucknett, A Concise History of the Common Law, pp.544-555, and J.M.W. Bean, The Decline of English Feudalism, ch.3 and ch.4.

3

R.P., II, p.368 and *ibid.*, III, p.19.

licence before the following Michaelmas, or otherwise alienated 'a autre oeps' on pain of forfeiture. Henceforth no such feoffments to the use of churchmen were to be made.¹ The crown thus took action to eliminate the one considerable loophole in royal control over the acquisition of property by the Church that had emerged in the period since the reign of Edward I.

The 1391 enactment concerning uses was made in reply to a commons' complaint of a quite different breach of the statute of Mortmain, which may have been prompted by a dispute at Abingdon.² Ecclesiastics were said to have entered on lands and tenements 'ajoustez a lour Esglises', and with the assent of the tenants of this property to have consecrated cemeteries there by means of papal bulls. They had not had the licence of the king or other lords for these proceedings. The commons' request that such amortizations should be included within the scope of the statute met with the response that this was understood to be already the case.³

A decade earlier the commons had shown their concern to protect the interests of mesne lords, on whose behalf the legislation of 1279 had allegedly been enacted. The economic difficulties of the period had possibly given a new importance to the prevention of loss of feudal

1

R.P., III, p.291. Statutes 15 Richard II, c.v.

2

See the petition of the abbot and convent of Abingdon in the same parliament, which is discussed below pp.287-9 (R.P., III, p.297).

3

R.P., III, p.291. Statutes 15 Richard II, c.v.

dues.¹ Moreover, the principal concern of the royal government in enforcing the statute may have become increasingly the prevention of amortization without licence and the consequent loss of fines. Under a statute of 1306 licences were not to be granted, where there were mesne lords, unless the religious could produce letters patent showing the assent of such lords to the transaction.² The commons now complained that certain men of religion, and others at their urging, caused the king to acquire lands, tenements, and advowsons, 'a l'entente d'esteindre les Seigneurs plus bas, et de prendre lour feoffement des tielx Terres et Tenemenz et Appropriacions des Esglises issint en mortmayne immediat du Roi'.³ Through these practices the lords of whom the property was held lost their wardships, marriages, reliefs, escheats, and other profits of lordship, so that they were left in the same unfortunate situation that the statute

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M.M. Postan has described the period covered by the Hundred Years' War as 'one of profound crisis' for the manorial lord. 'The magnates found it difficult to maintain themselves on their purely agricultural incomes. Some of them tried to supplement their incomes in other ways. Most of them must have found feudal revenues, profits of courts and of local influence relatively more important as agricultural revenues fell, and offices of state or shares in the spoils of political power must have become more tempting than ever. So also were the profits of the sword for those who could wield it.' M.M. Postan, 'Some Social Consequences of the Hundred Years' War', Economic History Review, 12 (1942), p.11.

2

Statutes 34 Edward I, statute 3.

3

R.P., III, p.117.

of Mortmain had been designed to redress. In his reply the king disavowed any intention of causing hurt to lords in this manner, if he was duly informed of the fact. He reserved his prerogative right of entry on the property involved in the deception, as provided by the statute de Religiosis.¹

Evasions of the statute were the subject of a further petition by the commons in 1394. They now claimed that the religious had appropriated many lands and free tenements, 'si bien en fee d'autres Seigneuries come deinz lour Seigneuries', through the marriage of their villeins to free women. Free lands had thus descended to the heirs of villeins and had been seized by the religious, passing into mortmain without the licence of the king or other lords of the fees. Although the acquisition of property by the Church in this manner could not have been common enough to be a serious problem, dire results were predicted by the petition if the complaint was not redressed:

En quell cas, par proces du temps si remede ne soit ent ordeine, par consequence ils purront encrocher la greindre partie de ceste Terre, ensemblement ove lour Governail.²

The royal government remained unimpressed. The petition received the reply that existing statutes, which were to be fully maintained, provided sufficient remedy.³

¹ R.P., III, p.117.

² R.P., III, p.319.

³ R.P., III, p.319.

None of these petitions requested the enforcement of the total prohibition on further alienation into mortmain ostensibly imposed by the statute of 1279. The commons concentrated their efforts on ensuring that the aims of the statute were upheld, and that the clergy, particularly the religious, were prevented from escaping royal control over their acquisitions. Their anxiety does not seem to have been caused by an increase in the rate at which the Church was acquiring property in the later fourteenth century, if the number of mortmain licences issued by the crown is accepted as evidence on this point. A comparison of the number of licences issued annually by Edward I and Edward III suggests that up to 1377 at least mortmain did not grow beyond the dimensions achieved in the closing years of Edward I. Indeed Edward III issued considerably fewer licences in the second half of his reign than in the first half. On the other hand, the number of licences issued annually still remained substantial. Between 1352 and 1377 the king granted an average of about 45 licences a year.¹ The complaints of the commons met in most cases with a negative response from the government, which appears to have been satisfied on the whole that existing legislation provided adequate safeguards. The justification for this royal attitude must now be examined.

Before a licence to amortize could be granted, the proposed amortization was subjected to an investigation designed to protect the interests of the king and other

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See J.M.W. Bean, The Decline of English Feudalism, p.55, and K.L. Wood-Legh, Studies in Church Life, p.165.

lords. At an early date,¹ the crown had established that applicants for such licences were to obtain a writ in Chancery, which ordered an inquisition ad quod dampnum to be held into possible loss to the king or others. If this proved satisfactory, then a licence would be issued on payment of a fine.² The validity in law of this process, which until then had had no legal basis outside the royal prerogative,³ was established in 1344. The clergy petitioned in the parliament of that year for a grant that churchmen arraigned before royal justices concerning acquisitions in mortmain should be left in peace, if they could show a royal licence and an inquest ad quod dampnum taken on the matter. This was granted by Edward III, who also assented to a further request that ecclesiastics unable to show proof of legitimate amortization should be allowed to make a suitable fine.⁴ These concessions became part of a statute granted to the clergy.⁵

1

See, for example, the petition presented by the prior of Hextildisham in 1283 (Rotuli Parliamentorum Anglie Hactenus Inediti, ed. H.G. Richardson and G. Sayles (Camden Society, third series 51, 1935), p.21), and the articles presented to the king by the bishops in 1285 (Concilia, ed. D. Wilkins, II, p.116).

2

See Statutes 27 Edward I, statute 2, and R.P., I, p.78. From a study of the early returns to the inquisitions, H.M. Chew has concluded that 'the Crown possessed and at first freely exercised an option in the granting or withholding of licences, and was not bound by the verdict of the jurors'. H.M. Chew, 'Mortmain in Mediaeval London', English Historical Review, 60 (1945), p.3, n.7.

3

T.F.T. Plucknett, Statutes and their Interpretation in the First Half of the Fourteenth Century (Cambridge, 1922), p.144.

4

R.P., II, pp.151-2.

5

Statutes 18 Edward III, statute 3, c.iii.

The comprehensive nature of the inquisitions may be illustrated by an example from 1380. Henry Percy, earl of Northumberland, proposed to enfeoff Henry de Barton and others with a toft in Tadcaster, so that they might then assign the same to a chaplain for the daily celebration of divine service in that town. A writ was issued to the escheator of Yorkshire for an inquiry by local jury whether it would be to the loss or prejudice of the king or others, if a royal licence were granted for this purpose. Any loss or prejudice found by them was to be specified. The jurors were also to report on the tenure and yearly value of the toft, and to give details of the mesne lords between the king and the proposed feoffees.¹ They were to state the lands and tenements remaining to the feoffees over and above the proposed grant, with details of their tenure,² and to indicate whether these would suffice to support the

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This would allow the royal government to fulfil the requirements of a statute of 1306, which had laid down that where there were mesne lords, no action should be taken on inquisitions ad quod dampnum returned to Chancery 'nisi religiosi ostendant eorum assensum Domino regi per literas patentes eorundem mediorum sigillis signatas'. Statutes at Large, I, pp.155-6; 34 Edward I, statute 3. See also R.P., I, p.83.

2

The statute of 1306 had also established that no action was to be taken on inquisitions returned to Chancery, 'ubi donator penes se nihil retinet'. Statutes at Large, I, pp.155-6; 34 Edward I, statute 3. See also R.P., I, p.83. In 1290, the king had made this reply to a list of requests for licences to grant property in mortmain: 'De illis qui terras non retinuerunt sibi per que onera possunt supportare sicut consueverint Rex nichil potest facere. De aliis qui habent tenementa residua per que possunt onera supportare Rex concedit.' R.P., I, p.63.

customs and services due both from the toft and the retained possessions of the feoffees, as well as other burdens¹ and public duties.² These findings were to be returned to Chancery.³

The writ was issued on 10 February 1380, and the inquisition was taken at Tadcaster on 13 April following. The jury then stated that no prejudice or loss would result to the king or others from the proposed transactions. The toft was held of the king in chief as parcel of the manor of Tadcaster, which was held by knight service. It was worth only 4d per annum, '*quia est omnino vastum*'. There were no other mesne lords between the king and the feoffees in respect of the toft; and no lands or tenements remained to the latter beyond this grant.⁴ On the basis of this return Henry de Barton and his co-feoffees petitioned to the king, '*come a lour liege seigneur*', to grant them licence to amortize the toft for a reasonable fine. Their petition was committed for consideration to the council, by whom it was agreed that the request be granted for the fine

1

These were listed as suits, views of frankpledge, aids, tallages, watches, fines, redemptions, amercements, contributions, and any other burdens. P.R.O., Inquisitions ad quod damnum, C.143/395/4.

2

That is, whether the feoffees and their heirs could be placed on assizes, juries, and other inquests, as they and their ancestors had been accustomed before the grant, so that the countryside would not bear more than its usual burden through their default. P.R.O., Inquisitions ad quod damnum, C.143/395/4.

3

P.R.O., Inquisitions ad quod damnum, C.143/395/4.

4

P.R.O., Inquisitions ad quod damnum, C.143/395/4.

of one noble.¹ Plainly suitors did not necessarily take immediate advantage of a favourable inquest, for the enrolment of this licence on the Patent Rolls is dated December 1384.²

An inquisition ad quod dampnum thus constituted a thorough investigation of the circumstances of a proposed alienation in mortmain. The information sought was closely related to legislation on the subject, and, if due weight was given to it in deciding whether or not to grant licences, provided safeguards for the interests of all parties.³ Certain licences were granted prior to an inquisition; but grantees were not thereby exempted from the holding of an inquiry. The rights of other lords were protected in the terms of the letters. In March 1441, the bishop of Bath and Wells, chancellor at that time, sought from the king licence to grant property in London held of the crown in free burgage to the Carmelite house in Fleet Street, and permission for the priory to receive the same. The specimen letters patent presented to the king for his approval contained these clauses:

Dumtamen per inquisitiones inde debite capiendas
et in Cancellariam nostram vel heredum nostrorum
rite retornandas compertum sit quod id fieri

¹ P.R.O., Ancient Petitions, S.C.8/223/11135.

² C.P.R., 1381-5, p.486.

³ Note, however, the conclusion of H.M. Chew that as regards the early returns to the inquisitions, the crown was not bound by the verdict of the jurors, but freely exercised an option in the granting or refusal of licences. H.M. Chew, 'Mortmain in Mediaeval London', p.3, n.7.

possit absque dampno seu preiudicio nostri
vel heredum nostrorum aut aliorum quorum-
cumque....Saluis tamen Capitalibus dominis
feodi seruiciis inde debitis et consuetis.¹

His petition received the royal assent. In November of the next year, after an inquisition had been held before the escheator of London, a licence for the amortization of the messuage was issued.²

Failure to observe the correct procedure when acquiring in mortmain was punishable by forfeiture of the property concerned. Despite the statute of 1344, it was by no means certain that the discovery of trespasses in this regard would be followed by pardon and restoration of the property on payment of a fine.³ Suppliants for such pardons were therefore careful to include in their letters patent a clause expressly noting the absence of any inquisition ad quod dampnum in their case. In 1441, the abbot and convent of Combe petitioned to the crown for letters pardoning their acquisition of the manor of Wolvey without royal licence. They specified that they were to continue in possession of the manor without impeachment by the king or his ministers, 'eo quod breue nostrum de ad quod dampnum secundum iuris exigenciam extra Cancellariam nostram

1

P.R.O., Council and Privy Seal Records, E.28/file 67. Bishop Stafford asked that the licences be granted to him without fine or fee, and was present when the king gave his assent to the remission of these charges. Ibid.

2

C.P.R., 1441-6, p.182.

3

See K.L. Wood-Legh, Church Life under Edward III, pp.65-6.

minime in hac parte emanauit...non obstante'. Henry VI gave his assent, notwithstanding any mandate or ordinance made to the contrary.¹

The crown maintained a similarly tight control over the use made by the clergy of general licences to acquire in mortmain. Many ecclesiastics and ecclesiastical corporations found it advantageous to secure royal permission to obtain lands and rents in mortmain up to a particular amount, probably in order to lessen the sums paid by them in fines.² In 1445, the prior and convent of Axholm sued to the king for licence to acquire lands, tenements, and rents, not held of the king in chief, to the value of £50 per annum, from any person willing to grant such to them and their successors. They alleged in support of this request the insufficient endowment of the house and its inadequate size for their needs. Their petition, with an additional plea that the grant should be made without fine or fee, was given royal approval.³

Such a licence did not exempt its recipient from seeking a licence for the acquisition of each parcel of land or rent towards the specified amount,⁴ or from the

¹

P.R.O., Council and Privy Seal Records, E.28/file 68. The pardon is calendared in C.P.R., 1436-41, p.508.

²

See K.L. Wood-Legh, Church Life under Edward III, p.64.

³

P.R.O., Council and Privy Seal Records, E.28/file 75. C.P.R., 1441-6, p.359.

⁴

Thus, in 1394, the master and scholars of Clare Hall, Cambridge, were granted pardon for 20 marks of their acquisition in mortmain of the advowson of Wrauby under a general licence and after an inquisition ad quod

(continued p. 274)

requirement that an inquisition ad quod dampnum be held in each case.¹ Letters patent granted to the abbot and convent of Westminster in 1432 will serve to illustrate the safeguards included in these licences. The abbey sought a licence to acquire lands, tenements, rents, and advowsons, to the value of £100 per annum, except lands and tenements held of the king in chief, in order to support various services for the soul of Henry V. Their letters specified that assent to their acquisitions was first to be obtained from each and all of the lords 'de quibus Terre, Tenementa, Redditus, et Advocaciones ille, mediate vel immediate tenentur'. The property acquired was not to exceed an annual value of £100 in all, and inquisitions taken in due form and returned to Chancery had to show that the transactions could be completed 'without loss or prejudice to the king, his heirs, or others. A final clause protected the chief lords of the fees against loss of the customary services due from the amortized property.²

Nonetheless, the commons felt in 1385 that the clergy were able to use such general licences as a means of escape from vigilant supervision of their purchases.

⁴ (continued from p. 273)
dampnum, but without a special licence for this purpose. C.P.R., 1391-6, p.387. The original licence had been issued in 1346; C.P.R., 1345-8, p.195.

¹

For a fine of 100s, the prior of Tonbridge secured pardon in 1393 for the trespasses of his predecessors in acquiring certain property under a general licence granted by Edward III, without suing out writs of ad quod dampnum or the return of inquisitions to Chancery. C.P.R., 1391-6, p.227.

²

R.P., IV, pp.414-5. The licence is calendared in C.P.R., 1429-36, p.213.

They complained that the religious made fraudulent use of their licences to acquire larger amounts of lands and tenements than were specified in the terms of these grants. The allegation seems to have been inspired more by the anti-religious feeling of the time than by a serious abuse.¹ I have found no evidence to support the charge made against the monks, and the attitude of the crown towards the commons' petition is a further indication that their complaint was largely unjustified. The king politely refused the suppliants' request for an inquiry and suitable remedy.² Since he had a financial interest in mortmain licences that would have been affected by such widespread abuse of general licences as the commons alleged, the king's indifference towards the plaint suggests that he considered it unfounded.

Certainly in other respects royal ministers seem to have been sufficiently alert on the king's behalf. The prelates-religious of England presented a petition to the king and council in parliament about this time,³ which illustrates the vigilance of the officers of the crown. The prelates asserted that general licences had

1

For a discussion of the criticism of the religious and the attacks on the wealth of the Church at this time, see D. Knowles, The Religious Orders in England (3 vols., Cambridge, 1950-9), II, chapter VII. It was in this parliament of 1385 that proposals for the disendowment of the Church are alleged to have been put forward by the commons. See above, p.262, n.11

2

R.P., III, p.213.

3

It has been dated by the Public Record Office as possibly circa 1377.

been granted to certain of the religious in the past for the acquisition of land and tenements up to a certain value, excluding property held of the king in chief. As a result the grantees had acquired rents and tenements held in free burgage in the city of London and other cities and boroughs. Certain of these had been seized into the hands of Edward III as alienated into mortmain against the terms of the licences, because free burgage was interpreted by some royal advisers as holding 'del dit Roi com en chief'.¹ The religious sought a renewal of their licences, with a modification allowing them to acquire lands and tenements held in free burgage, and requested the restitution of property already seized. Their petition, which appears to have received no reply, is indicative of the scrutiny to which the process of amortization was constantly subjected in the interests of the crown.²

1

H.M. Chew has noted that in London, as in the royal boroughs generally, 'all land was regarded by a legal fiction as held in chief, and all escheats as the property of the king'. H.M. Chew, 'Mortmain in Mediaeval London', p.3.

2

P.R.O., Ancient Petitions, S.C.8/134/6669. Royal concern to prevent loss to the crown of feudal dues and escheats is seen in the exception of lands and tenements held of the king in chief from the general licences to acquire in mortmain. Requests were sometimes made that such a clause be not included. In 1397, the chapter of Beverley Minster petitioned for licence to obtain and amortize lands and tenements to the value of £20 per annum, whether held of the king in chief or of others. This was granted (P.R.O., Ancient Petitions, S.C.8/253/12635). However, the licence enrolled on the Patent Rolls contains the proviso that any parcels of lands, tenements, or rents so acquired, if held in chief, should be so excepted and reserved that the crown did not fail to get the wardship and marriage of the heirs of the lands, or other profits therefrom (C.P.R., 1396-9, p.84).

The royal government had a strong financial interest in ensuring that amortizations were not made without royal assent. Large sums were often taken for licences to acquire in mortmain on a substantial scale. When the abbey of St James by Northampton obtained a licence to acquire lands and rents to the clear annual value of 40 marks in 1440, a fine of £100 was exacted.¹ Even then the licence proved unsatisfactory, for the abbot and convent complained to the king in the next year that the grant applied only to the existing head of the house, who was of great age. The suppliants sought the modification of their licence, so that it would apply both to them and to their successors. This was granted.²

1

C.P.R., 1436-41, p.407. This was a very large sum, since the net income of the house in 1535 was only £213 per annum (in 1291, its income had been about £68). D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.147.

2

P.R.O., Council and Privy Seal Records, E.28/file 67, and C.P.R., 1436-41, p.555. The house acquired property to the value of £8 per annum in 1442 (C.P.R., 1436-41, p.555). The expenses involved in such transactions may be seen in the account rendered to the prior and convent of Ely for the purchase and mortification of the manor and advowson of Mepal in 1361, in satisfaction of £4 of £40 yearly of land and rent which they had the late king's licence to acquire (C.P.R., 1361-4, p.171). The total cost, excluding the fine for the original general licence to acquire property to the value of £40 per annum, was £254, of which a little less than £242 was paid for the land, stock, and crops. The remaining £12 odd went on the expenses of holding the inquisition ad quod dampnum, and securing the special licence for the amortization (this cost 26s 8d). Of this total, 'the accountant, who went three times to London and once to Cambridge, took not quite 30s., while the Crown, it appears, received slightly less. The other £9 odd (plus a pipe of the convent's wine) were expended in fees to the escheator and to every other

(continued p. 278)

The cost of securing a royal licence might prove prohibitive for a small house. In 1445, the prior and canons of Barlinch¹ stated in a petition to the king that at the prayer of the chancellor, Archbishop Stafford, they had been granted licence to acquire from the archbishop or others property to the value of 20 marks per annum, as their original endowment had diminished. However, the letters patent had remained in the hanaper of Chancery, because of their inability to pay the fine and fee for these.² The petitioners asked for an order to the chancellor that he add a clause to their letters exempting the house from payment of fee or fine to the king or his heirs for the licence, and also for future acquisitions under its terms. Henry VI gave his consent to their request.³

The licences so far considered have been concerned with new alienations of land and rent into mortmain, but

² (continued from p. 277)
official, local or central, who was concerned in the business, not forgetting the jury'. Seiriol J.A. Evans, 'The Purchase and Mortification of Mepal by the Prior and Convent of Ely, 1361', English Historical Review, 51 (1936), pp.113-20.

¹

Net income 1535, £98. See D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.126.

²

The hanaper had a separate office within the Chancery, and its chief business consisted in receiving the fees and fines that were paid on charters and letters under the great seal, making what payments from this that were commanded, and accounting for the whole proceeds annually at the Exchequer. See B. Wilkinson, The Chancery under Edward III, pp.59-64.

³

P.R.O., Council and Privy Seal Records, E.28/file 75.
C.P.R., 1441-6, p.359.

royal control extended beyond this point to the existing endowment of the Church. As K.L. Wood-Legh has noted, the king's permission seems to have been as necessary for transfers of property already in mortmain as it was for fresh amortizations.¹ Conversion of amortized property to a different use thus fell within the scope of the statute de Religiosis. Early in the reign of Henry VI, the bishop of Lincoln sought licence in parliament to transform the hospital of St Leonard near Newark, which was in his patronage, into two chantries. He proposed to effect this transformation either with the assent of the existing incumbent, or when the hospital next became vacant. Both the chantries were to be of a single chaplain, one acting as warden of the hospital, and the other as keeper of the new library of the cathedral church of Lincoln. Certain possessions of the hospital were to be assigned for the maintenance of the warden and five poor men, where at present there were only two such persons. Other lands and rents granted by the bishop's predecessor at the foundation of the hospital were to be transferred to the chaplain serving the cathedral church. The royal reply safeguarded the king's interest in these transactions, since he would have had hitherto a right of presentation to the hospital, if it became vacant during voidances of the see of Lincoln. In addition, consideration was given to the intention of the founder of the hospital. The petition was granted, provided that the ordinary² was satisfied that

1

K.L. Wood-Legh, Church Life under Edward III, pp.70-1.

2

In this case, the archbishop of York.

la deuocion del foundour du dit hospital ne soit amenusee ne le Roi defraude des aduocons des Chaunteries nomez en la petition quant ils voident el temps del voidance del Eueschee de Nicole.¹

The bishop seems not to have gone ahead with his plans.²

Similarly, the bishop of St Asaph found it necessary in 1379 to obtain expensive licences from the crown, in order to accomplish his projected reform of the condition of certain livings in his diocese. Bishop Spridlington sought three licences from the royal council. Firstly, as the vicarage of Whitford was too impoverished to maintain a vicar and had no habitation, the bishop wished to unite it to the rectory of the same church, both of which were in his collation. Secondly, he desired to unite into a single rectory the two portions in the church of Llaneurgeyn, both of which had cure of souls, since they were of small value and had only one habitation. Thirdly, he proposed to unite the vicarage of Kilkein to the rectory of the same church, the former being too impoverished to maintain a vicar. The required licences were granted, but the cost was substantial. Fines of ten marks, £20, and six marks were exacted for the three unifications.³

However, such licences were indispensable if future difficulties were to be avoided, for there is sufficient evidence of the effective enforcement of royal control.

¹

P.R.O., Ancient Petitions, S.C.8/122/6095.

²

See V.C.H., Nottinghamshire, II, pp.167-8.

³

P.R.O., Ancient Petitions, S.C.8/263/13100. C.P.R., 1377-81, pp.366-7.

The officers of the crown seem to have been diligent in ensuring that unauthorized alienations into mortmain were not allowed to pass unpunished. The Close Rolls contain numerous orders to the escheators for the return to ecclesiastics of property wrongly seized into the king's hand on the grounds that it had been acquired without licence. A striking example of the energy with which the royal government sought to prevent evasion of its lucrative control over amortization, is to be found in the inquiry instituted in 1364 into the right of the citizens of London to devise their lands and tenements freely in mortmain.¹ The investigations of amortizations which followed lasted for a quarter of a century,² and over a hundred cases were separately examined.³ A total

¹ In 1327, the mayor, aldermen, and commonalty of London had requested confirmation of their right to devise tenements to whom they would, 'sibien en mortmain come en autre manere, selonc qe eux soleient feire de tutz iours auant'. This had been granted by Edward III (Rotuli Parliamentorum Anglie Hactenus Inediti, p.128), and a charter issued expressly conceding the point (Historical Charters and Constitutional Documents of the City of London, ed. W. de Gray Birch (1887), p.54). H.M. Chew has suggested that 'It may well have been the rich harvest of bequests reaped by the Church during the plague years that drew the attention of the Crown to the imperfections of the system of control established under the law of mortmain, and prompted further inquiry into the operation of the privilege confirmed to the Londoners in 1327'. H.M. Chew, 'Mortmain in Medieval London', p.7.

² For a discussion of these proceedings by the crown, see H.M. Chew, 'Mortmain in Medieval London', pp.1-15.

³ The defendants summoned before Chancery to show cause why the property devised to them should not be forfeited to the crown under the statute of Mortmain, had to establish by certificate of the mayor and chamberlain the citizen status of the devisor, and satisfy the court that
(Continued p.282)

of no less than 50 forfeitures to the crown resulted from these proceedings,¹ which may be illustrated by the case of the priory of Tortington. Certain tenements and an advowson in London had been devised to the house in 1286 by Robert Aguillon.² The question of whether the statute of Mortmain applied to the grant had been considered at that time in the courts. The decision had been in the negative, since the chancellor and others of the king's council had testified that the king did not wish the statute to be prejudicial to the prior.³ The house had remained in peaceful possession of the property until 1367. In that year, as part of the drive against unlicensed alienations in the City, a royal writ had been issued to the escheator of London directing him to hold an inquiry into the matter. It had then been found that

3 (continued from p.281)

the devise had been made either before 1279, or after the grant of the charter of 1327. During the intervening period, the privilege claimed by the City was held by the royal lawyers to have been in abeyance. H.M. Chew, 'Mortmain in Medieval London', p.9.

1

In some 15 cases the forfeiture was pardoned, usually for a substantial fine. In a score of cases the forfeited tenements were bestowed on other ecclesiastical foundations, of which the most favoured was the abbey of St Mary Graces by the Tower, founded by Edward III. Grants to secular persons were comparatively rare, and often for life only. H.M. Chew, 'Mortmain in Medieval London', pp.10-11.

2

He was evidently not a freeman of the City, but a 'foreigner', who had purchased property within the liberty with the sole object of devising it in mortmain, and so avoiding the necessity for a licence to alienate. See H.M. Chew, 'Mortmain in Medieval London', p.13 and *ibid.*, n5.

3

Select Cases in the Court of King's Bench under Edward I, III, ed. G.O. Sayles (Selden Society, 58, 1939), p.xxxix.

Robert had devised the tenements and advowson without licence against the form of the statute of Mortmain. The prior had been summoned by Scire facias before Chancery, and in consequence of his default, the property had been forfeited to the crown.

The prior's failure to defend the plea did not result in a permanent loss of the tenements and advowson. The property remained out of the priory's hands for about 12 years, but was ultimately returned to the house by the approved process of inquisition ad quod dampnum and royal licence. Edward III granted the forfeitures to the earl of Arundel soon after they came into his hands. The intention of the earl, as patron of the house, was evidently their immediate restoration to Tortington, since he secured a licence for this purpose less than two weeks later.¹ However, he had not restored the property at his death in 1376.² The next earl obtained for a fine of 20 marks a further licence to return the property to Tortington in 1379, after an inquest had certified that this would not be prejudicial to the king or others.³ Shortly afterwards the transfer was made.

Investigation of unlicensed amortization in London continued into the reign of Richard II, by which time the

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The property was granted to the earl on 8 June 1367, and the licence was issued on 21 June following (C.P.R., 1364-7, p.409). The earls of Arundel had succeeded to the patronage of the priory in 1337 (V.C.H., Sussex, II, p.82).

2

The earl died on 24 January 1376. Handbook of British Chronology, p.415.

3

C.P.R., 1377-81, p.351.

inquiry of 1367 had been forgotten. The priory's acquisition of the property was again subjected to examination in 1384. An inquest held before the escheator of London at the king's command asserted that Robert Aguilon, who had not been a freeman of the City, had devised the tenements and advowson to Tortington in 1286 in contravention of the statute of Mortmain.¹ The prior was summoned before Chancery to show why these should not be seized into the king's hand. On this occasion he had no difficulty in proving his rightful possession by a recital of the history of the case since 1367, and by the production of supporting documents. The royal serjeants were unable to dispute the charters produced by him, and on the advice of the justices and other learned persons of the council the prior went sine die.² He still felt insecure. In the following year he petitioned for confirmation of the priory's estate in the property, and for a grant

qils ne serront empechez par vous ne voz
heirs par nul manere de tittle ne a cause dascune
amortissement de les ditz tenementz fait as ditz
Priour et Couent encontre lestatuit des terres
et tenementz a morte maine nient destre mys fait.³

¹ Representatives of the City had testified before the council in 1364 that while all tenements within the liberty were devisable at will to secular persons, only freemen in scot and lot were entitled to devise their tenements in mortmain. See H.M. Chew, 'Mortmain in Medieval London', pp.7-8.

² P.R.O., Judicial Proceedings (Common Law Side), Placita In Cancellaria, Tower Series, C.44/12/15.

³ P.R.O., Ancient Petitions, S.C.8/251/12503.

The patron of the house lent his aid in the matter. When the king granted the ratification for a fine of 40s, it was said to be at the instance of the earl of Arundel.¹

The proceedings in London demonstrate the readiness of the royal government to pursue all contraventions of the statute of Mortmain back to the time of the passage of the act. Long tenure of the property alienated without licence gave no security against the claims of the crown. Royal officers were equally active in the counties. An agreement made in 1315 concerning the fishery of the Lune resulted in its seizure over 50 years later by the escheator of Lancashire, after an inquest had reported before him that a former prior of Lancaster had thereby acquired certain rights in the fishery from the abbot and convent of Furness without the king's licence. The case illustrates the procedure established for the trial of such suits.² In 1371, the prior of Lancaster appeared in Chancery to traverse the inquest, whose findings had been certified to that court by the escheator in response to a writ of Certiorari. The plaintiff offered verification of his assertion that the fishing rights allegedly acquired

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P.R.O., Warrants for the Great Seal, C.81/489/3673.
C.P.R., 1381-5, p.578.

2

In 1362, the king had laid down concerning lands seized into his hands through an inquest of office before the escheator, that if any man laid claim to such lands, the escheator was to send the inquest into Chancery within a month of the seizure. A writ was to be delivered to him to certify the cause of seizure in Chancery, where the plaintiff was to be allowed to traverse the inquest without delay, 'ou autrement monstrier son droit, et d'illoeqes mande devant le Roi a faire final discussion saunz attendre nul autre mandement'. R.P., II, p.272.

against the statute were of the foundation of the house from time immemorial. As a result the plea was transferred to King's Bench for a jury verdict to be obtained. Other evidence shows that the rights had been obtained before 1279, and that the compact made in 1315 had settled a violent dispute between the abbey and priory by defining and confirming arrangements made between them in 1257.¹ When a jury was assembled by Nisi prius, they stated that the rights in question were of the ancient foundation of the house. The priory had not acquired them illegally as the escheator's inquest had alleged.

However, the prior still had difficulty in securing judgment in his favour. The justices of King's Bench seem to have remained unconvinced that the settlement made in 1315 did not fall within the wide scope of the statute of Mortmain. The king sent into the court for consideration a plea before the justices of the duchy of Lancaster in 1353. The parties to this suit had been the abbot of Furness and the prior of Lancaster, and the subject of dispute the Lune fishery. The prior had produced in evidence at that time the agreement of 1315, and its validity had been established by the verdict of a jury. Following the reception of this evidence, the justices of King's Bench delayed to give judgment for three years, until the prior of Lancaster sued for redress to the king and council. His petition that the case be brought before

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The Coucher Book of Furness Abbey, II, pt.1, ed. J. Brownbill (Chetham Society, 74, 1915), p.217. Materials for the History of the Church of Lancaster, II, ed. W.O. Roper (Chetham Society, 31, 1894), pp.493-4.

parliament and judgment given there has no note of the king's reply,¹ but it appears to have prompted action. At Michaelmas 1376, the justices finally pronounced in his favour on the basis of the jury's verdict. The justices decided that the king's hand should be removed from the fishery, which was to be restored to the priory with the profits taken therefrom in the meantime.² The delay in reaching this decision, after the unequivocal verdict of the jury, is indicative of the rigorous enforcement of the rule that a royal licence was essential for all amortizing transactions.

The anxiety of the escheators to ensure that unlicensed amortizations were not allowed to escape the king's grasp threatened to nullify the provision of the statute of Mortmain which had allowed to other lords a right of entry on property in their lordship alienated into mortmain without their permission within a year of the offence.³ The abbot and convent of Abingdon, who had previously sued for royal aid against the activities of the commonalty of the town,⁴ complained to the king

¹ P.R.O., Ancient Petitions, S.C.8/121/6043.

² P.R.O., Coram Rege Rolls, K.B.27/442/rex 4.

³ Statutes 7 Edward I, statute 2.

⁴ The abbot and convent asserted their right to the burial in the cemetery of the abbey of all persons dying within their lordships of Abingdon, Drayton, Radley, and elsewhere. However, their tenants in Abingdon and the vicar of St Helen's, Abingdon, had secured a papal bull to consecrate certain land held of the abbot as a cemetery for the church of St Helen, without licence from the abbey or the king. The commonalty of the town, whose past violence towards the abbey was noted, were conspiring to maintain this consecration by force.

and lords in the parliament of 1391 concerning a seizure by the escheator. The burial rights of the abbey had been infringed by the vicar of the church of St Helen, Abingdon, who, with the assent of certain parishioners had obtained a papal bull for the consecration of an acre of land held of the abbot and convent in order to make a cemetery. Many burials had followed there, although the consecration had been made without the licence of the king or the abbey. Possibly, though the petitions in the case provide no proof of the hypothesis, the abbot and convent had increased their exploitation of non-manorial sources of revenue in a time of economic difficulties for landowners to such an extent that they had caused the townsmen to ally with the vicar of St Helen's in an effort to break the abbey's monopoly over burials in the town.

The abbot and convent stated that, 'come Seigneurs immediates', they had entered on the acre of land within a year of the dedication and burials, as they understood these actions to constitute amortization of the land to the vicar and church of St. Helen. However, the escheator had then seized the land from them as a result of an inquest held by him, 'entendant les ditz dedicacion et sepultures en le dit quantite de terre estre amortissement sanz licence de notre dit Seigneur le Roy'.¹

⁴ (continued from p. 287)

The petitioners asked royal aid in putting down these riots, restoring them to their rights, 'et pur resister que par tielx consecracions faitz terre temporel ne soit changee en espirituel possession'. The petition has no reply. P.R.O., Ancient Petitions, S.C.8/88/4392.

¹

R.P., III, p.297.

The petitioners asked that the inquest be brought into parliament and right done to them. In fact, the matter was referred to Chancery, which apparently upheld their claims.¹ The escheator's inquest had stated the facts of the case in much the same terms as the abbey's petition, but the jury had claimed not to know by what title the abbot and convent had seized the acre of land. The abbot must now have been able to satisfy the court of Chancery of his rights of lordship, for the seizure by the royal officer was held to be unlawful and insufficient, and the king's hand was ordered to be removed from the land.²

The consecration of the cemetery is an excellent illustration of the practice against which the commons complained in the same parliament of 1391; and the action taken by the abbot and escheator substantiates the king's assertion that such cases came under the terms of the statute of Mortmain.³

To those in conflict with ecclesiastics, the swift reaction of the crown and its officers to allegations of unlicensed amortization furnished a ready means of harassing their opponents.⁴ In 1346, the men of Lynn

¹ R.P., III, p.297.

² C.C.R., 1392-6, p.8. The abbey also secured sentences in its favour at the papal court and restoration to its burial rights, whose value as a source of income clearly appears in the papal mandate. C.P.L., V, pp.5-7.

³ See R.P., III, p.291, and above p.264.

⁴ Thus, in 1384, the king superseded his commission to two laymen appointed with the escheator of Derbyshire to inquire into allegations that the abbot of Burton upon Trent and his predecessors had acquired various lands without royal licence. The king had been informed that
(footnote continued p.290)

were able to make effective use of the statute of Mortmain as a tactic in their long struggle for municipal independence against their lord, the bishop of Norwich.¹ They had chosen their time well, for Bishop Bateman was already involved in a dispute about the exempt status of the abbey of Bury St Edmund, which had led to his excommunication of the bearer of a royal prohibition and consequent proceedings against him by the crown for contempt.² The bishop presented three petitions to the king concerning his rights in Lynn. He claimed long possession by the bishops of Norwich of view of frankpledge and the hustings court of the town. He alleged that a false suggestion had been made to the king by certain men of the town that one of his predecessors, John Salmon,³ had acquired the view and hustings from the mayor and commonalty of the town in the time of Edward II without that king's licence. According to the petitioner, the mayor and commonalty had never held these franchises or any part of them; but as a result of their information,

⁴ (continued from p.289)

these men were of evil will to the abbey, and scheming to oppress it to the utmost of their power. The escheator was to execute the commission alone. C.C.R., 1381-5, p.381.

¹

For details of this struggle, see J.R. Green, Town Life in the Fifteenth Century (2 vols., New York, 1894), I, pp.282-94.

²

See Memorials of the Abbey of St Edmund at Bury, III, pp.56-73; C.P.L., III, pp.304-5, 388 and 391-2; Year Book, 20 Edward III, ed. L.O. Pike (2 vols., Rolls Series, 1908-11), I, pp.214-32, and II, pp.322-34; and C.P.R., 1350-4, p.100.

³

Bishop of Norwich 1299-1325; Handbook of British Chronology, p.243.

the king had issued a commission of inquiry into the matter.¹ The inquest jury impanelled by the commissioners was denounced as suspect by the bishop, since

les deux parties furent des gentz de la dite ville qui furent com accusours Et auxint il y furent .xx. ou .xxx. enfourmours iontz as eaux de meisme la ville dont les uns primes chalangerent pur le Roi ascuns du Panel et puis furent meismes Jureez.²

The bishop's franchises had been taken into the king's hand on the basis of its findings and committed to the custody of two men of Lynn.

An agreement had been made between Bishop Salmon and the mayor and commonalty, for the second and third petitions of Bishop Bateman give his version of it. Under its terms the profits and amercements arising from the leet court had been granted to the townsmen in return for £40 per annum to be paid to Bishop Salmon and his successors.³ A royal licence had not been obtained for this transaction, as was apparently now held to have been necessary. The bishop does not seem to have been able to prove the falsity of the findings of the royal

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The commission was issued 22 June 1346. The commissioners were to inquire into the allegations concerning the view and hustings, and also as to whether Bishop Salmon had acquired to himself and his successors very many liberties granted to the burgesses of the town by royal charters, as well as divers lands and tenements in the town which the present bishop retained, without licence of Edward II or of the present king. C.P.R., 1345-8, p.170.

2

P.R.O., Ancient Petitions, S.C.8/239/11921.

3

P.R.O., Ancient Petitions, S.C.8/246/12274 and 246/12272.

commissioners, and secured the return of his franchises only after considerable delay and a large payment to the crown. His request for a charter restoring him to his rights, and ensuring his position for the future, was granted by Edward III in 1350 for the sum of 650 marks paid into the Chamber. The warrant to the chancellor which conceded the charters, letters, and writs necessary for the future security of the bishop and his successors stated that these were to be drawn up 'sanz faire mencion de la somme auantdice'.¹

An attempt was made in 1391 to obstruct the course of justice in the common law courts by an abuse of the controls on alienation into mortmain. However, the outcome suggests the adequacy of the provisions for securing redress when the escheator's office was misused in this way. The prior of Llanthony by Gloucester presented a petition to the king, in which it was asserted that he had sued an action of Novel disseisin against the bailiffs and commonalty of the town of Gloucester concerning a free tenement there. The townsmen had made use of the legitimate means in their power to delay the plea. They had sought and obtained royal aid, since the land in question was part of the town, which was held of the king at fee farm under a grant of King John.²

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P.R.O., Warrants for the Great Seal, C.81/345/20991.
C.P.R., 1348-50, pp.506-7 and 551.

2

For the grant of King John, dated 21 April 1200, see Rotuli Chartarum, ed. T. Duffus Hardy (Record Commission, 1837), pp.56-7. L. Ehrlich has noted that 'no plea which would incidentally concern the king's interests, even by involving the interpretation of his charter, could

(Continued p. 293)

The prior had been obliged to secure a royal writ before the case could proceed.¹ The plea had then come to an issue, and a jury had found for the prior, who had procured a writ instructing the justices to proceed to judgment notwithstanding the aid prayed of the crown by the defendants.² Meanwhile, the bailiffs and commonalty had perceived the weakness of their case, and had induced the escheator of the county to hold an inquiry as to escheats in the town. A jury composed of townsmen had found that the prior had acquired the property in dispute only three years before without royal licence, so that the escheator had seized it into the king's hand and had prevented the prior from executing the judgment given in his favour by the assize.³

The king committed the plaint to the chancellor,⁴ and a commission of inquiry was instituted into the circumstances of the prior's petition.⁵ The suppliant appeared in Chancery to traverse the findings of the

² (continued from p. 292)

be proceeded with by the justices without the king's order....Although for a party aid from the king was a good means of delaying the proceedings and perhaps defeating the action altogether, yet the underlying idea was that of protecting the interests, not of the party, but of the king. Where the king's interests could not possibly be affected aid would not be granted.'

L. Ehrlich, 'Proceedings against the Crown', pp.152-3.

¹

C.C.R., 1389-92, p.249.

²

C.C.R., 1389-92, p.264.

³

P.R.O., Ancient Petitions, S.C.8/250/12492.

⁴

P.R.O., Warrants for the Great Seal, C.81/526/7330.

⁵

C.P.R., 1388-92, p.444.

escheator's inquest. When a jury was eventually assembled to give a verdict on the prior's assertion that the property had been in the hands of the house since the time of Henry III, it found entirely in his favour. The king's hand was ordered to be removed from the tenement, which was to be restored to the priory with any profits taken during the time of seizure.¹ Thus, although the machinery for discovering violations of the mortmain legislation could be exploited against ecclesiastics, redress for injustice might be readily obtained through petition and suit in Chancery.

The result of the statute of Mortmain was not to cut off any further alienation of property into the hands of the Church, but to subject the whole process to an impressively stringent royal control, covering a wide field of transactions. Amortization could take place only under royal licence; and the necessity for taking an inquisition ad quod dampnum before such a licence was granted, provided the means by which the interests of the crown and other parties could be safeguarded. The fact that the king had a considerable financial interest in preventing evasion of the need to seek his licence ensured that the licencing procedure was effectively enforced. Nonetheless, ecclesiastical activities in amortizing property still caused concern in some quarters. The petitions put forward by the commons in the parliaments of the last quarter of the fourteenth century show, if not hostility towards the further

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P.R.O., Coram Rege Rolls, K.B.27/522/rex 9.

endowment of the Church, at least a determination that existing restrictions should not be evaded.

The statute of Mortmain enabled the crown to enforce a profitable surveillance over ecclesiastical affairs that extended beyond the transfer of land, rents and advowsons into mortmain. As a form of property, advowsons naturally fell within the scope of the statute, and their alienation into the hands of ecclesiastics necessitated applications for royal licences. However, as a result of the 1279 act, the king also brought under the system of royal licences the appropriation of churches,¹ which had been a popular means of augmenting the incomes of corporate bodies since the end of the twelfth century, and was to continue as such for the rest of the middle ages.² A statement to this effect was given as evidence in a case of 1304 in King's Bench:

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'An appropriation was the annexation of a benefice to the proper and perpetual use of a monastery, a collegiate or cathedral body, or even the personal income of a bishop, by virtue of which the appropriator became the perpetual rector. The appropriating body or person acquired a permanent claim to the income of the benefice and became the possessor of the land or other accumulated property attaching thereto. In return for this, the appropriators had certain obligations, of which the most important was the cure of souls in the appropriated church.' E.F. Jacob, 'A Note on the English Concordat of 1418', in Medieval Studies Presented to Aubrey Gwynn, S.J., ed. J.A. Watt, J.B. Morrall and F.X. Martin (Dublin, 1961), p.356.

2

See R.A.R. Hartridge, A History of Vicarages in the Middle Ages (Cambridge, 1930), p.29. The Taxatio of 1291-2 shows that there were then some 1,500 vicarages out of a total of about 8,100 churches. In 1535, the Valor Ecclesiasticus shows that out of 8,838 rectories, 3,307 had been appropriated with vicarages, or over 37 per cent of the total. *Ibid.*, pp.79 and 204.

testatum est tam per thesaurarium quam clericos de cancellaria quod dominus rex a tempore confeccionis statuti ne terre aut tenementa ad manum mortuam deueniant quoquomodo sub colore eiusdem statuti percepit a diuersis viris religiosis fines pro licencia apropiandi ecclesias, quarum patroni existunt, et est in seisina percipiendi tales fines....¹

In the later middle ages, papal assent was also necessary. From 1366, if not before, an appropriation was legal only if it had the pope's permission in addition to that of the king.² The papal grant could take one of two forms. It might be issued motu proprio, direct from the apostolic see to the petitioners, without any approach to the diocesan. Equally, the licence might be sent to the diocesan, so that he could make inquiries before executing the letters. The final step in the process of appropriation came with the ordination of a vicarage in the appropriated church.³

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Select Cases in the Court of King's Bench under Edward I, III, ed. G.O. Sayles, p.127.

2

K.L. Wood-Legh has concluded that up to 1366, such papal assent may have been sought as a means of obtaining additional security or of overcoming particular difficulties, rather than as legally essential. In that year, Urban V annulled all appropriations that had not then taken effect, and forbade the bishops to make appropriations for the next ten years. Since several of his successors did likewise, the pope now had to be approached so that the law could be set aside, and an appropriation could no longer be legally made by the diocesan without recourse to Rome. See K.L. Wood-Legh, Church Life under Edward III, p.133, and C.P.L., IV, p.180, VI, pp.4, 29, 284, 417 and 468, VII, p.411, XI, p.63.

3

See E.F. Jacob, 'A Note on the English Concordat of 1418', pp.356-7.

Royal and papal wishes sometimes conflicted. The pope's assent to an appropriation could not always be bought. His refusal to grant the necessary letters thwarted, for example, a mutually advantageous arrangement between Edward III and the priory of Durham. In 1356, the king granted to the prior and convent a licence for the appropriation of the church of Hemynghburgh, on the grounds that the house had been badly affected by the depredations of the Scots. For their part, the monks surrendered an annuity of £40 per annum from the wool subsidy at Berwick on Tweed granted to their house by Edward I, undertook certain spiritual charges, and released to the king their rights in the advowson of the church of Symondburn.¹ The prior and convent made an apparently successful petition to the pope in 1363 for confirmation of the appropriation of Hemynghburgh;² but this must have been revoked at some stage, for in 1372 the king was said to have written more than once to the pope for the grant to be made. Gregory XI showed a strong reluctance to assent to the appropriation, which he considered to be unjustified by the existing financial state of the priory. He announced his intention that, if the appropriation were to be made, as many persons as could be maintained by the fruits of the church were to be added to the statutory number of monks.³ At the end of the reign of Edward III, and again early in the reign of Richard II, the prior and

¹ C.P.R., 1354-8, pp.357, 363-4 and 443.

² C.P.P., I, p.464.

³ C.P.L., IV, pp.117-8.

convent petitioned to the king and council, in order to bring to their attention the pope's refusal to make the grant despite royal letters urging its expedition. In view of their failure to appropriate the church and their great expenses in this matter, the suppliants sought a renewal of the annuity of £40 per annum.¹ The crown renewed the priory's licence in 1375 and 1381,² but the project eventually had to be abandoned. In 1426, for a fine of £80, the licence to appropriate the church of Hemynburgh was converted into royal permission for its erection into a collegiate church.³

An appropriation could not, therefore, be made without papal approval, whether or not the assent of the crown had been first secured. It was no less essential to obtain a royal licence before proceeding to execute a papal grace, since failure to do so involved the threat of forfeiture of the advowson. The escheators were active in ensuring that unlicensed appropriations did not remain undetected. Indeed, their zeal in this regard sometimes outran the reliability of their information. In 1376, the prior of Canons Ashby appeared in Chancery

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P.R.O., Ancient Petitions, S.C.8/107/5315 and 5336.

2

C.P.R., 1374-7, p.112 and *ibid.*, 1381-5, p.10.

3

C.P.R., 1422-9, p.382. The crown sometimes had a change of heart about the grant of a licence to appropriate a church. In 1400, Henry IV revoked his predecessor's grant to the vicars of St Patrick's cathedral, Dublin, at the supplication of the parson of the church involved, and 'in consideration of the great prejudice to hospitality and other works of charity and the diminution of divine service which would happen by such appropriation'. C.P.R., 1399-1401, p.192.

to traverse the findings of an inquisition held by the escheator of Northamptonshire. The jury had given information that two thirds of the advowson of Coleworth church had been appropriated to the priory since the statute of Mortmain without royal licence. The prior was able to produce royal letters dated 1355 licencing the appropriation and papal bulls directed towards the same end.¹ On the basis of this evidence, the appropriation was declared lawful and the escheator ordered to remove the king's hand.²

A royal licence to appropriate seems to have been available in most cases at a price. Nonetheless, petitioners frequently felt it necessary to give a detailed justification of the need for such a grant, stressing the distressed financial state of the beneficiaries. Possibly it was hoped thereby not only to ensure royal assent to the appropriation, but also to lessen the fine normally exacted by the crown. Some suppliants made an explicit request to be excused a fine on the grounds of hardship. When the bishop of St Asaph petitioned to the king in 1379, he spoke of the state of his cathedral church as such '*que la dice esglise et diuine seruice en ycele est bien pres de tout anyenteez et ne poet estre releueez saunz eide de sa tresgraciouse seigneurie*'. The original endowment of the ten chaplains ordained to conduct divine service perpetually in the

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The royal licence has a proviso 'saving the services due to the chief lords of that fee'; C.P.R., 1354-8, p.265. C.P.L., III, p.575.

2

C.C.R., 1374-7, pp.293-4.

cathedral had been so much reduced in value by wars in Wales and other causes that it was insufficient for six chaplains. Six minor vicars and choristers of the church also had no certain livelihood. The bishop sought a licence to appropriate the church of Llanraeadir, with its chapel and portions annexed, which were in his collation and taxed at £15 16s 8d, for the sustenance of the ministers of the cathedral. He asked that any fine and the fee for the great seal should be remitted. The licence was granted, but a fine of 100s was taken by the king.¹

The fines taken for licences were often substantial,² and in addition the crown drew further revenue from the delays to which completion of the process of appropriation was subject.³ Royal licences were

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P.R.O., Ancient Petitions, S.C.8/267/13349, and C.P.R., 1377-81, p.368. In some cases the fine was pardoned. The small foundation of Henwood, whose net income in 1535 was only £21 (see D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.212), was in 1398 granted the advowson of Chorleton Ottemore in aid of its maintenance, and licence to appropriate the same. The king pardoned the house the fine for his assent. C.P.R., 1396-9, p.414.

2

The king took a total of £120 for two licences issued in 1391. The abbot and convent of Gloucester paid £20 in April for a grant of the advowson of the church of Holy Trinity, Gloucester, and permission to appropriate it for the maintenance of lights and ornaments about the tomb of Edward II in the abbey. In June, the abbot and convent of 'Gastynghirs' (sic) paid £100 for licence to appropriate the churches of Deverellangbrugge with the chapel of Monketon annexed, and Buddeclegh with the chapel of Baltesbergh annexed, in aid of their maintenance. C.P.R., 1388-92, pp.406 and 416.

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See K.L. Wood-Legh, Church Life under Edward III, pp.147-51.

effective only for the reign of their grantor, and a renewal of those still unexecuted had to be sought after the accession of a new monarch.¹ The prior and convent of St Oswald's, Gloucester, received from the king in 1398 a grant of the advowson of Mynstreworth, valued at £10, and for a fine of 40 marks licence to appropriate the same.² Henry IV then renewed the licence in 1407 for a further ten marks, since it had remained unexecuted up to that time,³ partly perhaps because of royal presentations to the church.⁴ By 1418 the appropriation had still not been completed. The prior and convent petitioned to Henry V for letters patent in the same form as those granted by his father, and pleaded their great expenses in the matter and their

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Similarly, several popes forced appropriators to seek new licences at Rome by issuing general annulments of appropriations that had been granted, but not effected. Urban V in 1366 (C.P.L., IV, p.180), Boniface IX in 1402 (C.P.L., VI, pp.4, 29, 284, 417 and 468), Innocent VII (C.P.L., VII, p.411) and Calixtus III (C.P.L., XI, p.63) on their accessions, all annulled formally those appropriations that had not already taken place, whether of rectories, vicarages, or other benefices.

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C.P.R., 1396-9, p.477. The grant was made by the king because the house was destitute of wood for fuel and their necessary expenses, and also of common pasture for their beasts. The prior and convent had bound themselves to celebrate the anniversary of the king and the present queen when dead, and of the late Queen Anne. Ibid.

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C.P.R., 1405-8, p.380.

4

See C.P.R., 1401-5, pp.351, 355 and 379; and *ibid.*, 1405-8, p.14.

poverty.¹ The supplication received royal assent for the payment of another ten marks, but with a proviso which demonstrates that such renewals might be more than just an expensive formality. The king ensured that the house must now take rapid steps to implement his licence by stipulating that the priory must appropriate the church within a year of the date of this latest grant.²

After all the necessary steps had been taken and the appropriation duly completed, a feeling of insecurity still persisted in the minds of certain appropriators, who were particularly concerned to prevent royal presentations to the churches involved. Their anxiety was expressed in petitions to the crown for letters patent of confirmation. In 1353, the abbot and convent of Evesham sought ratification of their appropriation of the church of Baddeby with the chapel of Newenham annexed, which they had long held appropriated in

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P.R.O., Ancient Petitions, S.C.8/184/9199.

2

P.R.O., Warrants for the Great Seal, C.81/1364/62, and C.P.R., 1416-22, p.169. The church was eventually appropriated by the priory (see Valor Ecclesiasticus temp. Henrici VIII, auctoritate regia institutus, ed. J. Caley and J. Hunter (6 vols., Record Commission, 1810-34), II, p.487). When the delay in executing a licence was a very long one, a renewal might involve a fine which could hardly have been greater, if the first licence had never been issued. The abbey of Thorney had received royal assent to the appropriation of the churches of Jakesley and Stranground in 8 Edward III (1334-5), but petitioned in 1397 for confirmation of the licence, which had still not been executed (P.R.O., Ancient Petitions, S.C.8/223/11108). This was granted for the payment of £100 (C.P.R., 1396-9, p.138). In the next year, papal consent was also secured (C.P.L., V, p.164).

accordance with royal and papal licences.¹ The letters requested by them excluded for the future any questioning of their title on account of the vacancy of the abbey, past seizures of its temporalities into the king's hands, other royal rights over the advowson of the church and chapel, presentations made to the latter for whatever reason, and general or special revocations of papal graces. The king granted the abbey's petition.²

The stimulus for seeking such confirmations may be found in the pressure on benefices from the needs of royal administrators,³ which resulted in mistaken royal presentations to appropriated churches. An example from the later years of Richard II's reign will serve to illustrate this problem. In 1381, the king had granted the advowson of the church of Great Stockton to the prior and convent of the London Charterhouse, with licence to appropriate it.⁴ However, ten years later, the house complained to Richard II that he had presented one John Excestre to the church in 1385, although it had been appropriated under his licence.⁵ Excestre had been inducted and the prior ousted from his church without

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A royal licence had been granted in 1320 (C.P.R., 1317-21, p.524), and papal confirmation in 1322 (C.P.L., II, p.220).

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P.R.O., Ancient Petitions, S.C.8/228/11352, and C.P.R., 1350-4, p.416.

3

For a discussion of this subject see above, chapter II.

4

C.P.R., 1381-5, pp.37 and 51.

5

C.P.R., 1385-9, p.43.

trial. The church had then become vacant in 1390, when Excestre had resigned it in order to effect an exchange with Walter Ameney, king's clerk, who had secured a royal presentation for this purpose.¹ The prior asked that Ameney be summoned before Chancery to defend his possession of the church; and the whole matter was referred to the chancellor for settlement.² Despite a ratification of his estate granted to Ameney in 1392 whilst the case was still pending,³ his presentation was revoked in the next year when he failed to appear in Chancery to answer the prior.⁴ In 1394, the Charterhouse obtained confirmation of its own estate in the church.⁵

Royal intervention in the process of appropriation was extended by legislation in the late fourteenth and early fifteenth centuries, as a result of the complaints of the commons at the effects of this method of augmenting the income of ecclesiastical corporations. Ecclesiastical lords, who found themselves in straitened circumstances

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C.P.R., 1388-92, p.254.

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P.R.O., Ancient Petitions, S.C.8/249/12432. P.R.O., Warrants for the Great Seal, C.81/528/7568.

3

C.P.R., 1391-6, p.201. It was then stated that the church had been appropriated by false suggestion of the Charterhouse. The king should have acquired the advowson and the two acres of land to which it was appurtenant, it being the right of the crown and having descended to the king after the late king's death, as appeared by inquisitions before the escheators and records and judgments in King's Bench. Ibid.

4

C.P.R., 1391-6, p.269.

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C.P.R., 1391-6, p.410.

in the difficult years for landowners following the Black Death, resorted to appropriation of benefices and the suppression of vicarages to increase their revenues without much concern for the laity's religious needs. Their activities provoked several petitions from the commons pressing for further royal control over the Church in this sphere.

The Rolls of Parliament provide no evidence of lay concern before the late fourteenth century, although the number of royal licences issued in the first 30 years of Edward III's reign far exceeded the total for the following 50 years.¹ The commons may have been prompted to petition by the number and nature of the grants and confirmations made by the papacy during the Schism. Popes granted approximately 163 appropriation petitions between 1378 and 1408, as compared with only about 140 in the much longer period of Edward III's reign.² Almost 155 graces were issued by Boniface IX

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452 royal licences had been granted in the first 30 years of Edward III's reign, but only 87 in the remaining 20 years 1357-77 (K.L. Wood-Legh, Church Life under Edward III, p.153). Between 1378 and 1408 a total of 191 royal licences were granted (E.F. Jacob, 'A Note on the English Concordat of 1418', p.357).

2

See E.F. Jacob, 'A Note on the English Concordat of 1418', p.357, and K.L. Wood-Legh, Church Life under Edward III, p.129. Of the 163 papal grants between 1378 and 1408, 105 were despatched motu proprio, whilst the remaining 58 were mainly papal confirmations of appropriations carried out by the bishops. E.F. Jacob, 'A Note on the English Concordat of 1418', p.357.

(1389-1404), the large majority between 1397 and 1402.¹ Churchmen too were troubled by this spate of papal grants,² for two of the 11 clauses of the English Concordat with the papacy in 1418, after the end of the Schism, were concerned with papal graces for appropriations.³ The

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See E.F. Jacob, 'A Note on the English Concordat of 1418', p.357, where it is also noted that of these 155 grants, 130 were to religious houses and 56 contained a clause permitting the head of the house concerned to appoint one of the brethren as the incumbent of the appropriated church.

2

See the complaint of Oxford University in 1414: 'Quia ab ortu primario schismatis pestilentis per suggestiones varias subdolas et sinistras facta est multiplex ecclesiarum appropriatio, et praesertim mensis episcopalibus ac etiam monasteriis, in bonis temporalibus sufficienter dotatis'. Concilia, ed. D. Wilkins, III, p.363.

3

Firstly, the pope agreed that no appropriations of parish churches were to be made motu proprio, but the bishops were to be commissioned to inquire concerning the truth of petitions. If the reason given for an appropriation was found to be reasonable, then it was to be carried out. No revocation of existing appropriations was to be made, if scandal could follow; otherwise the ordinaries were to make inquiries, and if they found revocation necessary, it was to be done. Secondly, all appropriations of perpetual vicarages in parish churches made during the Schism were revoked, and perpetual vicars were to be instituted in these churches by the ordinaries. In each parish church there was to be one perpetual vicar to attend to the cure of souls, sufficiently endowed to maintain hospitality there and to support the obligations incurred (The Register of Henry Chichele, ed. E.F. Jacob, IV, pp.194-6). R.A.R. Hartridge has commented that the 'revocation seems to have been of very little effect' (R.A.R. Hartridge, Vicarages in the Middle Ages, p.120). However, inquiries were certainly undertaken in certain dioceses (see E.F. Jacob, Archbishop Henry Chichele (London, 1967), pp.40-1, and Register of Henry Chichele, ed. E.F. Jacob, IV, pp.70-1).

commons stated in 1391 that the religious appropriated benefices throughout the realm, 'par diverses colours et cautels puis et encontre l'Estatut de Provisours, par perdurable Provision nostre tres seint Pere le Pape, et d'autres Ordinaries'.¹ The evil consequences of such appropriations were listed. The appropriators knocked down and removed buildings, and brought to an end divine service, hospitality, and other works of charity customarily performed there for the poor and unfortunate. The clergy were prevented from securing advancement. Moreover, the wealth of the realm was privily sent in great sums to Rome. As this was

en offense de Dieu, confusion de lour Almes,
grevouse desolation de tout la Pays et des
Parochiens, final destruction del Clergie,
graunt empoverissement del Roialme, et
irrecuperable² ruine de Sainte Esglise
d'Engleterre,

the commons sought the ordinance of remedy in parliament.

1

Statutes of Provisors had been enacted in 1351 and 1390 (Statutes 25 Edward III, statute 6, and 13 Richard II, statute 2, c.ii). These measures against papal provisions to the benefices of the English Church were thus made to include within their scope the process of appropriation, by which an appropriating body became perpetual rector of a benefice.

2

R.P., III, pp.293-4. This may be compared with Gascoigne's comments on the evil effects of appropriation in the fifteenth century: 'Quartum flumen Babilonis et confusionis, salutem animarum et plurima opera bona destruens, est appropriacio ecclesiarum. Ex ista appropriacione sequuntur magna et plurima mala, destruccio cleri et studencium defectus, et penuria clericorum immediate curae intendencium, verbi Dei silencium et oblivio per defectum praedicacionis et instruccionis'. T. Gascoigne, Loci e Libro Veritatum, ed. J.E. Thorold Rogers (Oxford, 1881), p.70.

The king employed his control over licences to appropriate, in order to make a provision for the cure of souls and the distribution of alms that existing procedures had failed to ensure. It was enacted by statute that in each licence for the appropriation of a parish church henceforth issued from Chancery, provisos were to be included that the vicar be properly endowed and a suitable sum of money ordained by the diocesan, according to the value of the benefice, to be annually distributed from its profits among the poor parishioners of the church.¹ The first licence subsequent to the dissolution of this parliament on 2 December 1391,² was issued on 8 January 1392 to the abbot and convent of Bruern and contained the new statutory clause.³ Thereafter, the majority of licences enrolled on the Patent Rolls appear to have contained a similar clause in accordance with the statute.⁴

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R.P., III, pp.293-4, and Statutes 15 Richard II, c.vi.

2

Handbook of British Chronology, p.528.

3

C.P.R., 1391-6, pp.15 and 17.

4

A licence issued in 1480 provides a typical example of this clause: 'Salva tamen portione congrua in dotatione Vicarie perpetue in Ecclesia illa ex fructibus et provenientibus ejusdem Ecclesie, Loci illius Ordinarii Auctoritate erigenda et ordinanda, limitanda et assignanda: ac salvo quod per avisamentum hujusmodi Ordinarii, competens summa argenti inter pauperes Parochianos ejusdem Ecclesie annuatim distribuatur, juxta formam Statuti in hujusmodi casu provisi' (R.P., VI, p.211). For an episcopal ordinance concerning the distribution of a certain sum to the poor parishioners of an appropriated church, see The Register of Henry Chichele, ed. E.F. Jacob, IV, pp.209-10.

The king did not rigidly adhere to the terms of the act, but his consent had now to be sought for appropriations to be performed which did not conform to its provisions. The attitude of the time, which conceived the ecclesiastical benefice as primarily a pecuniary asset, is illustrated by a petition from the college of 36 vicars in York Cathedral. Their supplication, presented to the king and council in parliament in 1394, seems to be the first successful attempt to evade the provisions of the statute, and was possibly a test case. The college cited the terms of the act, but asked the king to dispense them from obedience to its provisions in their appropriation of the church of St Sampson, York. The number of vicars was large and the value of the church small, so that they would gain little profit from the appropriation if they had to bear the charges of endowing a vicar and distributing alms yearly. They received a favourable response to their request for a declaration in parliament freeing them from the necessity of doing so, and allowing them to find a chaplain removable at will instead of a vicar.¹

Similarly, the king might give his assent to modification of a royal licence in accordance with a papal grant of privileges. In 1398, the prior and convent of Canons Ashby sought from the king the alteration of letters patent granted to them in 1394 for the appropriation of the church of Relye.² The licence

¹

P.R.O., Ancient Petitions, S.C.8/153/7605. C.P.R., 1391-6, p.386.

²

C.P.R., 1391-6, p.370.

had been issued in accordance with the statute of 1391, but the pope had since given the house permission to serve the church, when appropriated, by a canon of the priory or a chaplain removable at will.¹ The suppliants asked for a new licence, which would allow them to execute the papal grant. They pleaded their poverty and the large fine of 40 marks paid for the first royal grant. The king gave his assent, on condition that a sum was yearly distributed to poor parishioners.² The provisions of the statute were thus not entirely disregarded. A like insistence on the support of alms also appears in other such licences, which dispensed appropriators from the need to endow vicarages.³

The statute of 1391 seems concerned principally with regulating the appropriation of churches hitherto untouched by this process. The act made no specific reference to a practice that had become increasingly common in the late fourteenth century - the suppression of the vicarages established in appropriated churches, and the transference of the vicars' stipends to the funds of the impropriating bodies.⁴ The royal licence

¹ C.P.L., V, pp.13-4.

² P.R.O., Ancient Petitions, S.C.8/226/11253. C.P.R., 1396-9, p.325.

³ See, for other examples, C.P.R., 1399-1401, pp.158, 287 and 392.

⁴ See R.A.R. Hartridge, Vicarages in the Middle Ages, p.120 and R.H. Snape, English Monastic Finances in the Later Middle Ages (Cambridge, 1926), pp.79-80.

necessary for this purpose, as for other appropriations, continued to be issued. In 1398, the prior and convent of Llanthony by Gloucester were granted a licence to appropriate the vicarages of St Owen, Gloucester, Payneswyk, and Prestebury, taxed in all at 22 marks, in return for their surrender of the king's bond for 100 marks lent by the house.¹ The priory had already obtained papal assent and permission to serve the vicarages by canons of the monastery appointed and removable at the sole pleasure of the prior.² Evidence that the economic depression of the late middle ages drove some appropriators to take this step is found in a petition put forward by the prior of Kyme in 1394. He justified his acquisition of a papal licence to appropriate the long-established vicarage of Croft and to serve it by a canon of the house or chaplain, on the grounds that 'par malueis temps qore viegnent de iour en autre lez fruitz rentz et obuencionz de dit

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C.P.R., 1396-9, p.342. P.R.O., Ancient Petitions, S.C.8/220/10993. The necessity for such a licence is indicated by the petition of the prior and convent of Staverdale in 1394, who sought pardon of the forfeiture incurred by the house in causing the vicarage of the appropriated church of Wynkaulton to be united with the rectory under Edward III without the king's licence, although the house had the consent of the ordinary and their patron. This was granted by the crown, and the appropriation of the vicarage confirmed. P.R.O., Ancient Petitions, S.C.8/255/12734. C.P.R., 1391-6, p.421.

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C.P.L., IV, p.520.

personage sont amenusez que a poy ils sont que de petit value'.¹

The act of 1391 could be applied to royal licences of this nature only in respect of the distribution of alms. Certain licences do indeed include a proviso for a competent sum to be distributed annually among the poor parishioners.² The injurious effects on the parishes that were felt to result from appropriation of vicarages can be demonstrated by a petition from those most affected. The parishioners of Liskyret, Lankynhorn, and Tallan, in Cornwall, were so concerned at the threat to their welfare presented by the proposed suppression of the vicarages in these churches, that they petitioned in parliament³ against the steps taken by the prior and convent of Launceston. They asserted in 1402 that if they were to be served by a canon removable at the will of the prior, and not by 'lour Curates conversantz entre eux', divine services and particularly baptisms and burials would be withdrawn. The hospitality maintained by the vicars would be brought to an end. The suppliants alleged that the appropriations had been

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P.R.O., Ancient Petitions, S.C.8/307/15303. The house had to obtain a royal pardon in 1395 for executing papal bulls allowing the appropriation of the vicarages of Croft and Thorpe, which had evidently been done without the king's licence. This cost the house a fine of 40 marks. C.P.R., 1391-6, p.635.

2

See, for example, the licence granted to the prior and convent of Ranton for the appropriation of the vicarage of the church of Greneburgh. C.P.R., 1399-1401, p.537.

3

Their petition was one of those put forward in the name of the commons. R.P., III, p.505.

shown to be unjustified. The priory had obtained a papal licence in 1398, on the plea that the charges on the house could not otherwise be supported.¹ However, this plea had been found dishonest before the prelates of the southern convocation, 'a cause come les ditz Priour et Covent purrout despendre M livres par an, qui est suffisaunt sustenance pur xv Chanouns conversauntz deinz le dit Priorie'.² When the pope had been informed of these findings, he had revoked his grant.³

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C.P.L., V, p.156. The value of the vicarages was stated as not exceeding 150 marks (corrected in the margin from 70), and that of the priory as not exceeding 2000 marks (similarly corrected from 600). The vicarages were to be served by canons or other fit secular priests, appointed and removed at the pleasure of the prior and convent (Ibid.). Although the parishioners' petition does not mention the fact, a royal licence had been obtained later in the year for a fine of 100 marks. It was stipulated that a sufficient sum in the discretion of the ordinary should be assigned from the profits of each vicarage for yearly distribution among the poor parishioners thereof (C.P.R., 1396-9, p.447).

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R.P., III, p.505. This new information was possibly the reason for the amendment of the valuation of the vicarages and priory in the papal registers, which has already been noted. Knowles and Hadcock give the net income of the house in 1535 as £354, and describe it as one of the larger houses of the Augustinian order in England. In 1534, the prior and 11 canons subscribed to the act of Supremacy (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.143).

3

Boniface IX showed considerable indecision about the matter. His revocation of the licence had been followed by the annulment of this decision and confirmation of the appropriation (C.P.L., V, pp.357-8). Then, in 1401, the appropriation had been again annulled (C.P.L., V, p.391). A mandate had also been issued for the sequestration of the church of Leskyret, to which the pope had provided (C.P.L., V, pp.591-2).

The prior and convent were stated to be seeking the annulment of the bulls of revocation, and to be sending large sums to Rome for this purpose without royal licence and against the statutes. The parishioners asked that the priory's suit to the pope should be null and void, and that any further suit should incur the penalties of the statute of Provisors. If this were not possible, they requested provision of a solution that would allow them to retain their vicars and divine service as in the past.¹

Hostility aroused by the practices of appropriators had already provoked a commons' petition in the same parliament, which had resulted in a new statute enforcing and extending the provisions of the 1391 act. The king thus referred the Cornishmen to this enactment for redress. Earlier, in 1401, a bill sponsored by the commons had attempted to prohibit further appropriations, except on terms involving the transfer of ecclesiastical possessions 'a seculer mayn' by way of exchange. Royal assent to this drastic proposal had been refused.² Having failed in this direction, the commons had returned in the next year to pressing for restriction and regulation of appropriations in the interests of the

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R.P., III, p.505.

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R.P., III, p.468. The only exception to the proposed prohibition of further appropriations was 'que Religious ou autres Persones quelconques q'ont possessions amortisez, puissent exchange faire, et doner tiele possession amortisez a seculer mayn, pur avoir ascun tiele Benefice appropriie, par licence du Roy, Patron, Seigneur, et Foundour' (Ibid.).

spiritual welfare of parishioners. Their bill complained of breaches of the stipulation in the 1391 act that a perpetual vicarage must be endowed in each benefice appropriated.¹ No such vicarage had been ordained in many cases, but monks and regular canons, or secular chaplains, 'soudables, amotives, al governance de Cure des Almes nient ables', had been put in to serve the churches.² The question of the appropriation of vicarages was also raised, and the practice condemned. An ordinance was sought that in every appropriated benefice a perpetual vicarage should be sufficiently endowed, so that the vicar could keep hospitality and support the other charges incumbent upon him.

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This provision of the statute was defined by the commons as meaning that 'en mesme le Benefice aproprie une Vicarie perpetuel duissent estre ordeine et endowe, de les profites provenantes d'icelle, ou aillours, sufficeauntment dowe, et un Vicar perpetuel induct et institut canonikement en ycelles, qui le Cure des Almes dussent gouverner, residence tenir, et autres charges susteigner'. R.P., III, p.499.

2

There is some evidence that the statute was contravened, even when the royal licence had been issued in conformity with the act. In 1397, the abbot and convent of Jervaulx were granted licence to appropriate the church of Ayskarth, on condition that competent sums be assigned for the maintenance of a vicar and for distribution among the poor parishioners (C.P.R., 1396-9, p.209). However, the abbot and convent were stated in 1400 to have caused the church to be served by a monk, after they obtained possession of it through the resignation of the parson. The king confirmed their estate therein for a fine of £20, but again stipulated that a vicar was to be endowed and a sum distributed yearly among the poor parishioners at the discretion of the ordinary (C.P.R., 1399-1401, pp.235-6).

Significantly, the petition also tried to prevent evasion of the proposed enactment by royal licence, a practice which had undermined the effectiveness of the first statute. The grant was requested, 'non-obstantz ascuns indulgences ou privileges qeconques de Roys d'Engleterre et de Vous as persones de Seinte Esglise avaunt ses heures grauntez, ou desore a graunters'.¹

Henry IV responded to their petition with a new statute, which in principle fully met the commons' complaints. After affirming the provisions of the 1391 act, he declared that appropriations made since then against its terms were to be duly reformed in conformity with the statute before Easter next, or were to become invalid. All appropriations of vicarages since the first year of Richard II's reign, and the licences issued for this purpose, were annulled. Henceforth, in each appropriated church, a secular person was to be ordained and suitably endowed at the discretion of the ordinary as perpetual vicar, 'pur y faire divine service, et enfourmer le poeple, et hospitalitee tenir'. No religious was to be appointed as vicar in such an appropriated church for the future.² When the commons petitioned two years later for the confirmation of this statute, the king granted the request.³

The commons of 1402 spoke in terms of widespread evasion of the 1391 statute, and clearly the crown had

¹ R.P., III, pp.499-500.

² R.P., III, p.500; Statutes 4 Henry IV, c.xii.

³ R.P., III, p.542.

been ready to grant exemption from the terms of the act in a number of cases. Evidence must now be considered of the implementation of the 1402 statute, which was an altogether more sweeping measure than its predecessor. A rush of applications for exemption from the retrospective clauses of the new act might have been expected to follow its enactment. However, the printed Patent Rolls for the years 1402-5 have yielded only three cases in which the crown confirmed appropriations that should have been reformed under the provisions of the statute. In June 1403, the vicars of York cathedral secured a ratification of their appropriation of the church of St Sampson, York, without endowment of a vicarage or provision for alms.¹ In the same month, the dean of St Martin le Grand, London, obtained confirmation of his licence to serve the church of St Botolph without Aldrichesgate by a parish chaplain removable at will.² In 1405, the Cistercian abbot of Croxden, whose house had obtained a royal licence to appropriate the vicarage of Alneton in 1398,³ appealed to the king against the prohibition on the appointment of members of religious orders to serve such churches. He pleaded the impoverishment of the house,⁴ which could not maintain

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C.P.R., 1401-5, p.235. As noted above, a licence for this purpose had been granted to them in 1394 (C.P.R., 1391-6, p.386).

2

C.P.R., 1401-5, p.236. A licence for appropriation in this manner had been granted in 1399 (C.P.R., 1396-9, p.565).

3

C.P.R., 1396-9, p.446.

4

Net Income 1535, £90. See D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.107.

divine service without royal aid in this regard. He asked licence for one of his monks to serve the vicarage of Alneton, and this was granted.¹ The small number of such concessions seems to argue that the retrospective clauses of the act were in general obeyed, though there is always the possibility that they could have been almost entirely ignored.

As to the other provisions of the statute, the king continued to exercise his power to mitigate the rigour of the law in particular cases. Although the normal licence issued after 1402 did include provisos that a vicar be sufficiently endowed by the diocesan, and a competent sum distributed annually among the poor parishioners by his ordinance,² these clauses might

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P.R.O., Ancient Petitions, S.C.8/230/11457. C.P.R., 1401-5, p.490. E.F. Jacob has noted that the institutions in Chichele's register show that the religious instituted to benefices were mainly Augustinian and Premonstratensian canons, serving the vicarages that belonged to their own convents. In his view, 'It is clear that the regular vicar was an exception, in accordance both with canonical practice and with the general feeling of the laity in the fifteenth century' (Register of Henry Chichele, ed. E.F. Jacob, I, pp.lxxviii-lxxix). R.A.R. Hartridge has also commented on the comparative rarity in England of the service of churches by monks, 'although by the fifteenth century there were quite 50 churches served regularly by a removable monk or secular vicar, at the will of the monastery' (R.A.R. Hartridge, Vicarages in the Middle Ages, p.185).

2

See, for example, the licence issued to the prior and convent of St Denis by Southampton, who sought permission to appropriate three churches in 1405 owing to the damage done to their possessions in that area by the French. C.P.R., 1405-8, p.26. Also P.R.O., Council and Privy Seal Records, E.28/file 14, and C.P.L., VI, p.202.

still be omitted by royal assent. There are some indications that the statute made such grants exceptional. In 1410, the chantry of St Mary, Neweton, was granted licence to appropriate the parish church of Neweton, situated at a short distance from it, without the endowment of a vicarage.¹ The chantry's founder, John Colvyle, felt it expedient to present a petition in the parliament of 1411 justifying this breach of the statute, and seeking confirmation of the royal letters. He argued that the cure of souls at Neweton would be provided for by the warden or chaplains of the chantry, who were seculars and perpetual, as it would have been by a vicar. Indeed, the performance of divine service would be improved by the changes. Moreover, hospitality would be sustained by an establishment of several persons, rather than by one alone. The reasonable sum yearly distributed among the poor parishioners would be replaced by continual provision for ten or 12 poor men, and the intention of the statute thus observed.² On these grounds, Colvyle requested an express declaration by authority of parliament that the church of Neweton should be appropriated without the endowment of a vicar there, according to the form of the king's letters patent.

1

C.P.R., 1408-13, p.219. For the royal licence to found the chantry, see C.P.R., 1405-8, p.265 and for the papal licence, C.P.L., V, p.290.

2

In other words, the parish church would be served by a collegiate body, an arrangement which had Gascoigne's approval. '*Ecclesia tum parochialis bene est appropriata quando est collegiata, i.e. ita quod certae bonae personae in ea fundatae maneant et perficiant in eadem parochia sic collegiata*'. Loci e Libro Veritatum, ed. J.E. Thorold Rogers, p.4.

The declaration was to be enacted 'en mesme votre Parlement de record', clearly with the aim of securing the chantry against future questioning of the form of the appropriation. The king gave his consent to the petition by the advice and assent of the lords, and at the request of the commons.¹

Equally, the approval of parliament was sought for a licence that had as its object the appropriation of a vicarage. The abbot of Wellow laid a petition before the commons in 1427, which sought their intercession with the king for the grant of a licence to appropriate the ancient vicarage of Clee, then vacant and in the patronage of the abbey. The house was situated near the sea, and a great part of its possessions had lately been damaged by flooding. The abbot stressed the royal patronage of the abbey in requesting concession of the necessary licence by authority of parliament. This was granted for a fine of £10, provided that a removable secular chaplain was found to minister the sacraments and to conduct the other services of the church.²

The success of the 1402 statute in regulating appropriations along approved lines may have been substantial, though it failed nonetheless to ensure an adequate provision for the spiritual needs of the

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R.P., III, pp.657-8.

2

R.P., IV, p.365, and C.P.R., 1422-9, p.464. Four years later papal confirmation was obtained, and the value of the perpetual vicarage was then given as not exceeding 60 marks. Portions were reserved of 6s.0d per annum to the bishop, and 20d per annum to the archdeacon of Lincoln. C.P.L., VIII, p.349.

parishioners concerned. After the confirmation of this act in 1404, the commons did not return to the subject until 1432. Their complaint was no longer that benefices were appropriated without the endowment of vicarages, but that under existing legislation there was no compulsion on appropriators to provide vicars for these. They cited the provision of the two statutes for the establishment of perpetual vicarages in appropriated churches, and pointed out that no penalty had been laid down if these vicarages were allowed to remain without incumbents. Consequently, the cure of souls was still neglected. Appropriators had left vicarages vacant for many years, 'pur le nonsufficiant endowment d'yeux, et pur lour propre gayne'.¹ The old had died without receiving confession or the sacraments, and infants had

1

E.F. Jacob has commented on the deterioration of the vicarages during the fifteenth century, especially after 1420. 'Large numbers, particularly in the diocese of Canterbury, had fallen below twelve marks in annual value....In other words, the appropriating body, generally a religious house, was keeping the vicars on short commons and in quite a number of appropriated livings there was no vicarage ordained at all. In December 1439 Chichele issued a constitution for the augmentation of poor vicarages, which laid down that every vicar was to have at least twelve marks p.a. and that they should be assigned such portions as could reasonably be supplied from the revenues of their churches, while measures were to be taken against absentee rectors and proprietors not obeying the constitution. The efficacy of this constitution has been challenged, and it seems uncertain to what extent the impropiators were moved to obey it'. E.F. Jacob, Archbishop Henry Chichele, pp.68-9. See also Register of Henry Chichele, ed. E.F. Jacob, I, p.c1, and III, pp.286-7. Note also the complaints made by Oxford University in 1414 (Concilia, ed. D. Wilkins, III, p.363).

died without baptism. The commons proposed an ordinance fixing perpetual disappropriation as the penalty for allowing vicarages to remain without a resident vicar for six months. Such appropriators were to retain only their right of patronage as held before the appropriation. However, the petitioners acknowledged the existence of some provision in law for cases of this nature, when they added a clause 'savant as Ordinaries par laps loure droit'. Failure to present within six months of the voidance of a church led to the lapse of the patron's right to the bishop; and in the case of further negligence, the right of presentation devolved first on the metropolitan, and ultimately on the king.¹ This factor was possibly responsible for the king's refusal of his assent to the bill.²

The indiscriminate granting of papal licences during the Schism had led the commons to seek from the crown a reform of the existing system, which would protect the parishes from the worst effects of appropriation. Consequently, royal licences had become a means of regulating the form of appropriations along lines laid down by statute. Deviation from the approved type was still possible, but only with express royal consent. After 1402, such licences seem to have been granted sparingly. From the point of view of parishioners the system remained unsatisfactory, as the petition of 1432 shows. However, the king refused to

¹ See R. Burns, The Ecclesiastical Law, II, pp.354k-62.

² R.P., IV, p.404.

intervene further in what was essentially a matter for the ecclesiastical authorities.

The degree of control exercised by the crown over the affairs of the Church in the later middle ages is strikingly evidenced by the licencing procedure developed as a result of the statute of Mortmain. Further endowment of the Church and efforts to augment the income of existing ecclesiastical institutions, whether by grants of property or by the appropriation of churches, were subjected to strict royal supervision. The king's financial interest in licences ensured that churchmen were not allowed to escape this surveillance.

There was considerable pressure on the crown in the late fourteenth and early fifteenth centuries from the laity in parliament to increase royal control over amortization and appropriation. Lay opinion, as expressed by the petitions of the commons, demanded fresh restrictions on the activities of ecclesiastics, and particularly those of the religious. 'As far as mortmain was concerned, the king clearly considered the existing machinery adequate to safeguard the rights of all parties; and the evidence of petitions would not lead one to conclude that this view was far from the truth. The attitude of the crown towards appropriation was rather different. For ecclesiastical lords in economic difficulties, appropriation was a useful means of increasing their revenues, but one which they exploited with little concern for the spiritual needs of parishioners. Here the king was willing that his control be extended, for there was a demonstrable need

to curb abuses. Nonetheless, the king's readiness to intervene in ecclesiastical affairs still fell short of what his lay subjects desired.

Chapter V

THE CLERGY AND TAXATION

The later Middle Ages witnessed in England the introduction of taxation upon a national scale, which reached, at the same time, most of the classes and the greater part of the wealth of the kingdom.¹

By a process stretching back to the reign of Henry II, taxes on personal property had gradually superseded the older forms of subsidies,² and the chattels and incomes of the clergy had been brought within the scope of royal taxation.³ With papacy and crown as allies under Henry III, the king had been able not only to obtain a

¹

J.F. Willard, 'The English Church and the Lay Taxes of the Fourteenth Century', in The University of Colorado Studies (Boulder, Colorado, 1907), p.217.

²

See J.F. Willard, 'The English Church', pp.217-225.

³

Earlier royal taxes had been collected from those members of the clergy who possessed the kinds of property upon which they were assessed, but none had fallen upon the generality of the lower clergy, with the possible but improbable exception of Danegeld and the analogous hidage. Few of the lower clergy held lands by the feudal tenures upon which scutage and some of the customary aids were paid. The aids, dona, and tallages paid by boroughs or tenants of the royal demesne did not affect the lower clergy who lived outside those areas. The dona taken from the clergy were paid only by prelates and communities of religious. See W.E. Lunt, 'The Consent of the English Lower Clergy to Taxation, 1166-1216', in Facts and Factors in Economic History: Articles by Former Students of Edwin Francis Gay, (Harvard, 1932), p.62.

share of papal taxes imposed on the English clergy, but also to secure the grant of licences to tax ecclesiastical revenues for secular purposes. Supported by these precedents Edward I had demanded subsidies from the clergy without papal licence, not as a grace but as a right. The attempt of Boniface VIII in 1296 to recover immunity for the clergy by the bull Clericis laicos had failed in the face of the strong action taken in England and France.¹

Such royal taxes on the clergy remained, in principle, free gifts conceded by reason of the urgent needs of the secular power. It was necessary to obtain the consent of the clerical estate to their imposition. Edward I had summoned the clergy to parliament, in order to tax them there with his lay subjects. However, clerical opposition to this practice had caused its abandonment. The clergy had insisted that they be dealt with separately as a privileged estate in their own assemblies. From the beginning of Edward III's reign, a dual system of granting taxes had been consistently followed. The laity made their grants in parliament, and ecclesiastics in their own representative assemblies, the convocations of the two provinces,²

1

See M.V. Clarke, Medieval Representation and Consent (New York, 1964), pp.262-3.

2

See M.V. Clarke, Medieval Representation, chapter VII. Those summoned to a full convocation of the province of Canterbury included the archbishop of the province, his suffragans or their vicar-generals, bishops confirmed or elect, deans and priors of cathedral churches, abbots and priors elective, exempt and
(footnote continued on p.327)

which were usually summoned for the purpose at the king's command.¹

The privileged isolation of the clergy was not maintained without a struggle in the later fourteenth century. The anti-clericalism of that period, which extended even to proposals for the disendowment of the Church,² led to attacks on the voluntary basis of the

(footnote 2 continued from p.326)
non-exempt, archdeacons, (all personally), and chapters, convents, and colleges by one proctor, and the clergy of each diocese by two proctors. The province of York consisted of only three dioceses, but the representation was on a much fuller basis than in Canterbury. Not only were there proctors for the clergy of each archdeaconry, but the officials of the archdeacons also attended and areas of peculiar jurisdiction such as Allerton and Howden were represented. See D.B. Weske, The Convocation of the Clergy, (London, 1937), p.123, and E.W. Kemp, Counsel and Consent (London, 1961), pp.118-9.

1

These requests to the archbishops for the summons of convocation are enrolled on the Close Rolls. In 1369, for example, the mandate to the archbishop of Canterbury required him to lay before the clergy 'the business in the last parliament set forth affecting as well the king and the estate of the realm as the needful defence thereof, and the charges incumbent on the king in that behalf, and induce them to grant the king a competent subsidy in aid of the charges aforesaid....' C.C.R., 1369-74, p.111.

2

Thus, in the parliament of 1371, two Austin friars argued the case for mulcting the clergy. See V.H. Galbraith, 'Articles Laid before the Parliament of 1371', pp.579-82. In 1385, suggestions may have been made in parliament that the temporalities of the Church should be confiscated. See Thomae Walsingham, Historia Anglicana, II, p.140.

grants made in convocation from the laity in parliament. The commons were determined that ecclesiastics should bear a full share of the load of taxation, and made several attempts to make lay grants conditional on ecclesiastical. This assault on clerical liberties failed because the crown was in general well able to secure regular grants from the clergy under the existing system.¹

The long continuance of the French war brought with it a period of regular, often heavy taxation.²

1

In 1380, the commons proposed a grant of £100,000 on condition that the clergy would support a third of the burden. To this the clergy made the vigorous reply that 'lour Grant ne feust unques fait en Parlement, ne ne doit estre, ne les Laies gentz devroient ne ne purroient constreindre le Clergie, ne ne poet ne doit en celle partie constreindre les Layes gentz; mais leur semble, que si aucun deust estre frank ce serroit plus tost la Clergie que les Lays gentz' (R.P., III, p.90). Further attempts in 1383 and 1384 to make lay grants conditional on ecclesiastical drew protests from Archbishop Courtenay. On the latter occasion, he declared in parliament that he would not treat with his clergy for the grant of any subsidy to the king, nor hold a convocation for this purpose, until the condition was rejected and deleted. This proved sufficient to obtain from the king the public excision of the objectionable stipulation. See Concilia, ed. D. Wilkins, III, p.193, and M. McKisack, The Fourteenth Century, pp.289-91.

2

The clergy were paying levies on their incomes to the crown in almost every year from the opening of the war to the peace of Calais in 1360. See W.E. Lunt, Financial Relations, p.95.

During much of the fourteenth century the archbishops summoned their convocations almost entirely for the grant of taxes, whilst the bishops became more than ever before royal tax-collectors.¹ Clerical consent to taxation was in fact rather less than free. Royal counsellors, including influential laymen, were used by the king to put the royal case for a grant to convocation, and on occasion to bring pressure to bear on the proctors of the clergy.² It was by no means

1

On the other hand, the rise of Lollardy and the existence of the papal schism did bring forward the more definitely ecclesiastical business in convocation during the last twenty years of the fourteenth century. For half a century under Courtenay, Arundel, and Chichele, the Canterbury convocation was more active in legislative and judicial work than ever before. Then in the second half of the fifteenth century, taxation again resumed its dominance. See E.W. Kemp, Counsel and Consent, p.115.

2

Thus in 1424, 'intrarunt domum capitularem predictam venerabilis pater dominus Henricus episcopus Wynton'. cancellarius Anglie, Ricardus comes Warwici, magister Johannes Stafford' electus Bathonien', thesaurarius Anglie, magister Willelmus Alnewyk, custos privati sigilli domini Regis, dominus Lodewicus Robessart, dominus le Bouchier, dominus Radulphus dominus de Cromewell', dominus Walterus Hangerford' miles, senescallus Hospicii Regis, et alii domini regis consiliarii ex parte ipsius domini Regis ut dicebatur missi, et statim dominus episcopus Wynton' causam adventus ipsorum ad tunc coram domino et confratribus totoque clero ostendit publice in vulgari, et post plura verba satis eloquenter per eundem prolata statum regium et ipsius necessitatem de habendo a clero aliquod subsidium finaliter declaravit' (The Register of Henry Chichele, ed. E.F. Jacob, III, pp.91-2). When the proctors of the clergy proved unwilling to make a grant, the bishop of Winchester, as chancellor, 'ipsos procuratores nunc sermone blando, nunc per verba aspera, quodam(m)odo minatoria, commovebat et cum instancia non modica excitabat' (ibid., p.97).

uncommon for the bishops, many of whom were royal servants, to take sides with the government against the body of the clergy.¹ On the other hand, it remained true that the king might have to be content with a smaller grant than that demanded;² and schedules of clerical gravamina often accompanied the concession of subsidies.³

The demands made on the wealth of the Church by the crown faced ecclesiastics with a number of problems for which convocation did not provide adequate means of securing relief and redress. Despite the clergy's claim to autonomy in the matter of taxation, the king alone could supply an effective solution to these difficulties, and ecclesiastics, both as individuals and as groups, had to approach the crown with their complaints. Those features of the taxation system that were of particular concern to the various sections of the clerical estate may thus be illustrated from petitions. Such petitions will furnish evidence of how far the clergy in convocation did in reality maintain control over taxation of the clerical estate, and of how far this

1

See M. McKisack, The Fourteenth Century, p.289.

2

Thus, in 1356, his request for six tenths produced a grant of only one. See Concilia, ed. D. Wilkins, III, pp.38-9.

3

See, for example, the petitions presented to the king in the parliaments of 1351 (Concilia, ed. D. Wilkins, III p.23, and R.P., II, pp.244-5), 1369 (Concilia, ed. D. Wilkins, III, p.82), 1376 (Concilia, ed. D. Wilkins, III, p.104, and R.P., II, pp.357-8), and 1377 (Concilia, ed. D. Wilkins, III, p.122, and R.P., III, pp.25-7).

control was being eroded by royal intervention in the process, partly as a result of the willingness of members of that estate to take their grievances to the king. Four main topics will be considered: the problems arising from the dual system of taxation; financial distress and relief from clerical imposts; the difficulties of foundations that had been exempted from taxation by royal grant; and the collection of ecclesiastical subsidies.

Although a dual system of taxation existed under which the clergy and laity each made their separate grants of subsidies, not all ecclesiastical property was thereby exempted from contribution to the tenths and fifteenths granted in parliament. The clergy paid to lay grants for all personal property on lands acquired since 1291 that would not be taxed for clerical tenths. They had done so from the beginning of the fourteenth century.¹ The commons showed anxiety to ensure that ecclesiastics were not allowed to escape taxation of possessions acquired after that date. They petitioned on the subject in 1346,² and a further

1

See J.F. Willard, 'The English Church', pp.217-225. 1291 was the year in which the assessment of clerical property had been made that was accepted as the basis of clerical subsidies down to the reign of Henry VIII. See Taxatio Ecclesiastica Angliae et Walliae auctoritate P. Nicholai IV circa 1291, ed. S. Ayscough and J. Caley, (Record Commission, 1802).

2

The commons asked that abbots, priors, and other religious who had purchased lands or tenements since 1291, should be taxed for these 'en touz pointz entre Gentz de la Commune', and that they might be distrained for this tax in all the lands for which they did not pay their own tenths. R.P., II, p.163.

petition in 1377 obtained this definitive statement from the king:

Paient les gentz de Seinte Eglise leur
affectant entre les lays gentz pur touz
leur possessions qui sont devenuz a
leur mayns, ou queles ils ont purchacez
puis l'an xx^e le Roy E. filz le Roy Henry.¹

Equally the clergy were concerned to ensure that they were not compelled to pay both taxes for any of their possessions. During the fifteenth century their concern to prevent taxation for lay subsidies of the goods, possessions or benefices, and their profits, for which they contributed to ecclesiastical tenths, was regularly expressed by a proviso in the terms of the grants made in convocation.² Earlier they had had to

¹

R.P., III, p.24. In 1410, the royal reply to a petition also read thus: 'Toutz ceux gentz de Seint Eglise q'ount purchacez Terres ou Tenementz puis l'an xx^{me} le Roy E. Fitz a Roy Henr', paient a la Quinsime pur les Terres et Tenementz ensy purchacez.' R.P., III, p.645.

²

See, for example, the proviso included in the grant made by the clergy in 1431:

'nulle persone ecclesiastice pro bonis,
possessionibus seu beneficiis suis eorumve
fructibus aut proventibus de et pro quibus
decima predicta solvi debet nec ipsarum
firmarii in bonis, possessionibus vel
beneficiis, fructibus vel proventibus hujusmodi
sibi ad firmam concessis pro eisdem cum laicis
ad quintam decimam vel ejus partem solvere vel
contribuere astringantur. Quod si secus
attemptatum fuerit, tunc persone ipse et earum
firmarii a solutione decime predicte et
cujuslibet partis ejusdem excusentur et ad
eam solvere vel contribuere quicquam minime

(footnote continued on p.333)

protest to the crown against certain infringements of their rights in this regard. The number of petitions made on the subject seems to have been small, suggesting that this problem did not reach serious proportions.

In April 1378, the prelates and clergy complained to the king that the collectors of two lay fifteenths had distrained ecclesiastical persons living in London to contribute to the subsidy for the goods arising from the benefices, offices, and services whereby they lived. These were taxed with the clergy and had never before been charged with the laity. The council met the plaint by issuing a writ of prohibition forbidding the collectors concerned to lay any charge on ecclesiastics contrary to the liberty of the Church and former practice. Such innovations were to be revoked. The money, distress, or pledges already taken were to be restored, and the king or council certified of the cause of the collectors' actions.¹

The complainants followed this up with a petition to the king and council in the parliament of Gloucester later that year, in which they stressed the separate nature of the lay and clerical grants lately made to the king. The clergy had granted two tenths to be levied by

(Footnote 2 continued from p.332)

teneantur. Et quod super hoc habeant breve vel brevia de scaccario domini regis quociens et quando necesse fuerit vel alias oportunum.
Register of Henry Chichele, ed. E.F. Jacob, III,
 p.227.

¹

C.C.R., 1377-81, p.132.

the prelates or their deputies, and the laity two fifteenths to be collected by royal commission. Nonetheless, the collectors of the fifteenths in London and elsewhere had 'par colour de la dite Commission' levied large sums and taken distrainments from many of the clergy against their will, in contravention of the franchises of the Church and former practice. Redress was again sought.

The royal reply was conciliatory. The king agreed that

'les Clercs sont tenuz et accustumez de paier les Dismes de lour Benefices, et de toutes autres lour Possessions espiriteles, a lour Prelatz, ou as Coillours par leurs Prelatz a ces assignez, es lieux esqueles ils ont leurs dices Benefices et espiriteles Possessions, et nemye as laies gentz par aucune voie....'¹

The attempted innovations, which seem to have arisen as a result of certain ecclesiastics maintaining only temporary residence in the towns, were repudiated. It was held that such clerks, and certain groups of laymen² who were not permanently resident in London and other towns, should pay nothing towards subsidies for their lodgings, books, vessels, horses, and other necessities for their stay there. Demands of this kind were not to

¹

R.P., III, p.48.

²

Lords of the realm, justices, serjeants at law, and others, 'qui ne sont mye continuelment resceantz en Londres, et es autres Villes, sinon come survenantz illoques'. R.P., III, p.48.

be made on them for the future. Writs and other mandates were made available for the recovery of goods taken against the form of the ordinance.¹

The clergy appear to have had particular difficulty with their temporalities let at farm, many of which would have been farmed to laymen. The problem was a serious one in a time of widespread leasing.² The community of the clergy petitioned in parliament in 1383 or 1384, and asserted that they held various temporalities long annexed and appropriated to their cathedral and collegiate churches. These formed part of their assessment for clerical tenths. They had been let to tenants at will, who had always been discharged of lay fifteenths through their payment of clerical tenths. Nonetheless, the collectors of fifteenths had distrained these tenants to contribute to the lay

1.

R.P., III, p.48. This ordinance was made into a statute in the next parliament at the request of the commons (R.P., III, p.86). The enforcement of the statute may be seen in a mandate of 1387 to the collectors of a moiety of a tenth granted by the commons. The collectors were ordered not to compel Thomas Baram, clerk, schoolmaster of the Arches, to contribute with the men of the city for his lodging within the city, or for his books, utensils, horses, goods, or things needful for his sojourn there, releasing any distress made upon him, so that he would have no matter for a second suit to the king (C.C.R., 1385-9, p.237).

2

G.A. Holmes has noted that the late fourteenth century landowner 'felt himself driven by costs and prices to the wholesale leasing of the demesne'. G.A. Holmes, The Estates of the Higher Nobility, p.115.

subsidy. The clergy petitioned for their own and their tenants' discharge from this imposition, since they had never been so taxed before, but had paid clerical tenths 'pur mesmes les porcions'.¹ The petition has no note of the king's reply.

The problem continued to trouble the clergy. Lay collectors evidently regarded the movables of such tenants as chargeable for fifteenths, despite the clerical tenths paid on the property they held at farm. Possibly they held that the movables on such farmed manors had not been included in the 1291 assessment, and that therefore this was not a case of double taxation. In 1411, one of the gravamina laid before the archbishop in convocation sought remedy against laymen who demanded that the farmers of prelates and beneficed clergy pay fifteenths 'pro firmis ecclesiasticis', although the prelates and clergy in question paid tenths for these same.² An attempt to obviate the danger of double taxation was made in the terms of clerical subsidies. These came to include a proviso that the farmers of such property on which clerical tenths were paid, should not have to contribute to fifteenths.³

¹ R.P., III, p.176. This would appear to be the meaning of the petition, although it is damaged.

² Concilia, ed. D. Wilkins, III, p.335.

³ See above, p.332 n.2.

In general the notion that no one should be taxed with both the clergy and the laity for the same property seems to have been accepted, although the separation of ecclesiastical property into two categories caused some difficulties to taxpayers. In 1371, the prior of Spalding sued to the crown against the attempt of the collectors of a clerical subsidy to force him by ecclesiastical censures to contribute for certain lands allegedly taxed among the laity. The king then stated that 'it is not lawful nor reasonable that he should pay as well the subsidy granted by the clergy as that granted by the laity for the same lands'. A mandate was sent to the collectors, ordering them to stay their demand if assured that the lands in question had been acquired by the priory since 1291.¹

A long suit in the Exchequer will serve to illustrate this type of problem further. The abbot and convent of Eynsham petitioned to the king and council in 1379 against an adverse verdict in the court of the Exchequer twenty years before, which had followed the abbot's complaint to the barons at his assessment and distraint by the collectors of a lay fifteenth for goods and chattels in Tylgersley. He had alleged at that time that he held no lands and tenements there other than those annexed to his spiritualities and taxed for the clerical tenth. These had been in the possession of the house of Eynsham in 1291,² and had been charged for

¹

C.C.R., 1369-74, p.244.

²

They would thus have been included in the assessment of clerical property then made at the order of Pope Nicholas IV, and should not have had to contribute to lay taxes. See J.F. Willard, 'The English Church', pp.217-25.

clerical subsidies ever since. The abbot had no movables in Tylgersley other than the profits from his lands and tenements annexed to his spiritualities, for which he was not bound to pay any fifteenths.

The collectors of the lay subsidy had retorted to this complaint that Tylgersley had been charged for fifteenths since 8 Edward III (1334-1335), whenever they were granted. The dispute had been precipitated by the death of all the men of the vill in 23 Edward III (1349-50).¹ As a result of this disaster the lands and tenements of the villagers, who had contributed a certain sum to fifteenths for their goods and chattels on these holdings, had reverted to the hands of the abbot as lord of the vill. Since these had remained in the abbot's hands for lack of tenants, and the collectors had had to raise the usual amount from these holdings, they had distrained the abbot for the sum formerly due from his tenants.

The abbot had insisted that these lands and tenements were part of his temporalities annexed to his spiritualities, and had been held by the men of Tylgersley, as his 'nativi', in bondage. In 1291, and thereafter, they had been taxed with the clergy. He had sought judgment whether he ought to bear other burdens than the clerical tenths always paid on these. However, the issue of double taxation was not really

1

Presumably as a result of the Black Death, which entered England in August 1348, and had spent its force on this first visitation by the end of 1349. See M. McKisack, The Fourteenth Century, p.331.

considered. The barons had elicited from former tax-collectors' rolls the indubitable fact that the vill of Tylgersley had paid £4 14s 9d to every fifteenth granted between 8 Edward III (1334-1335) and 31 Edward III (1357-1358). The abbot seems to have been able to make no satisfactory answer to this evidence, and it had been considered sufficient for a judgment that he should be charged with the above amount for the fifteenth currently in the process of collection.¹

The abbot and convent of Eynsham asserted in 1379 that ever since the judgment of 1359 the abbot had been taxed with both the clergy and the laity for his lands and tenements in Tylgersley. On the grounds of equity, they requested the annulment of that decision and the discharge of the abbot from one or other of the taxes. In their reply, the king and council adhered to the principle that the one piece of property should not be charged for both lay and clerical subsidies. The treasurer and barons were ordered by writ to search their records and to take other steps to ascertain the truth of the petition's allegations. If these proved correct, the suppliants were to be discharged from payment of fifteenths, despite the earlier judgment to the contrary in the Exchequer.²

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P.R.O., Ancient Petitions, S.C.8/212/10587. Cartulary of Eynsham Abbey, ed. H.E. Salter, (two volumes, Oxford Historical Society, 49 and 51, 1906-8), II, pp.69-82.
P.R.O., Exchequer Plea Rolls, E.13/82a/84-5.

2

P.R.O., Ancient Petitions, S.C.8/212/10587. Cartulary of Eynsham Abbey, ed. H.E. Salter, II, pp.72-3.

The case came before the barons for the second time at Trinity 1379. The abbot now put forward the plea that all his lands and tenements in Tylgersley were, and from time immemorial had been, parcel of the manor of Eynsham, which had been assessed for clerical subsidies in 1291 at the sum of £29 9s 8d. This convenient assertion could not be verified from Exchequer records, a search of which revealed only that the temporalities of the abbot in Eynsham were taxed for clerical tenths at that amount. No mention was made there of the temporalities of the abbot in Tylgersley. Thus the royal attorney denied that the lands and tenements in that vill were parcel of the manor of Eynsham and taxed for clerical subsidies.¹ Rather they were taxed with the laity for fifteenths, as the collectors' rolls from 8 Edward III (1334-1335) showed. An inquiry was sought on the king's behalf. The sheriff of Oxford was ordered by writ of Venire facias to summon before the barons a jury from the neighbourhood of Tylgersley, whose members had no affinity with the abbot of Eynsham.²

1

The 1291 Taxatio gives the following information: 'Abbas Eynesham habet in Eynesham in terris redditis piscaria et curia £24-0-0. Idem habet ibidem in fructibus gregibus et animalibus £3-19-8d' (Taxatio Ecclesiastica, ed. S. Ayscough and J. Caley, p.44). It should be noted that this yields a total of £27-19-8d, whereas the records of the plea in the Exchequer give the assessment as £27-9-8d. In 1279 Tylgersley was described as a hamlet of Eynsham, occupied entirely by nativi, and apparently containing 24 virgates (See Cartulary of Eynsham Abbey, ed. H.E. Salter, II, pp.xlv-xlvii).

2

Cartulary of Eynsham Abbey, ed. H.E. Salter, II, p.75.

The jurors' verdict entirely supported the abbot's statement, and he accordingly sought judgment. There was perhaps some justification for the barons' evident reluctance to give judgment in favour of Eynsham. The jury had substantiated by their verdict the abbot's allegation that he contributed to clerical tenths for this property, but the payment of fifteenths by the former tenants of Tylgersley remained undeniable. The plea was adjourned twelve times from term to term for further deliberation, before at length the abbot and convent were declared quit of fifteenths from the lands and tenements in Tylgersley. Even then a proviso was added that if these should be occupied by tenants in future, the latter were to answer the king for a fifteenth of their goods and chattels there, as had been done in the past.¹ The barons thus attempted to minimize loss to the royal revenues, whilst giving their reluctant recognition to the rule that no ecclesiastic should be obliged to pay both lay and clerical taxes for the same lands.

The pressure of regular taxation during this period made imperative the provision of relief for impoverished taxpayers and those affected by sudden adversity. A part of the difficulty was created by the increasingly outdated assessment on which ecclesiastical grants were based. The majority of clerical subsidies

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Cartulary of Eynsham Abbey, ed. H.E. Salter, II, pp.76-81. See also P.R.O., Exchequer Plea Rolls, E.13/97/20.

took the form of tenths, the basis for which had been fixed in 1291, when an assessment of all the revenues of the English clergy, spiritualities and temporalities, had been taken on the command of Pope Nicholas IV. This valuation was accepted as the basis of clerical grants down to the time of Henry VIII, although modified for the northern province by the Nova Taxatio of 1318.¹ Adjustment of individual quotas was essential to take account of deterioration in the value of benefices and property, and the changed circumstances of taxpayers.

The clergy in convocation endeavoured to ensure that the members of their estate least able to contribute to subsidies should be relieved of the load. In the assembly of the southern province in 1411, one of the gravamina produced by the proctors of the clergy sought

quod si concedatur subsidium domino regi,
excipiantur pauperes religiosi et religiosas,
et potissime rectores, qui habent ecclesias

1

Under the assessment of 1291, a tenth was estimated at about £20,000, of which Canterbury contributed £16,000 and York £4,000. York's contribution had been reduced in 1318 by £1,600. See M. McKisack, The Fourteenth Century, p.287. I.R. Abbot has calculated that in 1401 the clear value of a tenth from all England was £16,968, as compared with £36,667 from the lay tenth and fifteenth of the same year. By 1450, the yield of the tenth had been reduced to £13,700; and by the end of the century it averaged less than £10,000. I.R. Abbot, 'Taxation of Personal Property and of Clerical Incomes, 1399 to 1402', Speculum, 17 (1942), pp.492-3 and 498.

ad excessivam summam taxatas, ubi verus valor
vix sufficit ad inventionem unius capellani,
de quibus stabitur certificatorio loci
diocesani.¹

This statement was given expression in the terms of clerical grants. In the certificate sent by the archbishop into Chancery the clergy commonly included an exemption from payment of the tax for all those who had been overcome by natural disaster, and all those in a continuous state of poverty. By 1425 the standard of poverty for a benefice to be exempt was 'twelve marks a year and no more'. The letters of the ordinaries were to be accepted by the royal government for the purpose of granting relief.² The names of any individual houses and benefices to enjoy exemption were also included in the archbishop's return.³

¹ Concilia, ed. D. Wilkins, III, p.335.

² See E.F. Jacob, The Fifteenth Century, p.421.

³ For example, the notification to Chancery in 1416 that the clergy had granted two tenths, contained the following exemptions from payment: 'exceptis bonis et beneficiis pauperum monialum et hospitalarium beneficiisque in partibus Wallie et alibi per incursus hostiles, inundaciones aquarum aut aliter destructis aut nimium diminutis super quibus, licet in hiis scriptis nominatim non expressis, stabitur litteris ordinariorum proinde ac si singulariter et nominatim existerent expressata, exceptis insuper bonis et beneficiis collegiorum beate Marie Wynton' in Oxon' et beate Marie prope civitatem Wynton' de fundacione episcopi Wynton' existencium. Et excepta ecclesia de Portelond' Sar' diocesis que per hujusmodi incursus hostiles cumbusta, depredata et nimium existit diminuta,' The Register of Henry Chichele, ed. E.F. Jacob, III, p.26.

The crown undoubtedly respected these provisions of clerical grants, as can be seen in an entry on the Close Rolls under 1354. The king then ordered the treasurer and barons of the Exchequer to discharge the prior of St Martin's, Dover, of the sums exacted of him for the two years' tenth last granted by the clergy of the province of Canterbury. A condition of the concession had been that nothing should be exacted from those unable to support the charges of their benefices. Full confidence was to be placed in the certificates of the ordinaries. The priory of St Martin had been found by certificate of the archbishop in Chancery to be so poor that its income was insufficient for the needs of the house, and it had been released from contribution to the tax.¹

This clerical provision for the relief of distressed taxpayers was supplemented by the crown, which retained an ultimate power to release ecclesiastics from their contribution to subsidies. The efforts of convocation did not in practice cover all contingencies or meet the needs of all those in difficulties. A house which had not secured relief through the certification of its poverty to Chancery by the ordinary, might make its own application directly to Chancery. The prior and convent of Haverholme appealed to the chancellor possibly in 1403, stating that the house was charged to the king for

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C.C.R., 1354-60, p.23. In 1535, the net income of this Benedictine house was £170 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.64).

tenths of £27 but was so impoverished that payment of the sum might cause the departure from the priory of the nuns and canons.¹ They sought writs to the treasurer and barons ordering them to discharge the collectors of tenths in various counties of the sums due from Haverholme, 'solonque ceo que autres poures measons ount en ycest cas'.²

In all unforeseen circumstances taxpayers struck by disaster had to apply to the crown for relief. The collectors of clerical subsidies seem to have had small powers of discretion; and a respite from payment at the appointed time, when this could clearly not be made, might have to be sought from the king. In 1378, Michael de Norburgh, prebendary of Sutton in Chichester Cathedral, petitioned to the king and council and asserted that French raiders had caused damage to his prebend to the value of £100 and

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The net income of the house in 1535 was £70 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.171). In 1361, Haverholme had been one of a group of three houses released from payment of the tenth then granted by the clergy of the province of Canterbury. This had been granted on the certificate of the bishop of Lincoln in Chancery that the houses were so poor that their goods were insufficient for their maintenance and payment of the tenth (C.C.R., 1360-4, p.230).

2

P.R.O., Ancient Petitions, S.C.8/301/15033. The bill contains no note of the chancellor's reply. In 1444-5, Haverholme was granted quittance from all taxation with the other Gilbertine priories for nuns and canons. These houses were then said to have been similarly exempt from the time of Archbishop Chichele and his predecessors, on account of their poverty (C.P.R., 1441-6, pp.315 and 332).

more.¹ He requested a deferment of payment of the tenths currently due from him, until these could be levied. He asked that the bishop and his collectors be instructed by writ to supersede their demand on the petitioner for the subsidy, and to cease any proceedings by ecclesiastical censure for the levy of this. Norburgh secured a respite from February until the following Michaelmas, and the appropriate writ was issued to the collectors in Sussex.²

War-damage to ecclesiastical property was covered in the fifteenth century by a clause in the terms of clerical grants exempting from payment benefices

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The accession of Richard II coincided with a renewal of French and Castilian raids on England. Rye and Hastings were burnt in 1377 and there were assaults on the Isle of Wight and on the Yarmouth herring-fisheries (M. McKisack, The Fourteenth Century, p.145). Evidence of the damage done by raiders in this area appears in a writ of Supersedeas sent to the collectors in Sussex of lay subsidies. This was granted in favour of the burgesses of Seaford, because of the damage lately sustained by them in an invasion of the king's enemies. It was issued in April 1380 (C.C.R., 1377-81, p.387).

2

P.R.O., Ancient Petitions, S.C.8/131/6527, and C.C.R., 1377-81, p.122. Similarly, Richard atte Mede, parson of Wyppyngham, petitioned to the king and council at this time. The parish, church and rectory, had all been destroyed by the French; and the men of those parts were stated to be on the point of leaving for fear of the enemy. Hence his church was now of no value, and was too heavily taxed. Nonetheless, the clerical tax-collectors were demanding from him for tenths a sum more than the benefice was worth. He asked the council to ordain a remedy, and requested the grant of a Supersedeas of the demand made on him until his position improved. P.R.O., Ancient Petitions, S.C.8/213/10644.

certified by the ordinaries as excessively damaged by enemy attacks.¹ However, the effectiveness of the relief thus provided was dependent on the efficiency of the diocesan administration, which was demonstrably not perfect. John Roland, parson of Portland, sought from Henry V pardon of tenths amounting to 32s 0d due from his church. He had been compelled to petition because the vicar-general of the bishop of Salisbury had not certified the burning and destruction of Roland's church in an enemy raid, as the terms of the clerical grant had specified. The petitioner asked that in spite of this omission, a writ should be sent to the treasurer and barons ordering the discharge of the collectors in the archdeaconry of Dorset from the sum owed by him.²

Doubt as to the effectiveness over an extended period of time of the clerical system of providing relief,

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Thus, in 1416, exemption from payment of the clerical grant was conceded to benefices 'in partibus Wallie et alibi per incursus hostiles ... destructis aut nimium diminutis super quibus, licet in hiis scriptis nominatim non expressis, stabitur litteris ordinariorum proinde ac si singulariter et nominatim existerent expressata'. Register of Henry Chichele, ed. E.F. Jacob, III, p.26.

2

P.R.O., Ancient Petitions, S.C.8/230/11473. The petition does not note the king's reply. The clergy in convocation granted relief to the church of Portland in 1416 and 1417, because of the damage done by enemy attacks. The church was on these two occasions exempted from payment of the subsidies granted (Register of Henry Chichele, ed. E.F. Jacob, III, pp.26 and 45).

and the extreme reluctance of the Exchequer to admit any claim for allowance without the fullest authority, seem to have caused the abbot and convent of Thornton to supplicate the king and lords in parliament circa 1427 concerning a case of flooding.¹ At least in the southern province, the clergy by then normally included in their grants a clause exempting from contribution goods and benefices destroyed or seriously diminished by floods. Details of such catastrophes were to be submitted to the government by the ordinaries.² Thornton, whose damaged property was divided between the two provinces, found it expedient to sue to the crown for the provision of relief on a permanent basis. The petitioners alleged that a large proportion of their property in the dioceses of York and Lincoln had been laid waste by flooding of the sea and the rivers Humber and Ouse. They asked that their wasted property might be excepted from each grant of tenths henceforth,

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The excessive caution of the Exchequer is well illustrated by the story of the attempt of the abbey of Meaux to secure an allowance in its share of the tenth granted by the clergy of the northern province in 1396, because of the inundation of its lands by the Humber. See E.F. Jacob, The Fifteenth Century, pp.446-8.

2

Thus in 1416, exemption from payment of the clerical grant was conceded to benefices 'in partibus Wallie et alibi per incursus hostiles, inundaciones aquarum aut aliter destructis aut nimium diminutis super quibus, licet in hiis scriptis nominatim non expressis, stabitur litteris ordinariorum proinde ac si singulariter et nominatim existerent expressata' (Register of Henry Chichele, ed. E.F. Jacob, III, p.26).

and the abbot and convent discharged for this portion of the value of their possessions. A mandate to the chancellor was sought that he should grant on request the necessary writs to the ordinaries for certification in Chancery of the quantity of lands, tenements, rents and possessions destroyed by flooding, together with the value of these. Other writs were to be sent to the Exchequer for due allowance to be made to the house.¹

Heavy taxation and the outdated nature of the assessments for clerical tenths pressed hard on houses whose financial circumstances had changed for the worse in the period since 1291. The Close Rolls indicate that the crown was constantly importuned by such foundations for pardon of the sums due from them. Suppliants doubtless described their economic condition in the darkest terms in order to obtain relief. The abbot and convent of Vaudey² ascribed their

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P.R.O., Ancient Petitions, S.C.8/144/7176. The petition is marked 'per ducem Glouc' xxvii die Nov'', but does not state the king's reply. In their grant of a half tenth to the king in 1428, the clergy of the southern province allowed the abbot and convent of Thornton exemption for their benefices, goods and possessions (Register of Henry Chichele, ed. E.F. Jacob, III, p.208). Similarly, in 1428, the grant made in the northern province exempted the lands and possessions of the abbey up to a fourth part of the tenth (C.F.R., 1422-30, pp.255-6). Further partial exemptions were granted to Thornton in the northern province in later years (C.F.R., 1403-7, pp.23-4 and 180-1, and *ibid.*, 1437-45, pp.192-3).

2

The net income of the house in 1535 was over £124. Knowles and Hadcock state that Vaudey was one of the larger houses of the Cistercian order, but that the
(footnote continued on p.350)

impoverished condition under Henry VI not only to misfortune and the great charges on them of annuities and corrodies, but also in particular to the insupportable weight of clerical tenths, which had almost reached the level of the expenses of the whole establishment. The abbey was so poor that the chalice and other jewels had been 'aliend and layd to wedde', and they were greatly in debt. The suppliants sought relief from the burden of taxation, and more particularly from the half tenth lately granted by the clergy of the province of Canterbury. If their quota of £11. 11s 3 $\frac{3}{4}$ d had to be raised, divine service and hospitality would cease and the convent would probably be dispersed.¹

Vaudey's suit for the royal grace was one that received a generous response in other cases of distress. The crown would grant relief over extended periods of time to religious foundations whose assessments for taxation had become excessive and faced them with ruin. Such houses were released in this way

(footnote 2 continued from p.349)

number of monks and lay-brothers probably decreased towards the end of the thirteenth century, when the abbey got into financial difficulties (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.117). There is some evidence of the impoverished state of the house at an earlier period. In 1353, the abbey had been pardoned 20 marks of the tenth due from them because of the distressed state of the house (C.P.R., 1350-4, p.420).

1

P.R.O., Ancient Petitions, S.C.8/187/9308.
The petition has no note of the king's reply.

from dependence on the certificates of the ordinaries to Chancery for obtaining their exemption. In 1414 Henry V relieved the prioress and convent of Easebourne from all taxation for twenty years because of their indebted state and the decrease of rents from their lands, which were of small value.¹ When this grant expired, Henry VI extended their exemption for a further three years in 1437.² The priory petitioned to the king before the termination of the extension, in June 1439, with the apparent object of obtaining a reassessment of the possessions of the house for the purpose of taxation. They secured the grant of a commission to the bishop of Chichester to inquire as to the true value of their property and revenues, and to certify the council on this point.³ The review was probably long overdue, for in December 1439 Easebourne was granted perpetual exemption from contribution to subsidies.⁴

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C.P.R., 1413-16, p.276.

The net income of the priory in 1535 was only £29, whereas in 1291 its income from temporalities had been £41. (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.228).

2

C.P.R., 1436-41, p.33.

3

P.R.O. Council and Privy Seal Records, E.28/file 61.

4

C.P.R., 1436-41, p.360.

Similarly, the abbey of Lacock petitioned to the king in 1447, alleging that fire caused by lightning had destroyed much of the property of the house. The abbess and convent sought a grant of perpetual exemption from taxation. This was not granted in full; but the king allowed the house exemption from all subsidies for a

(footnote continued on p.352)

Easebourne was one of a relatively small group of religious houses, hospitals, and colleges, able to obtain from the crown charters and letters patent entirely freeing them from contribution to lay or clerical subsidies.¹ Inability to contribute to taxes because of poverty was clearly the grounds on which the royal grant was made in a number of these cases. In terms of revenue the king would lose little by exempting from taxation a house like the priory of Cheshunt.² On the other hand, royal favour was the dominant factor in certain such concessions. Highly privileged royal foundations like St George's Chapel, Windsor, were equally able to obtain exemption.³ The

(footnote 4 continued from p.351)
term of 40 years (P.R.O., Council and Privy Seal Records, E.28/file 77, and C.P.R., 1446-52, p.86). The crown would also grant tax relief to aid building projects. Thus, in 1356, the abbot and convent of Vale Royal were pardoned £18 of their portion of the tenth last granted to the king, in aid of the fabric of the church begun there (C.P.R., 1354-8, p.423).

1

The order of Burton St Lazarus of Jerusalem (see C.C.R., 1385-9, pp.218-9) and the Carthusians (see below) were entirely exempt. Further, in 1445, Henry VI granted exemption to the ten Gilbertine houses for canons and nuns in England (C.P.R., 1441-6, p.332, and *ibid.*, p.315). I have found evidence that about twenty-five other houses enjoyed, or obtained, exemption from taxation during the period 1350-1450.

2

Its net income in 1535 was £14 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.211). For the grant of exemption to Cheshunt, see C.P.R., 1350-4, p.195.

3

Its net income in 1535 was £1396 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.345). For the grant of exemption to the college, see C. Ch. R., V, p.127.

total loss to the crown may have been substantial, for the commons claimed in 1488 that by grants of this kind every tenth was greatly diminished. Their request for the annulment of these exemptions received the royal assent; but a number of exceptions to the enactment were made, which included the college at Windsor.¹

The recipients of such grants encountered difficulties in maintaining their exempt status that the king alone could solve for them. They found their privileges threatened both by the attempts of convocation to make them contribute to clerical subsidies and by the unaccommodating attitude of the Exchequer, whose caution was doubtless partly prompted by the financial drain of the French war and the downward drift of revenue almost throughout the period.² As guardians

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R.P., VI, pp.418-20.

2

A. Steel has noted the 'majestic downward movement' of royal revenue during the period 1377-1485. Fourteenth century kings apparently dealt in figures of a wholly different order of magnitude from those of their successors, including Henry V. Steel considered that despite the large sums which flowed into their Exchequers, neither Edward III nor Henry V was comfortably placed; and the same might be said of the minority of Richard II, when the French war was dragging on from bad to worse and engulfing large amounts of money. Thanks to his peace policy, the period of Richard's personal rule did see the royal finances prosperous and buoyant; but rebellion at home and hostility abroad made demands on the resources of Henry IV that far outran his means. During the long minority of Henry VI, the reluctance of his subjects to grant taxes had free play, though the war in France still continued its expensive course. A. Steel, The Receipt of the Exchequer, pp.359-60.

of the king's financial interests, it was the duty of the officers of the Exchequer to question the validity of claims to immunity wherever doubts of their sufficiency existed. By so doing they compelled privileged houses to seek a decisive judgment on the matter from the crown. The barons thus interpreted charters with a strict regard for the form of words employed in them, and refused to grant discharge from payment of subsidies without unimpeachable authority. Their attitude is well illustrated by their dealings with the hospital of St Leonard, York. Richard de Ravenser, master of the hospital, petitioned to the king and council in 1381 and stressed the exemption of the house by royal charter from payment of lay or clerical grants.¹ He alleged that the treasurer and barons had had a warrant by writ to supersede their demand on the master and brethren for the subsidy of 16d in the mark lately granted.² They would not allow this writ, because it did not make mention of the word subside.

1

The hospital had been granted exemption in 1338 (C.Ch.R., IV, pp.452-4). This had been confirmed by Richard II in 1377 (C.Ch.R., V, p.236).

2

On 16 April 1380, an order had been sent to the archbishop of York for the collection of a grant of 16d for every mark in respect of all taxed ecclesiastical benefices and temporalities annexed to spiritualities, whether exempt or not exempt, and whether privileged or not privileged, payable in moieties on 31 May and 1 August, and 16d from every mark in respect of untaxed benefices on two-thirds of their true value, payable at the same terms. C.F.R., 1377-83, p.191.

The unusual form of the clerical grant, which in fact amounted to a tenth but was not called such, seems to have been responsible for the dispute. It had exposed a weakness in St Leonard's charters. The Exchequer officers were able to argue that a grant of this type was not covered by them. This is indicated by the terms of the master's petition. He asked that although express mention of the word subside was not made in their charters, regard would be had to the intention of the king's predecessors. He requested a warrant under privy seal or a writ of Chancery to the treasurer and barons ordering supersession of the demand on the master and brethren for the subsidy. When the council considered the supplication, with the treasurer himself present, weight was evidently given to previous royal intent. It was decided that the hospital should be discharged from payment of the subsidy in accordance with the purport of their charters.¹

A similar difficulty seems to have faced the Minoreesses of London, after the clergy of the province of Canterbury granted a poll tax in December 1380.²

1

P.R.O., Ancient Petitions, S.C.8/173/8632.

2

The convocation of Canterbury at Northampton in December 1380 granted a subsidy of 20 groats each from all prelates and regulars of whatever rank, estate, order, sex, or condition, all clerks in any way promoted (even if in any way exempt or privileged), all unpromoted priests, both regular and secular, nuns established within the said province, and all advocates, proctors, examiners, registrars, and notaries public; and 3 groats each from all deacons,

(footnote continued on p.356)

It caused them to seek from the crown an authoritative ruling on their right of exemption. The house had been granted an apparently unequivocal release from lay and clerical taxation in 1353,¹ but petitioned to the king in 1381 for the examination of their charters by the royal ministers, so that they might be exempted from payment of taxes, tallages, or other charges falling to the king. This was granted by Richard II on the advice of the council. The action taken by the Minoresses had been prompted by an attempt to charge them for the subsidy of 1380, as the council also ordered that the house should have a writ discharging them from payment on this occasion.² A Supersedeas in their favour was thereupon sent to the collectors of the tax in the city of London.³ The divergence of the clergy from the usual grant of a tenth had forced the Minoresses to seek the revision of their charters, which had proved insufficient to maintain their exemption in the face of a novel tax.

(footnote 2 continued from p.355)

sub-deacons, acolytes and other lower orders of 16 years of age and over who were in any wise in clerical rank and habit, provided that they were not notoriously mendicants. C.F.R., 1377-83, p.223.

1

C.P.R., 1350-4, p.438.

2

P.R.O., Ancient Petitions, S.C.8/178/8863.

3

C.C.R., 1377-81, p.502.

The barons of the Exchequer under Henry V subjected the freedom from taxation claimed by all the houses of the Carthusian order in England to a searching scrutiny. Their attention may have been drawn to the Carthusians by the sudden development of the order in that country from relative insignificance. The number of Carthusian foundations, which had remained at two since 1222,¹ had increased to nine between 1343 and 1414. Each charterhouse had obtained from the crown its own grant of tax exemption based on the privileges enjoyed by older foundations.² The priors and convents of the order joined in presenting two petitions, the second in 1423, which propounded their freedom from taxation by the several letters patent of the king's predecessors to each of their houses. The suppliants alleged that through these grants they and their predecessors had

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Witham, founded 1178-9, and Hinton, founded 1222; 1227 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, pp.122-3).

2

For the grants of exemption to these houses, see

C.Ch.R., V, p.382 (Axholme);
C.Ch.R., V, p.37 (Beauvale);
C.Ch.R., V, p.382 (Coventry);
C.Ch.R., V, p.238 (Hinton);
C.Ch.R., V, p.296 (Kingston-upon-Hull);
C.Ch.R., V, p.382 (London);
C.Ch.R., V, p.381 (Mount Grace);
C.Ch.R., V, p.470 (Sheen);
C.Ch.R., II, p.466 (Witham).

Individual houses sometimes had to take action to maintain their exemption. In 1394, the charterhouse at Kingston-upon-Hull obtained a writ of Supersedeas to the Exchequer in respect of the demand on the house for clerical subsidies (C.C.R., 1392-6, p.405).

always been quit of tenths, fifteenths, and other contributions, until in the time of Henry V the treasurer and barons would not allow their liberties or acquit them for subsidies granted to that king and his predecessors since the dates of their letters patent.

The petitioners had not obtained a final judgment on the case from the Exchequer by 1423 because the opinions of the barons themselves differed. In this situation the king alone could give an authoritative ruling that would take into account the intention of his predecessors in making the grants. The Exchequer's objections to allowing the claim of the Carthusians to exemption from subsidies are not detailed in the petitions; but variations in the respective charters of the houses seem to have been one source of difficulty. Equally the terms of recent clerical grants, which were to be levied from exempt and non-exempt, privileged and non-privileged alike, had apparently been another reason for the questioning of their rights.¹ The charterhouses sought a declaration by

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In November 1414, the clergy of the southern province had specified that the two tenths granted were to be levied of all ecclesiastical benefices, whether exempt or not exempt, which were assessed and accustomed to pay to a tenth, any liberties, immunities, or privileges from the king to the contrary notwithstanding (C.F.R., 1413-22, p.90).

Such grants may have prompted the prior and convent of Mountgrace in 1416 to obtain a confirmation of their exemption from taxation, with a further provision that they should have all their lands, goods, and chattels quit of tenths and fifteenths granted to the king by the clergy or laymen under any form of words, notwithstanding anything in such grants to the contrary of their charter (C.Ch.R., V, p.483).

authority of parliament that in accordance with the intention of their grantors, the royal letters patent should be effective in securing for the suppliants and their successors discharge and acquittance from all subsidies past or future.

The government of the minority¹ declined to make a definitive statement of this kind. It was probably felt that so final an interpretation of royal charters must await the king's majority. However, royal concessions of exemption were meanwhile fully upheld. The lords agreed in parliament that a letter under privy seal should be sent to the treasurer and barons to supersede any proceedings in the Exchequer against the petitioners and all others possessing royal grants of freedom from tenths and fifteenths, until they should be otherwise ordered by the king.² The terms of the

1

Henry VI was born on 6 December 1421, and acceded to the throne of 1 September 1422. He was declared of age on 12 November 1437. See Handbook of British Chronology, p.37.

2

P.R.O., Ancient Petitions, S.C.8/198/9898. See also E.28/file 23.

The exempt status of the Carthusian houses received recognition in convocation. In 1428, this clause was included in the terms of the clergy's grant of half a tenth:

'Exceptis eciam a concessione et solucione...
beneficiis ecclesiasticis ac bonis et
possessionibus domus de Bethlem de Schene
ordinis Cartusiensis Wynton' diocesis ac bonis
beneficiis et possessionibus omnium aliarum
domorum religiosorum ejusdem ordinis ubicumque
in Anglia existencium....'

Register of Henry Chichele, ed. E.F. Jacob, III, p.209.

reply suggest that the charterhouses were not the only privileged foundations whose exemption from taxation had been questioned by the Exchequer.

As has been noted, one of the problems facing the Carthusians was the form of certain clerical grants of subsidies, which had specifically included as contributors houses normally exempt from taxation. The terms of the grant made in 1414 stated that it was to be levied of all benefices, whether exempt or not exempt, which were assessed and accustomed to pay to a tenth, notwithstanding any liberties or privileges from the king.¹ Such a grant was a dramatic assertion of convocation's control over the taxation of the clerical estate, which was undermined by the ability of favoured foundations to secure exemptions from the crown. It raised important constitutional questions of the ability of a tax-granting assembly to override royal privileges granted to certain of its members. Ultimately the crown alone had effective power to safeguard the rights of individual houses and the validity of their charters.

In 1415, 'les Gardein, escolers, et Chapeleyns del College de notre Dame de Wyncestre'² petitioned to

1

C.F.R., 1413-22, p.90.

2

This could be either one of Wykeham's foundations, New College at Oxford, or Winchester College at Winchester. The petition was probably presented by the former, as in 1416 a writ of Supersedeas was sent to the treasurer and barons, ordering the acquittance of the Oxford college from tenths despite the terms of the clergy's grant. C.C.R., 1413-19, pp.252-3.

the king for a writ to the Exchequer discharging them from payment of the tenths granted in 1414. They sought such a grant in accordance with their charters of exemption, which had been confirmed by Henry V,¹ and added a plea that the college was insufficiently endowed to sustain the charges to which it was bound by the terms of its foundation. Thus the suppliants reinforced their claim to exemption by charter with the claim that they were unable to contribute to the subsidy. The king's reply freed the suppliants from payment of the tenths, but made no formal denial of convocation's power to override royal grants. He pardoned the college the sum due from it and issued a warrant to the treasurer and barons for their discharge. However, the superior force of the king's letters to the terms of clerical subsidies is implicit in royal proceedings at this time.²

The problem of maintaining exemption from taxation against attack was recurrent. Although the Minoresses of London had vindicated their rights in 1381, they found themselves again in difficulties forty years later.

1

C.Ch.R., V, pp.352, 387 and 456.

2

P.R.O., Council and Privy Seal Records, E.28/file 30, and C.C.R., 1413-19, pp.252-3. In December 1414, the king had issued writs to the collectors of the same clerical subsidy in three archdeaconries, ordering them to allow the free chapel of St Stephen within Westminster Palace to be quit of payment of the tenths according to their charters, despite the terms of the clergy's grant. C.C.R., 1413-19, p.163.

The abbess and convent petitioned to the king in 1421, asserting their exempt status by grant of Edward III, which had been confirmed by Richard II, Henry IV, and Henry V himself.¹ They claimed that prior to the reign of Henry V these grants had always secured their discharge; but now the officers of the Exchequer had written to various sheriffs 'pur faire leue de tous dismes et quinzismes a vous grauntiez sibi par laies gentz come par le Clergie'. The urgent royal need for money may have been responsible for the Exchequer's action.² However, it received no support from the crown. The king granted the suppliants' request for letters under privy seal to the treasurer and barons to discharge the house from the tenths and fifteenths demanded of them.³

1

The confirmations are calendared in C.P.R., 1377-81, p.85 (Richard II), C.P.R., 1399-1401, p.543 (Henry IV), and C.P.R., 1413-1416, p.130 (Henry V).

2

The urgent need for money in 1421 is noted by E.F. Jacob, who comments that the financial situation at this time 'shows on how small a margin Henry was conducting the war'. Parliament made no grant in May of that year, and great efforts were made to raise money by loans (E.F. Jacob, The Fifteenth Century, pp.194-5).

A. Steel has commented on the reign of Henry V that it presents 'a picture of a great king straining the resources of his people to the uttermost in a desperate gamble for an obsolete ideal'. A. Steel, The Receipt of the Exchequer, p.201.

3

P.R.O., Council and Privy Seal, E.28/file 34. In 1427, the abbey again obtained confirmation of its letters patent (C.P.R., 1422-9, p.387).

There is other evidence of the activity of the Exchequer at this time. The barons showed a similar disregard for the letters patent granted to the collegiate church of Leicester, and the episode adds weight to the argument of a particular effort to raise money in this year. Quittance from tenths and fifteenths had been conceded to the dean and canons by Henry IV and confirmed by his successor.¹ The college asserted in 1421 that the barons had respited, and not duly allowed, the sums due from the dean and canons for subsidies granted to the king. They were now taking steps to levy these.² The suppliants approached the crown for a mandate to the officials concerned, which would relieve them of this threat to their liberties. Letters under privy seal to the treasurer and barons were requested, ordering allowance of all sums charged to the college for tenths and fifteenths granted to the king since his coronation. The same allowance

1

C.P.R., 1401-5, p.397, and
C.Ch.R., V, pp.432-3.

2

The attitude of the Exchequer may have been determined by the terms of the original grant to the college in June 1404. This had allowed the petitioners quittance from aids and other specified charges, so long as the rebellion in Wales lasted and they were hindered by rebels from receiving the issues of their churches, manors, lands and possessions there, from which they derived the great part of their living (C.P.R., 1401-5, p.397).

The revolt of Owen Glendower had reached its climax in 1405, and had failed some time before the accession of Henry V. See E.F. Jacob, The Fifteenth Century, pp.37-66.

was to be made henceforth. Henry V showed here that readiness to uphold royal grants of exemption which has been notable throughout. He granted the necessary writ for allowance to be made to the college 'en manere come aultres ont en cas semblable'.¹

Exempt houses were thus compelled by a combination of factors to have frequent recourse to the crown in defence of their rights. The Exchequer maintained an inflexible and questioning attitude towards this type of royal grant and would occasionally act in entire disregard of its terms. Moreover, the terms of certain clerical grants presented an obvious threat to the exempt status of these foundations that the king alone could counter effectively. Petitions seem to have provided these houses with an adequate means by which they could secure the requisite royal action in their favour. The king gave no support to attempts to challenge the validity of royal charters. The final decision on all such questions lay in his hand, but he was clearly willing to interpret these concessions in accordance with the intention of their original grantors. The writs necessary to maintain exemption from taxation intact seem to have been readily available.

The process of collecting clerical subsidies was the cause of much dissension within the Church. The clergy were responsible for the collection of their

¹

P.R.O., Council and Privy Seal Records, E.28/file 35.

grants, and the levying of these taxes imposed a heavy burden on the section of the clerical estate which was called upon to undertake the task. After a subsidy had been granted in convocation and Chancery duly certified of the fact, the archbishop's certificate announcing the terms of the grant was passed on to the Exchequer. Writs were then issued to the diocesans ordering the appointment of collectors, whose names were returned to the treasurer and barons by the bishops.¹ Failure by the ordinaries to make the necessary appointments resulted in peremptory action by the crown.²

1

For an example of this procedure in action, see The Register of Henry Chichele, ed. E.F. Jacob, III, pp.45-7 (1417).

For details of the collection procedure, see W.E. Lunt, 'The Collectors of Clerical Subsidies', in The English Government at Work, 1327-1336, II, ed. W.A. Morris and J.R. Strayer, (Camb. Mass., 1947), Ch. VI. Although the appointment of collectors was normally in the hands of the diocesans, royal commissions were sometimes issued for the collection of clerical subsidies. In February 1384, the king issued a commission to the prior of Prittlewell to collect a moiety of a tenth in the archdeaconry of Essex. All prelates and other ecclesiastical persons having benefices and possessions in the archdeaconry were ordered to pay their shares of the moiety promptly and without delay to the prior. All sheriffs, mayors, bailiffs, ministers, and other the king's lieges, were commanded to be intendant to the prior in all things that might hasten the collection of the moiety. C.F.R., 1383-91, pp.32-3.

2

In June 1380, the king took action against the bishop of St David's, who had been many times charged to appoint collectors of the subsidies granted in 1377 and in the last convocation, but had done nothing in the matter hitherto according to information supplied by the treasurer. The king stated that he would tolerate

(footnote continued on p.366)

The bishops selected their collectors largely from the religious. In 1360, when writs were sent to 29 collectors in the two provinces, all 25 of those whose identity was stated belonged to religious orders.¹ Similarly, in 1406, the collectors from 40 collectorates were summoned before the king and council, and in all except two cases the head of a religious house was named as sole appointee or as one of the collectors.² To some extent this was a matter of practical expediency, in that the monasteries had the staff and a safe deposit necessary for the work, and could undertake the task more expeditiously than any private individual.³ However, the charge was a burdensome one in a period of

(footnote 2 continued from p.365)

no longer such contempt of his orders and prejudice to himself and his whole people. The bishop was ordered either to appoint collectors of the subsidies, or to levy and collect these himself, and answer for them to the king, or else to appear before the council in person to show cause why he had not obeyed the king's commands. C.F.R., 1377-83, p.209.

1

C.C.R., 1360-4, pp.40-1.

The names of the collectors in the archdeaconry of Surrey, the archdeaconry of Winchester, the county of Cornwall, and the county of Devon, are not specified.

2

C.C.R., 1405-9, pp.57-9.

The exceptions were the city and archdeaconry of Chichester, in which Master John Thomas, archdeacon of Chichester, was sole collector, and the archdeaconry of Lewes in Chichester diocese, where the collector was John Bampton, archdeacon of Lewes. Of a total of 62 collectors named, 47 were religious.

3

See W.E. Lunt, 'The Collectors of Clerical Subsidies', p.236, and E.W. Kemp, Counsel and Consent, p.120.

regular taxation, and the conduct of the diocesans in nominating collectors caused the religious to feel that they were unjustly burdened. Apparently unable to secure redress from convocation, they turned to the crown for relief both as individuals and as a group.

The religious sought remedy for the most unreasonable features of the system in both parliament and convocation. A torn petition from the religious to the king and lords in parliament, which seems to date from early in the reign of Richard II,¹ was their earliest move in this direction. The suppliants deprecated the employment of individual houses as collectors over wide areas of the country, and claimed that as a result of this practice the abbots, priors, and a great part of the brethren of the foundations concerned were put to much trouble and expense. Impoverishment and the diminution of divine services and good works were said to follow. The petitioners attempted to limit the area within which a religious house could be appointed as a tax-collector. Their request seems to have been that henceforth the collection of a subsidy in each archdeaconry should be made 'par deux ou plusours en mesme larchidiaconee esteauntz et demurauntz'. In this way no abbot or prior would be appointed to make such a levy outside the archdeaconry in which his abbey or priory was situated. No reply is noted on the petition, and it seems to have evoked no response from the royal government.²

1

It has been dated by the Public Record Office ? 1385.

2

P.R.O., Ancient Petitions, S.C.8/138/6872.

A similar proposal was put forward in a commons' petition of 1417, whose contents would suggest that it was inspired by the religious. The bill complained of the practice of some diocesans, who appointed as collectors within their dioceses abbots and priors living outside the boundaries of the same. The deputies of such collectors, lacking strong protection in a strange part of the country, had been robbed and killed after the collection of tenths. This had caused impoverishment and damage to the abbots, priors, and houses involved. In the absence of the king,¹ an ordinance was sought from the Guardian of England, with the assent of the lords, that henceforth no one should be appointed a collector of tenths in an area outside the archdeaconry in which he was living.

The petition also attempted to regulate the appointment of collectors in such a way that the load of tax-collection would be spread more evenly. Collectors were to be chosen from those customarily commissioned in the past, but in such a way that each would be appointed in turn, and, having collected one tenth or half tenth, not again appointed until others in the same archdeaconry had taken their turn. Anyone commissioned contrary to the terms of this ordinance was to be discharged on suing to the Exchequer. A writ was to be sent from that court to the diocesan to make

1

Henry V was absent in France from 23/25 July 1417 until 1/3 February 1421, during which time John, duke of Bedford, was regent. Handbook of British Chronology, p.37.

another appointment, on pain of being charged himself with the collection and payment of the tenths. In addition to their spiritual authority, all collectors were to receive authority to levy the subsidies within their archdeaconries by writ from the Exchequer, 'si come les ditz Collectours sont et serront chargeables pur mesmes les Dismes, a notre Seigneur le Roy et ses heirs, de lour propres biens et chateux'.¹

If enacted these measures would have severely curtailed the diocesans' freedom of choice of collectors, and hence their control over the process of levying clerical subsidies. The petition seems to have had much to recommend its adoption. Appointment to the task of collection in each diocese would have been restricted to those who might have been expected to undertake the charge with least hardship. However, the royal government refused to intervene in the matter at this stage. It was evidently considered that the problem was one to be settled by ecclesiastics themselves, for the commons received the reply that such collectors were to be appointed as the prelates would answer for.²

1

R.P., IV, p.115.

2

R.P., IV, p.115.

The regent's answer was: 'Soient faitz tieux Collectours en le cas pur les queux les Prelatz vorront respondre'. As has been noted, royal commissions were sometimes issued for the collection of clerical subsidies. However, an attempt to bolster the powers of collectors by royal writs would probably have been unacceptable to the generality of the clergy, who had specified in 1413 that the levy of the subsidy then granted should not be made by the king's writs. C.F.R., 1413-22, pp.31-2.

The government's reluctance to take action may have been occasioned by the knowledge that the convocation then in session¹ was attempting to deal with the grievance. An undated letter enrolled in the cartulary of Llanthony abbey among documents from the reign of Henry V provides evidence of this endeavour.² Addressed to the bishop of Bath and Wells by the archbishop of Canterbury, the letter reminded the bishop of an ordinance enacted in the last convocation of the southern province at the request of the religious. This had provided that the religious should be appointed as collectors by the diocesans only within the archdeaconries where their monasteries were situated. The bishop had appointed the abbot of St Augustine's, Bristol, as collector in his diocese against the form of the ordinance; and he was exhorted to obedience of the decision reached in convocation.³

It is possible that the scheme propounded in parliament, and adopted in convocation, was not

1

Convocation met from 26 November to 20 December 1417. Parliament was in session almost simultaneously, from 16 November to 17 December 1417. Handbook of British Chronology, pp.530 and 560.

2

The letter is cited in E.W. Kemp, Counsel and Consent, p.121 and *ibid.*, n.1. He suggested that its position in the cartulary gives a probable date to the convocation mentioned in it of 1417, as the document which follows is dated Friday in Easter week, 7 Henry V.

3

P.R.O., Duchess of Norfolk Deeds, C.115: A 3, f.105v.

practicable in all dioceses for want of suitable candidates for the post of collectors in each archdeaconry. Certainly the attempt by the clergy to settle the question broke down because the ordinaries refused to obey the ordinance. The religious returned to parliament in search of redress in 1421. A group describing themselves as all the abbots and priors of England presented a petition to the commons, which expressed essentially the same complaints as those put forward in 1417. The diocesans had appointed abbots and priors as collectors

enplusours Counteez, Diocisez, Archidekenes, en estraunge pais longement a eux, ou ils ne demurount mye; Et sount ascun foith fait par malice, et sur ceo distreintz par force des briefs nostre souverain Seigneur le Roi issauntz de l'Eschequer de coiller les dites Dismes.¹

Again legislation was requested to restrict the area over which religious houses might be employed as tax-collectors. The petitioners sought a statute that henceforth no archbishop or bishop commission any abbot or prior as collector of subsidies 'en autres Diocisez, et Archidekenez, et Countees, q'ils sount demurauntz ou conversauntz.' If this statute was disobeyed by a diocesan and the abbot or prior concerned certified the fact to the Exchequer, no writ was to be issued from that court to make him collect the tax. Instead the bishop responsible was to answer the king for the subsidy; and the abbot or prior wrongly appointed was to be excused.

1

R.P., IV, p.131.

On this occasion the king did take steps to redress the grievances of the religious. A statute was enacted that no abbot or prior was to be appointed by a diocesan as collector of a clerical subsidy outside the county 'ou il est demurant ou conversant'. However, the measure was only a temporary one to remain in force until the parliament first held after the king's return from overseas.¹ It may have been experimental, for the religious would have had to seek its renewal on Henry's return and this would have provided opportunity for discussion or revision. When Henry V died in France the next year, the statute lapsed. Perhaps the legislation did secure a temporary improvement in the conduct of the diocesans regarding appointment of collectors. A renewal of the statute does not seem to have been sought until 1435. In that year a commons' petition, most probably inspired by the religious, asked the king to consider the damage and impoverishment brought on houses of religion by their appointment as collectors of subsidies in distant parts. The idea that foundations should be commissioned as collectors only in those dioceses where they had property seems to have been established; but this was not sufficient. The scattered possessions of some of these houses caused them to be appointed to collect the one tenth in

1

R.P., IV, pp.131-2, and Statutes 9 Henry V, statute 1, c.ix. Henry V was in France from 10 June 1421 to 1 September 1422, when he died (Handbook of British Chronology, p.37).

several dioceses, because they had a small amount of property in each. Certain had been robbed of what they had levied for the king. A revival of the 1421 statute was requested, so that no abbot or prior should be ordained a collector outside the county in which his principal house and church were situated. However, the petition received a polite negative.¹

In 1449 the commons were again prompted to seek the renewal of the 1421 statute, but without any greater success. Instead of making such a grant, the royal reply stressed the responsibility of the ecclesiastical hierarchy for providing a solution to the problem. As the appointment of collectors belonged to the ordinaries, the king committed the plaint to the archbishops and bishops, who were to provide such remedy 'as may be thought best aftir their wysdoms and discretions'.² The king thus declined to interfere with the machinery for levying subsidies and with the diocesans' control over it. I have found no indication that the higher clergy took any measures to eradicate from the system the hardship against which the religious had so long complained.

The religious were able to secure remedial legislation of an effective kind in neither parliament nor convocation, but for individual houses petitions to the crown did provide a means by which they could obtain

1

R.P., IV, pp.493-4.

2

R.P., V, pp.151-2.

relief and redress against the ordinaries. The king retained over the appointments made by the diocesans a negative control that seems to have been employed partly to relieve hardship, and partly to ensure the safe and expeditious collection of clerical taxes. The most burdensome results of the bishops' nominations could thus be remedied. In 1371, the abbot of Conway, whose house was situated in the diocese of St Asaph, had been appointed collector of a clerical subsidy there by its bishop. When he was also commissioned as collector in the diocese of Bangor, because the abbey had certain possessions there, the abbot appealed to the king and obtained his discharge from the second appointment.¹ Similarly, the abbot and convent of Revesby, nominated as collectors of both moieties of a tenth in the archdeaconries of Lincoln and Stowe by the bishop of Lincoln, were able to gain in 1406 release from collection of the second half of the tenth. This grant was made on the grounds that in the past two collectors had been appointed in those archdeaconries, owing to the lengthy journeys and heavy charges involved in the work.²

The crown was prepared to discharge collectors who could show obstacles to the proper fulfilment of

1

C.C.R., 1369-74, p.261.

See also C.C.R., 1377-81, p.127, which shows that the abbot of Conway had further difficulties on this score with the bishop of Bangor in 1378.

2

C.C.R., 1405-9, p.170.

their duties. The abbot of the Premonstratensian house of Croxton supplicated the council in 1352, and put forward a list of such reasons for his discharge from acting as collector in the counties of Leicestershire, Northants, and Bedfordshire, to which the bishop of Lincoln had nominated him. He claimed to be exempt from every kind of episcopal jurisdiction. His house had recently been burned, and had suffered so severely in the Black Death that only the abbot, prior, and newly-received novices remained at Croxton. Hence he could not call on the aid of his canons because of their youth, and he himself was infirm. The prior was so much engaged in the control of divine worship and of the novices received after the plague that the abbey could not conveniently collect the tenth in question. Moreover, the house was situated in too remote a spot for it to provide a safe depository for the money collected. In addition to all this, the abbot felt it necessary to clinch his case with the offer of a financial inducement to the crown. He would pardon 10 marks owing to him from the king in return for his release from the duty of tax-collection. The council responded favourably to the petition,¹ and a writ was issued to the bishop of Lincoln to appoint another fit person in place of the abbot of Croxton.²

1

P.R.O., Ancient Petitions, S.C.8/209/10410.

2

C.C.R., 1349-54, p.335.

The abbot had asserted his inability to collect the tax on grounds both of hardship and of unfitness for the task. Pleas of a like nature were accepted by the crown in other cases. Concern for the safety of collected taxes was clearly a weighty consideration. In 1360, the priory of Dunmow was discharged from collection of a subsidy in the diocese of London, because it was situated in a woodland place unsafe for keeping so great a sum of money.¹ The king would also act for compassionate reasons. The prior of Tonbridge was released from his nomination by the bishop of Rochester in 1385, in view of the fact that he was so infirm that he could not labour about the collection of the half tenth without great bodily peril.² Royal desire to prevent difficulties in the collection of taxes was another factor. Several houses exempt from episcopal jurisdiction obtained their discharge despite the apparent hostility of the diocesans

1

C.C.R., 1360-4, p.36.

In the same year, the bishop of Norwich was ordered to depute another collector in his diocese, because the abbot of Langley, whom he had previously nominated, was insufficiently qualified and the abbey was not a safe place for keeping so great a sum, as it was situated in a lonely place. C.C.R., 1360-4, p.59.

2

C.F.R., 1383-91, p.86.

The prior of St Neot's was released in the following year, because he had become suddenly blind and was so broken with age that he could not labour in the collection of the tenth. C.F.R., 1383-91, p.134.

to their immunity in this regard.¹ The Cluniac prior of Prittlewell, a cell of Lewes exempt from the jurisdiction of the ordinary whose prior was customarily appointed and removed at will by the prior and chapter of Lewes, was released when commissioned as collector by the bishop of London in 1384. The king gave as his reason his unwillingness that collection should be delayed by disputes that might arise between the prior and bishop.²

However, it was possible for the ordinaries to obtain the reversal of a royal grant discharging an appointee, if the grounds on which release had been

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The St Alban's chronicle states of the period around 1380 that

'Episcopi totius regni, qui proprias personas privilegiare vel eximere a suorum Archiepiscoporum jurisdictione non verentur, infesti praecipue locis exemptis, cum clerus concessisset subsidium quoddam Regi, decreverunt idem Episcopi infestare exemptos, vel molestare, qui in eorum Diocesibus extiterunt, et imponere eis jugum novum et insuetum, ut essent collectores subsidii supradicti; quod eis nullo modo licebat, inconsultis superioribus eorundem.'

Gesta Abbatum Monasterii Sancti Albani, ed. H.T. Riley, III, p.122.

2

C.C.R., 1381-5, p.358.

However, the abbot of Croxton's exempt status did not prevent his appointment as a collector in 1371. He then petitioned as such for the appointment in Grantham of a strong house, in view of the fact that his abbey was situated in a rural place far distant from other towns, and that he had no sure place to keep the money collected. C.C.R., 1369-74, p.249.

sought could be shown to be false. This appears from a writ to the bishop of Lincoln in 1356. The king had requested the bishop to absolve the abbot of Warden from his appointment as a collector in the diocese of Lincoln and to appoint another person. He had been informed that the abbot was weak, aged, and almost blind, the abbey heavily charged with debts to the king and others, and the house situated in a desert and lonely place which made it unsuitable as a safe depository for the king's money. The bishop had notified the treasurer that these allegations were untrue. Consequently, the king now informed the diocesan that he accepted the abbot as collector of the tenth.¹

Although an appointee might ultimately secure his release from the task of tax-collection, the certification of his name to the Exchequer by the diocesan compelled him to make troublesome suits to the crown that did not necessarily end with the royal grant of discharge. The officials of the Exchequer would take the necessary steps to discharge the bishop's original appointee, only if they received strictly correct warrants for this action. The prior of Deerhurst, a monk of the abbey of St Denis in France, laid a petition before Henry V on 14 February 1415, in which he asserted that the king had recently granted letters to the bishop of Worcester ordering his discharge from collection of tenths in the archdeaconry of Gloucester. The writs had been conceded to him because of his

¹

C.C.R., 1354-60, pp.282-3.

ignorance of the English language and for other reasonable causes. The bishop had been ordered to certify another in his place to the Exchequer and had replaced him with the abbot of Osney. Nonetheless, the abbot could not be received at the Exchequer as the new collector without letters under privy seal to the treasurer and barons directing them to receive him. The prior sought the necessary letters, and his petition received the royal assent.¹

The rectification of this administrative omission still proved insufficient. Twelve days later a further petition from the prior of Deerhurst was laid before the king. The prior complained that when the bishop had certified the name of the abbot of Osney to the Exchequer, he had made no mention in his certificate that he had discharged the prior by virtue of royal letters and had appointed the abbot by the same warrant. Hence the petitioner could not be discharged at the Exchequer from the duty of collection. The prior asked for letters under privy seal to the bishop ordering him to make good his omission. The king again granted the petition.²

Although the crown declined to regulate by legislation the system of appointment to collection of clerical subsidies, the king was thus constantly importuned by the religious to interfere with the appointments made by the diocesans, and royal intervention

¹

P.R.O., Council and Privy Seal Records, E.28/file 30.

²

P.R.O., Council and Privy Seal Records, E.28/file 30.

of a negative kind was in fact substantial. Furthermore, royal favour and patronage provided a means by which certain houses could obtain personal relief from the burdens of the task. They could secure letters patent giving them partial or complete exemption. Such a grant might secure for a single house what the religious had attempted in parliament and convocation to obtain for all, that is a limitation of the area over which one foundation could be appointed as a collector. In 1405, the abbot of Shrewsbury petitioned to the king for exemption from appointment as a tax-collector in dioceses other than that of Coventry and Lichfield, in which his abbey was situated. This was granted for his life in view of the destruction of much of the property of the house by the Welsh.¹ Similarly, the prior and convent of Llanthony by Gloucester, who were alleged to have been many times appointed collectors of tenths in dioceses remote from their house, were in 1413 exempted from appointment in any diocese other than that of Worcester, in which the house was situated.²

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P.R.O., Council and Privy Seal Records, E.28/file 25, and C.P.R., 1405-8, p.22.

2

C.P.R., 1413-6, p.109.

The grant was made in consideration of the priory being the foundation of the king's progenitors, the earls of Hereford, and in the king's patronage by reason of his part of the earldom of Hereford. It was confirmed in 1431 (C.P.R., 1429-36, p.177).

Similarly, in 1442, the abbot and convent of Faversham were granted exemption from appointment as collectors except in county Kent, because of the poverty of the house. A clause was included in the charter that if they were appointed by a diocesan, or their names returned to the Exchequer, they were to be discharged by writs made therefor by simple production of their charter, without obtaining any other writ or warrant whatsoever (C.Ch.R., VI, p.34).

A growing number of houses were able to secure from the crown entire exemption from collecting clerical taxes, presumably at a price, though I have found no evidence to support the latter proposition.¹ In certain cases such grants confirmed and perpetuated an exemption that the king had been normally ready to concede to the houses concerned on grounds of their unsuitability for the task. The abbot and convent of Reading were led to seek letters patent for their important cell of Leominster² by the attempt of the vicar-general of the bishop of Hereford early in 1384 to appoint the prior of Leominster collector of a moiety of a tenth in that diocese, despite his dependent status. In February the abbey made representations to the king that the prior of Leominster was not a perpetual prior or dative, but the abbot's proctor removable at will, and was thus insufficiently qualified to act as a collector. Richard II acknowledged the truth of this by ordering the bishop

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E.W. Kemp has noted that it does not seem possible to trace the issue of such letters patent earlier than the reign of Richard II. He continues: 'Such grants became more frequent under the Lancastrians, and there can be little doubt that the financial necessities of the government in the first half of the fifteenth century gave an impetus to such a means of obtaining both ready cash and spiritual credit.' E.W. Kemp, Counsel and Consent, p.122.

2

Its net income in 1535 was over £448 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.69).

of Hereford to appoint someone else.¹ In August the abbot then obtained from the king and council a grant that all monks staying at Leominster should be for ever exempt from collection of clerical subsidies in that diocese.²

This exemption did not pass unchallenged in the atmosphere of increasing clerical criticism of grants of this kind.³ In 1404, the guardian of the spiritualities of Hereford during a vacancy of the see appointed certain monks of Leominster as collectors of a clerical subsidy in the deanery and archdeaconry of Hereford. The abbey countered by producing the letters patent of Richard II in Chancery; and the king issued a mandate to

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C.C.R., 1381-5, p.363.

The bishop seems to have been reluctant to make another appointment. In October 1384, the king sent a writ of Supersedeas to the treasurer and barons in respect of execution of the king's writ ordering the sheriff of Hereford to distrain the bishop and to have his body before the treasurer to certify the names of the collectors he had appointed in the deanery and archdeaconry of Hereford (C.C.R., 1381-5, p.593). The prior of Leominster was considered 'insufficiently qualified' as a collector because of his dependent status, which meant that he was removable at will and might not without the abbot and convent, his superiors, undertake a charge or answer for it (See C.C.R., 1402-5, pp.350-1). Thus in 1384, the prior of Malton was discharged on the grounds that being removable from office at the will of the master of the order and his chapter, hurt and loss might easily arise for the crown if he were removed before the subsidy was levied (C.C.R., 1377-81, pp.357-8).

2

C.P.R., 1381-5, pp.454-5.

3

The opposition to the exemption of religious houses from appointment as tax-collectors, which led to the insertion in the terms of clerical grants of a clause directed against the validity of these royal letters patent, is discussed below, pp.384-9.

the guardian to appoint another fit person in their place.¹ A flaw may have been uncovered in the grant made to Reading, for the abbot and convent were prompted by this episode to safeguard their position for the future. They petitioned for confirmation of their letters patent and the inclusion of a plainer declaration that the abbot, his successors, and their monks, staying at the manor of Leominster were quit of the collection of all clerical taxes in the diocese of Hereford.² An inspeximus and confirmation of the specified type was obtained by the abbey in November 1404.³

The movement to secure grants of exemption seems to have been widespread, and was not confined to the houses of the religious.⁴ Although the burden of collecting clerical subsidies rested largely on the abbeys and priories, other types of foundation were liable to be called upon to perform this duty. Certain of these also sought to free themselves from the possibility of nomination. The dean and canons of Stoke beside Clare laid a petition before the king in 1439,

¹ C.C.R., 1402-5, pp.350-1.

² P.R.O., Ancient Petitions, S.C.8/137/6843.

³ C.P.R., 1401-5, p.474.

The abbot and convent obtained a further confirmation of this exemption in 1425 (C.P.R., 1422-9, p.344).

⁴ Without giving any assessment of the actual numbers involved, E.W. Kemp has remarked that 'in the fifteenth century it is apparent that a large number of houses obtained, no doubt at a price, letters patent giving them that exemption'. E.W. Kemp, Counsel and Consent, p.122.

which obtained for the college freedom from employment in the collection or levying of any tenths, taxes, or tallages thereafter granted to the king by the clergy of the province of Canterbury. A clause was added to the grant that production of the royal letters at the Exchequer should be sufficient for the discharge of the dean and canons, if they should be nominated to undertake the task.¹

Such exemptions aroused lasting hostility from the body of the clergy in convocation. Clerical antagonism seems first to have manifested itself in 1399, when the gravamina laid before the prelates in the assembly of the southern province included this article:

Item abbates et priores, exempti et non exempti, impetrant a rege per literas patentes exemptiones, quod non sint deputati collectores decimarum, domino regi per clerum Angliae concessarum, in praejudicium domini regis, ac tam ordinariorum, quam aliorum Angliae praelatorum: placeat igitur eidem domino nostro regi concedere, quod tales exemptiones revocentur, et quod de caetero non concedantur.²

The reasons put forward by the clergy for opposing exemptions of this kind are not elaborated; but some suggestions may be made as to the alleged prejudice that

¹

P.R.O., Council and Privy Seal Records, E.28/file 62, and C.P.R., 1436-41, p.306.

Similar grants were made to other secular colleges. See, for example, the grants to Winchester College, King's College, Cambridge, and the college of Fotheringhay (C.Ch.R., V, pp.446-7, and *ibid.*, VI, pp.68 and 48-50).

²

Concilia, ed. D. Wilkins, III, pp.244-5.

resulted from these grants to the king, the ordinaries, and other prelates. There was a danger for the crown that the efficiency of the collection of taxes might be impaired by the liberal concession of these exemptions. E.W. Kemp has argued that at least in the second half of the fifteenth century

affairs in the Lower House of Convocation were in the hands of a comparatively small body of ecclesiastical lawyers and officials many of whom were also familiar with the royal service and the problems of the secular government. If they were concerned to destroy the value of letters patent of exemption it may have been as much to safeguard the royal revenue as to preserve the rights of the bishops.¹

The rights of the diocesans were clearly infringed by this royal interference with their powers of appointment. The added difficulties of selecting suitable collectors, and the disputes that might arise on this score, were doubtless resented. Certainly an added burden would be placed on religious houses and others who had not obtained such grants. However, the king does not seem to have responded to this plaint with steps to revoke the exemptions or to limit his rights of patronage in this regard for the future.

From 1404 the clergy put their opposition into practical form, and regularly inserted into their grants of subsidies a proviso that no one was to be excused from their collection by force of any royal privilege or

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E.W. Kemp, Counsel and Consent, p.140.

immunity granted to him.¹ There is a report of contention in the convocation of 1433 on the subject of exemptions and the hostile provisos of the clergy. When the prolocutor of the clergy had announced agreement to a grant of taxation on certain conditions,

facte fuerunt quedam reclamaciones et dissensus concernentes immunitatem et privilegia exemptorum de non colligendo hujusmodi subsidia et decimas ex parte abbatum specialiter Westm', sancti Albani et sancte crucis de Walton'....²

No settlement was reached. Feeling against these royal grants continued to be expressed by a clause in clerical concessions of subsidies, which made their invalidity a proviso of the grant itself. Indeed it was made more stringent in 1442. An additional clause followed the usual condition that no appointed collector was to be excused by reason of a royal privilege. After an ordinary had nominated one of the religious to make the collection and certified his name to the Exchequer, no other person was to be burdened with the task or his name certified to the Exchequer, despite any letters patent of exemption.³ Such attacks on exemptions

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For the clerical grant of 1404, see C.F.R., 1399-1405, pp.292-3.

2

Register of Henry Chichele, ed. E.F. Jacob, III, p.251. Details of the events which led up to this episode in convocation are given in E.W. Kemp, Counsel and Consent, pp.125-30. They have been taken largely from Annales Monasterii Sancti Albani a Johanne Amundesham monacho ut videtur conscripti, ed H.T. Riley, (2 vols., Rolls Series, 1870-1), I, pp.300-69.

3

Concilia, ed. D. Wilkins, III, p.536.

continued to be made until the end of the fifteenth century.¹

The opposition to grants of immunity may suggest that in the fifteenth century the division of the clerical assembly was not, as at some earlier and later times, one between the upper and lower houses, but between seculars and religious.² Its effect on the efficient levying of clerical taxes was mischievous. Canon Kemp has noted the numerous cases in the courts of Exchequer and Exchequer Chamber, chiefly between 1430 and 1460, which resulted from clashes between royal letters of exemption and the provisos of the clergy directed against these privileges. A common result of the argument as to which held good, the exemption or the proviso, was that subsidies went uncollected for long periods, sometimes for two years and more. At length the Exchequer would order the sheriff to collect, and this caused further difficulty, as convocation had usually stipulated that grants should not be collected by laymen.³ Such pleas raised important constitutional issues. Thus in 1482, counsel for the exempt abbey of Waltham argued in Exchequer Chamber that the royal grant to the house must be allowed,

¹ See E.W. Kemp, Counsel and Consent, pp.131-4.

² See E.W. Kemp, Counsel and Consent, p.134.

³ See E.W. Kemp, Counsel and Consent, Lecture 5 and particularly pp.122-3.

ou autrement vos covient affirmer lauthority et le jurisdiction del convocation destre plus haut et de grand auctorite que l'auctorite et jurisdiction del roy en son prerogative, cuius contrarium est verum. Et le roy ad excepte l'Abbe par ces lettres patentes, queux sont mere temporel, et rien est monstre mesque ils serra allowe, forsque un act fait en le convocation que est desoubs le power et auctorite del roy.¹

In fact judgment was given against the abbot, but upon a technical point and not upon the main question.²

Although the clerical provisos forced the exempt houses to engage in troublesome litigation, arguments that the terms of clerical grants had a superior force to royal letters patent must inevitably encounter severe difficulties. Consequently, certain of the bishops whose authority over the process of tax-collection was undermined by these exemptions, made use of their own access to royal favour in order to obtain from the crown letters patent that nullified in their dioceses the effectiveness of such grants. In 1441, Bishop Brown of Norwich secured letters for himself and his successors that they might appoint a spiritual person of the

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Year Book 21 Edward IV, Mich. Pl.6, Abbot of Waltham v Anon., In the Exchequer Chamber (quoted in S.B. Chrimes, English Constitutional Ideas in the Fifteenth Century, (Cambridge, 1936), Appendix p.374).

2

See T.F.T. Plucknett, 'The Lancastrian Constitution', in Tudor Studies presented ... to Albert Frederick Pollard, ed. R.W. Seton-Watson, (London, 1924), p.176. There is a discussion in this study of the constitutional importance of certain cases concerned with exemption from tax-collection (ibid., pp.168-181).

diocese to collect any clerical subsidy granted in the southern province, notwithstanding the exemption of that person by royal grant. Nor were the bishop and his successors to be bound to appoint any other person.¹ Similarly, Bishop Aiscough of Salisbury petitioned in 1445 for letters that would allow him to appoint as collectors in his diocese such persons as he thought fit, despite any royal letters of discharge granted to the persons concerned. The king gave his assent to this request for the bishop's life.² Hostility to exemptions also manifested itself in parliament on at least one occasion. In 1488, the commons petitioned that immunities from appointment as tax-collectors should be void, in view of the heavier burdens that they placed on others. This was granted by the crown, but with a number of exceptions.³

The contention aroused by the subject of appointments to the task of collecting clerical subsidies is more readily explicable, if the burdensome nature of the office, as illustrated by the petitions

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C.P.R., 1441-6, p.28.

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P.R.O., Ancient Petitions, S.C.8/248/12373.

P.R.O., Warrants for the Great Seal, C.81/1437/49.

C.P.R., 1441-6, p.462.

Bishop Aiscough was Henry VI's confessor and appears to have been constantly called to council by that king, whom he married to Margaret of Anjou. Dictionary of National Biography, s.v. Ayscough, William.

3

R.P., VI, pp.418-20.

of collectors, is considered.¹ The diocesans retained ultimate responsibility for the collection of these taxes;² but the deputies nominated by them in each diocese to perform the actual work were responsible directly to the Exchequer, to which they paid their receipts and at which they accounted.³ For the purpose

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There is evidence that the difficulties experienced by clerical tax-collectors in carrying out their task were encountered in similar forms by the collectors of lay subsidies. In 1414, the collectors of a tenth and fifteenth in Shropshire complained in parliament of assaults on their persons whilst they were performing their offices, with the result that they could not levy the subsidies (R.P., IV, pp.30-31). In 1406, the collectors of two lay tenths in the town of Shrewsbury had to petition in parliament for pardon of a portion of the sum due from the town, because of the destruction committed by the Welsh in certain suburbs and hamlets forming part of the franchise of the town (R.P., III, p.597).

2

If collection proved tardy, they might be ordered to take action. In 1380, when payment of a subsidy in the diocese of Norwich was in arrears, the king sent a mandate to the bishop, 'as he will answer for it', to levy this grant with all speed of the clergy of his diocese by ecclesiastical censures and otherwise as best he might, and to cause answer to be made as well for the subsidy of the clergy as for that falling upon himself (C.C.R., 1377-81, p.422). In 1372, arrears in a clerical subsidy seem to have caused the seizure of the temporalities of the diocesans, though this action was disavowed by the king. The writ ordering it was said to have been issued from his court by inadvertence contrary to his will and intent (C.P.R., 1370-4, p.190, and C.C.R., 1369-74, p.402).

3

W.E. Lunt has described the process of collection in the first half of the fourteenth century. The collectors customarily notified taxpayers of their obligations through the archdeacons, additional
(footnote continued on p.391)

of making the levy, episcopal commissions delegated to collectors canonical powers of coercion that might extend to excommunication, interdict, suspension and sequestration.¹ When these powers proved inadequate, royal aid could be obtained in levying arrears from recalcitrant taxpayers.² The names of those excommunicated for contumacy in refusing to pay the sums

(footnote 3 continued from p.390)
 notices being sent to any clergy in the collectorate not subject to the archdeacons' jurisdiction. Payment was required at the collectors' residence, or at such place as he might designate; and the amount due from each taxpayer was established by means of the 1291 valuation, taking into account such revisions as had been made in the particulars. W.E. Lunt, 'The Collectors of Clerical Subsidies', pp.239-54.

1

See W.E. Lunt, 'The Collectors of Clerical Subsidies', pp.237-8.

Thus in 1431, when the archbishop of Canterbury appointed the abbot and convent of Faversham as collectors of a tenth, his commission contained this clause:

'vobisque ad legitime fulminandum quascumque censuras ecclesiasticas contra personas et loca ipsorum quorumcumque qui dictam medietatem decime prout ad unumquemque eorum attinet vobis solvere recusaverint seu nimium distulerint ipsasque personas ad solutionem hujusmodi canonice compellendum omniaque faciendum, exercendum et expediendum que in premissis et circa ea necessaria fuerint seu quomodolibet oportuna tenore presencium committimus vices nostras cum cujuslibet coercionis canonice exequendique que in hac parte decreveritis potestate....'

Register of Henry Chichele, ed. E.F. Jacob, III, p.228.

2

'If the collector satisfied the officials that the remainder was in the hands of the taxpayers, still uncollected through no carelessness or failure to use ecclesiastical censures on his part, they would
 (footnote continued on p.392)

due from them were signified to Chancery, from which orders were issued to the sheriffs to justify them by their bodies until they should make satisfaction for their contempt.¹ On the other hand, such help was balanced by the threat of Exchequer action against collectors held to be deficient in diligence. Writs of Fieri facias were sent to the sheriffs or bishops, ordering them to levy amounts still owing to the king from the lands and chattels of offending collectors.² Moreover, a fine could be incurred for failure to account at the

(footnote 2 continued from p.391).

attempt to help the collector secure the arrears from the taxpayers by means of a writ of levy addressed to the bishop, or, if the debtors possessed temporalities, to the sheriff.' W.E. Lunt, 'The Collectors of Clerical Subsidies', p.272.

1

This procedure can be seen in action in a writ to the sheriff of Somerset in 1374. The sheriff was ordered to stay the taking of the body of Master Thomas Shepton, farmer of Chyweton church and of the archdeaconry of Wells, although the bishop of Bath and Wells had lately signified to the king that Thomas and others, being by the bishop's authority as ordinary excommunicated for their contumacy in not paying a tenth, would not be justified by ecclesiastical censures. The king had ordered the sheriff by writ to justify them by their bodies according to the custom of England, until they should content Holy Church for their contempt and wrongs. The king had now pardoned the archdeacon of Wells, who was also the archbishop of Canterbury, his portion of the tenth; and Thomas had found mainpernors in Chancery for his payment of the tenth falling on the church of Chyweton. C.C.R., 1374-7, pp.105-6.

2

See W.E. Lunt, 'The Collectors of Clerical Subsidies', pp.272-80.

Exchequer on the day appointed.¹ The problems of the office compelled a number of collectors to apply to the crown for relief.

The revolt of 1381 made the collection of subsidies already voted and in the process of being levied a virtual impossibility in certain areas. However, the Exchequer apparently had insufficient discretionary powers to deal with a situation of this nature. The appointed collectors had to seek the indulgence of the crown by petition, in order to obtain release from the fulfilment of their duties. The collectors in the diocese of London of the clerical subsidy granted in 1380 petitioned to the king and parliament in the next year, asserting that they had levied a portion of both the first and second payments of this grant.² Because of the Peasants' Revolt many of those in arrears would not pay the residue, whilst others were dead or had fled.³

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Thus in 1398, two of the king's servants were granted 100/- of goods and chattels of the abbot of Haughmond, the fine incurred by him for not coming to the Exchequer in the quinzaine of Easter last to render account of a moiety of a tenth in the archdeaconry of Salop. C.P.R., 1396-9, p.413.

2

This grant was a Poll Tax to be levied from exempt and not exempt, privileged or not privileged, by equal portions at St Peter's Chair and Midsummer 1381 (C.F.R., 1377-83, p.223). Tout has commented on this subsidy that it was even more unfairly apportioned than the Poll Tax voted by the commons in the Northampton parliament of 1380, which sparked the Peasants' Revolt in the next year. T.F. Tout, Chapters, III, pp.355-6 and 355,n.2.

3

The diocese of London was particularly affected by the events of 1381. The first open outbreak took place in Essex in May 1381; and London and the Home Counties were closely involved in the subsequent crisis. See M. McKisack, The Fourteenth Century, pp.407-19.

The collectors had pursued the recalcitrant with ecclesiastical censures until they were excommunicated; but for fear of death they dared not proceed further by writ of Significavit or other process.¹ They asked that they might account on oath solely for the sums received, and be discharged at the Exchequer for the unlevied remainder.²

The suppliants thus sought to curtail their task by an exceptional procedure, which the treasurer and barons could probably not allow them without royal warrant. The king was accommodating, as the circumstances demanded. Already, in October 1381, the collectors in the archdeaconry of Essex, who joined in this petition with those in the archdeaconries of Middlesex, Colchester, and London, had taken steps in this direction. They had secured a writ to the treasurer and barons, which discharged them of all sums shown to be unleviable by inquisition or other means on account of the flight or death of clerks in the archdeaconry.³

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That is, the writ de excommunicato capiendo. 'By the law and custom of this realm, the person who remaineth forty days under the sentence of excommunication, shall at the request of his proper diocesan, be arrested and imprisoned by a writ of de excommunicato capiendo directed to the sheriff; but first there ought to be a certificate from such diocesan under his episcopal seal, signifying to the court of chancery the contempt of the party to holy church'. R. Burn, The Ecclesiastical Law, II, p.245.

2

R.P., III, p.128.

See also P.R.O. Ancient Petitions, S.C.8/277/13834.

3

C.C.R., 1381-5, p.17.

Richard II now allowed all the petitioners to account at the Exchequer on oath for the sums received by them. They were to be discharged for the remainder of the subsidy, still uncollected 'pur les causes allegez'.¹

The events of 1381 were unprecedented, and the abnormal problems created had to be met with unconventional remedies. The difficulties of clerical tax-collectors in South Wales and the Welsh Marches seem to have been a constant factor in the late fourteenth and early fifteenth centuries. The abbot of Tintern presented at least thirteen petitions to the crown over a span of twenty-seven years in connexion with his several appointments as collector of subsidies in the diocese of Llandaff.² In 1380, the abbot petitioned to the king and council in parliament. As collector of the three years' tenth last granted to Edward III in the diocese of Llandaff, he had been unable to levy certain arrears from the abbots of Margam, Neath, and Llantarnam, who were exempt from the

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R.P., III, p.128.

The events of 1381 were exceptional, but collectors met hostile opposition to their work at other times. In 1383, the king issued a commission to the earl of Northumberland and others to inquire who opposed William de Strikeland, appointed by the bishop of Carlisle to collect a clerical subsidy in his diocese, when he came to Penrith, and used such threats to him that he dared not collect it there. C.P.R., 1381-5, p.356.

2

P.R.O., Ancient Petitions, S.C.8/143/7124, 7126, 7127, and 7136; 144/7160, 7162, and 7166; 216/10778; 217/10839; 22/1074 and 1100. R.P., III, pp.481 and 521.

jurisdiction of the ordinary and hence could not be brought to obedience by the normal process of ecclesiastical censure. Nor could the money be levied with the aid of royal writs, as the king's writ did not run in those parts.¹ At the abbot's request, the king had directed letters to the lords of the areas in which the abbeys lay for them to raise the sums due. However, these letters had not been executed. The Exchequer had now issued writs for the distraint of the abbot in all his English lands and tenements, in order to compel payment of the arrears.

The abbot seems to have done all that lay within his power to collect the sums due from the exempt houses, but the barons of the Exchequer remained unsatisfied. Their refusal to exonerate the collector, and to undertake themselves the levy of the arrears, compelled him to seek from the crown a mandate for his release from further pursuit. He was able to cite a precedent in his favour, which was substantiated when an examination of the Exchequer records revealed that the abbot of Tintern had been discharged in similar circumstances earlier in the reign of Edward III. On the basis of this former decision it was agreed in parliament that a writ should be sent to the treasurer

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It was literally true of the marcher lordships, as it was not of the palatinates, that the king's writ did not run in them, not even the writ of error. See A.J. Otway-Ruthven, 'The Constitutional Position of The Great Lordships Of South Wales', Transactions of the Royal Historical Society, fifth series 8 (1958), p.11.

and barons to discharge the petitioner, and to charge the three abbeys with the sums due from them.¹

Tintern provides an example of the ordinaries' onerous practice of appointing the one house to collect successive clerical grants in their dioceses. The abbot was chosen to collect the subsidies granted in 7, 8, 9, 10, 11, and 12 Richard II (1383-9) in the diocese of Llandaff. At an early stage in this extended series of appointments the abbot was in difficulties. In June 1386, an order was sent to the treasurer and barons to command by writ the lords of the March in the diocese of Llandaff to take and imprison some one hundred abbots, priors, and clergy, until they should make full payment of four half tenths granted to the king in 7 and 8 Richard II. The collector was granted a Supersedeas of the distraint against him to account for the above moieties until Hilary next, as the king had been certified that the persons named in the mandate had incurred the sentence of greater excommunication for their contumacy in not paying the tenths, and had persevered forty days under that sentence. Consequently, the lay arm had been invoked to aid the clerical collector in enforcing payment. Since the king's writ did not run in those parts, this entailed action by the lords of the franchises.²

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P.R.O., Ancient Petitions, S.C.8/143/7124 and 7136.
C.C.R., 1377-81, pp.297-8.

2

C.C.R., 1385-9, pp.149-50.

The action taken in 1386 can have had only limited success. In 1391, the abbot of Tintern was obliged to petition to the king and council in parliament, and noted that he had been assigned as collector of clerical tenths in the diocese of Llandaff every time that one had been granted for seven years and more past.¹ He had applied himself diligently to this task, employing ecclesiastical censure and such other means as he could against the rebelliousness of all the taxpayers. Nonetheless, although excommunicated and their excommunication certified in Chancery, these clerics had still refused to contribute their quotas. The abbot had thus gone to the full extent of his powers, and had still been unable to levy the sums due. Here again the barons had clearly not been satisfied with his efforts. They were stated to have ordered successive distrainments on his property, in order to compel him to render account in the Exchequer of the tenths. The abbot complained of his great loss through such distrainments and petitioned that means be devised in parliament for the levy of the subsidies, so that he and his house might be discharged. He secured a respite of the sums demanded from him until the next parliament, during which time a means of levying the money was to be ordained by the advice of the council.² In addition, the

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As noted above, the abbot had been appointed collector of clerical tenths in 7, 8, 9, 10, 11, and 12 Richard II.

2

P.R.O., Ancient Petitions, S.C.8/143/7126.
C.C.R., 1389-92, p.507.

burdensome nature of his past employment in this field received recognition. A grant was made that the abbot of Tintern should be exempt from the collection of clerical subsidies for the next seven years.¹

The council found its efforts to levy the subsidies no more successful than those of the abbot, who continued to petition for a solution to his difficulties in each parliament.² One factor in the problem was marcher liberties,³ which compelled the government to act through the agency of the lords of the March when it wished to bring lay force to bear on the rebellious taxpayers. The king and council decided that the bishop of Llandaff should signify the names of those excommunicated to the lords of the franchises in which they had possessions and benefices, together with the sums owed to the king. The abbot of Tintern was to supply the necessary information for this purpose. Letters under privy seal were to be sent to the bishop ordering his co-operation, whilst others were to be issued to the lords commanding them to levy the arrears of taxation for the king. Meantime, the

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C.P.R., 1388-92, p.511.

2

See P.R.O., Ancient Petitions, S.C.8/216/10778 and 143/7127.

3

The position of peculiar independence enjoyed by the marcher lords in their relationship with the crown is discussed by A.J. Otway-Ruthven, 'The Constitutional Position of the Great Lordships of South Wales', pp.1-20.

abbot was granted a further respite of the sums demanded from him until the next parliament.¹

However, the abbot still remained accountable at the Exchequer for the arrears. When these measures failed to produce the desired results, he was again compelled to petition. The royal plan failed in its purpose because the bishop received no special order from the crown to receive and deliver to the lords the letters under privy seal ordering them to undertake the levy. The diocesan may have been reluctant to act at all, in the face of strong opposition to payment of the subsidies in his diocese. He returned the letters to the abbot of Tintern, who dared not himself deliver them to the lords or to their bailiffs, as he said, for fear of death.² When this first defect had been remedied, the mortal illness of Bishop Baret again prevented anything from being done.³ The subsidies had not been fully levied at the end of the reign. The Exchequer continued proceedings against the abbot, and he petitioned to Henry IV in 1399 against his distraint by the barons for payment of the residue. His plea that he could not be accused of default in this regard once

1

P.R.O., Ancient Petitions, S.C.8/143/7127.
The abbot was granted a further respite from pursuit for the tenths in 1395 (C.C.R., 1392-6, p.402).

2

P.R.O., Ancient Petitions, S.C.8/217/10839.

3

He died in May 1396 (Handbook of British Chronology, p.276).
P.R.O., Ancient Petitions, S.C.8/144/7160.

more obtained for him a respite until the next parliament.¹

In 1401, a further petition from the abbot led to a slightly different attempt by the crown to collect the arrears. This originated in the suppliant's assertion that much of the lay property in the diocese was in the king's hands through the minority of the heir to the earldom of March, the minority of the heir of the late duke of Norfolk, and the forfeiture of Lord Despenser.² The king ordered that his ministers in the bishopric should be charged with levying the arrears of the tenths, and granted the abbot a writ of Supersedeas until the next parliament.³ This expedient was apparently as unsuccessful as its

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P.R.O., Ancient Petitions, S.C.8/22/1100.
C.C.R., 1399-1402, p.95.

Further difficulties were placed in the way of collecting the arrears in the next year, when Owen Glendower rebelled. His revolt was to spread to the whole of Wales, and reached its climax in 1405. See E.F. Jacob, The Fifteenth Century, pp.37-66.

2

Roger de Mortimer died in 1398, and his son did not receive livery of the earldom of March until 1413 (Handbook of British Chronology, p.437). Thomas de Mowbray, duke of Norfolk, died in 1399, and his son and heir was 14 years old at that time (Handbook of British Chronology, p.440). Lord Despenser forfeited for his part in the rebellion of the former dukes in 1400 (see E.F. Jacob, The Fifteenth Century, p.25). For the interests of these three families in the area, see E.F. Jacob, The Fifteenth Century, map 1.

3

R.P., III, p.481.
P.R.O., Ancient Petitions, S.C.8/22/1074 and 144/7166.

predecessors. However, since neither the Exchequer nor the crown were yet prepared to grant the abbot a final discharge, he was obliged to avert further proceedings against himself by petitioning for successive respites from parliament to parliament.¹ Finally, in November 1407, the king granted the abbot and convent of Tintern pardon of all sums of money in arrears from the clerical tenths granted to Richard II, in consideration of the damage done to the house by the depredations of the Welsh in the area.²

The burdens of the office of tax-collector are seen in an extreme form in the case of the abbot of Tintern. Presumably most collectors did not meet such widespread recalcitrance on the part of taxpayers.³ For over twenty years the abbot had been engaged first in attempting to collect clerical subsidies, and then in trying to secure his release from accounting for uncollectable arrears. No laxity could apparently be laid to his charge, unless the stubborn refusal of the barons to grant him discharge can be taken as evidence that such was suspected. He had proceeded to the limit of his powers of ecclesiastical censure and then

1

R.P., III, p.521.
P.R.O., Ancient Petitions, S.C.8/144/7162.
C.C.R., 1405-9, pp.106-7 (1406).

2

C.P.R., 1405-8, p.378.

3

However, E.F. Jacob has noted examples of the recalcitrance of taxpayers in the second half of the fifteenth century. See E.F. Jacob, The Fifteenth Century, pp.421-2.

invoked the lay arm, which had likewise been unable to achieve the desired results. Nonetheless, he had remained dependent for his release on the grace of the crown, which had long remained reluctant to grant this or to abandon the attempt to levy the arrears. For over fifteen years the abbot had remained in the position of having to petition in each parliament, in order to secure successive respites of the process in the Exchequer against him.

The straits into which a house could fall as a result of failure to render account in full at the Exchequer are revealed by a petition from the prior of Carmarthen in 1449. His predecessors had been appointed collectors in the diocese of St David's of the tenths grants in 1437 and 1439, and of the first half of a tenth granted in 1442. The sum of £58 4s 0 $\frac{1}{4}$ d still remained owing to the king for these subsidies; and the barons had taken a number of steps to recover this amount from the priory. In order to compel the late prior to account, his distraint had been ordered by writs sent to the royal officers in South Wales. Large sums of money had thus been lost to the house. Other writs had been issued to attach former priors by their bodies to appear and make fine with the king. The officers of the crown had been ordered to seize into the king's hands all the priory's goods and chattels, lands and tenements, in the name of distress. Various lands and tenements had been so seized. Through the failure of the prior to appear and account at the Exchequer, the officers concerned in these seizures were now chargeable in that court for the issues and profits of the property amounting to £49 16s.8d.

The prior asserted that his house was gravely impoverished for these reasons. Moreover, the goods of the priory had been wasted by former priors. It had suffered damage through the late rebellion in Wales¹ and the oppression of various great lords. He was not able to satisfy the king for the money due from him, and he asked pardon on this score. Letters under privy seal to the treasurer and barons were requested, ordering his discharge and the acquittance of the royal officers for the issues and profits of the seized lands, and for all other issues forfeited since the time of seizure.² Here again Exchequer proceedings against a defaulting collector had been protracted, if not entirely successful in their object. The first of the tenths from which arrears remained due had been granted twelve years before the prior's petition. Even the latest of the three was seven years in the past at this time. All had been granted in a previous prioralty. However, the prior made no pretence that the sum in question had not been levied from taxpayers, or that it did not remain owing to the king. Without a royal grant of pardon, the barons had no alternative but to continue their proceedings until they received full satisfaction. In fact, Henry VI seems to have accepted the prior's account of his inability to pay and to have granted the necessary writs.³

1

Presumably a reference to the revolt of Owen Glendower earlier in the century, for which see E.F. Jacob, The Fifteenth Century, pp.37-66.

2

P.R.O., Council and Privy Seal Records, E.28/file 78.

3

P.R.O., Council and Privy Seal Records, E.28/file 78.

The clergy thus retained in their own hands responsibility for the collection of subsidies granted in convocation, as part of their privileged isolation in the matter of taxation. With the exception of one short-lived statute, the king declined to restrict by legislation the diocesans' powers of appointing collectors. However, the whole process of collection was controlled and supervised by the crown. Royal intervention was constantly invoked by petitions, because convocation was either unable or unwilling to ensure that the burden of collecting was fairly distributed or to relieve individual houses from hardship. Such relief from hardship as might be obtained by the religious, who bore most of the burden of tax-collection, had to be sought from the king, since they could not secure this from clerical assemblies dominated by the secular clergy. Royal favour provided the only means by which the load could be entirely lifted from individual houses. Moreover, the appointed collectors had often to seek the aid of the royal government in order to fulfil their task. When insurmountable difficulties were encountered by them, the crown alone could graciously release them from the due fulfilment of their office.

The financial needs of the state in a period of static and then declining revenues required that it make pressing demands on the Church for grants of subsidies. Whilst the clergy could not avoid meeting most of the demands of the crown, they did claim for the clerical estate at least the appearance of autonomy

in the matter of taxation. In reality not all ecclesiastical property was exempt from contribution to lay subsidies, for the clergy paid to lay grants for all personal property on lands acquired since 1291. Indeed they had to make efforts both as a body and as individuals to prevent the imposition of a double burden on certain of their possessions, though their complaints in this regard met with sympathetic treatment from the crown. Moreover, petitions demonstrate that convocation did not adequately meet the needs or serve the interests of many ecclesiastics, who thus approached the king directly with their requests and grievances. Taxation clearly weighed heavily on the poorest sections of the clerical estate and on those stricken by disaster. Despite the efforts of the clerical assembly to provide relief for distressed taxpayers, many of those in difficulties were obliged or preferred to appeal to the king for aid. A small number of houses succeeded in obtaining royal patents of exemption from taxation. When the validity of their charters was challenged by the terms of the grants made in convocation or by an unaccommodating Exchequer, such exempt houses had to look to the crown to maintain their privileges intact.

A large proportion of the petitions examined in this study are from the religious and would seem to indicate their inability to secure equitable treatment in convocation. This is particularly true of the group of petitions concerning tax-collection. Unable to secure relief in the clerical assembly from the burdens imposed on them by the diocesans, they turned to the king for help. The real grievance felt by the

religious is evidenced by their persistent attempts to secure legislation to control episcopal appointments to the office of tax-collector, and by the widespread movement to obtain royal letters patent of exemption. There is no evidence that the crown wished to increase its intervention in the process of tax-collection, and thereby to erode the clergy's control over taxation of the ecclesiastical estate. Indeed the king refused his assent to the legislation proposed by the religious. However, he alone could provide the religious with effective redress for their grievances, and his interference was thus continually invoked.

Chapter VI
THE ALIEN PRIORIES

At the end of the thirteenth century the English monastic community included a large number of foundations controlled either directly or mediately by abbeys in France and Flanders.¹ These were grouped together under the general designation alien priories, although the term comprised 'every type of religious establishment from the prosperous and fully conventual Cluniac priories to tiny cells...which had more in common with an estate office than a Benedictine priory'.² The Cluniac family consisted of some 38 houses, of which about 11 were large fully organised monasteries, and the majority of the others priories in miniature

1

'Their number, though large, was certainly by no means as great as the lists of past generations of medievalists might suggest, for the hundred and fifty "alien priories" listed by more than one historian have among them very many establishments that were no more than cells where one, two, or three monks resided, or even mere baillivates which served as headquarters for the monk appointed from time to time to oversee his abbey's distant estates. It may be accepted as certain that not more than seventy were at any time fully conventual houses, monasteries in miniature, and at the end of the fourteenth century there were probably no more than forty such in being'.
D. Knowles, The Religious Orders in England, II, pp.161-2.

2

M.M. Morgan, The English Lands of the Abbey of Bec (Oxford, 1946), p.1.

depending on larger houses. The rest were cells holding three or four monks without the full monastic life. They paid a small regular tax to the mother-house and made occasional larger grants. Although often ruled by a French prior and containing a group of foreign monks, the Cluniac houses tended to draw their recruits from the countryside.¹ A numerous body of baillivates, cells, and priories, depending upon almost every important abbey of Normandy and north-western France, formed the remainder of the alien priories.² Some were large priories, leading fully conventual lives and owing only a token pension to their mother-houses. Many were small cells and granges supporting a few monks or even a single monk, and acted as centres for the administration of scattered estates in England. Their profits were sent abroad for the maintenance of French communities. For the most part they were too small to receive novices, and came to be manned almost entirely by foreigners.³

Despite their religious character, the dependence of the alien priories on continental houses led during the French wars of the fourteenth and fifteenth centuries to their seizure into the hand of the crown and exploitation for the benefit of the Exchequer.

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For the early history of these houses, see D. Knowles, The Monastic Order, chapter VIII.

2

For their early history, see D. Knowles, The Monastic Order, pp.134-6.

3

See D. Knowles, The Religious Orders in England, II, ch.XI, and M.M. Morgan, 'The Suppression of the Alien Priories', History, 26 (1941-2), p.204.

Edward I set the precedent, when he seized alien property in the period of war from 1295 to 1303. His son followed the same course of action in the years 1324-27; and the renewal of hostilities in 1337 again resulted in the seizure of the priories. After the opening of the Hundred Years War their property was to be restored to the alien religious only for two short periods, from 1360-69 after the treaty of Brétigny, and from 1399-1402.¹

During the long period over which the alien priories were seized into his hand, the king maintained the closest supervision over their affairs. As valuable royal interests were at stake, the crown had to be approached by petition concerning all matters which affected these houses. The alien priories, the French mother-houses of cells in England, and the farmers of alien property, were all obliged to bring their needs and grievances to the king's attention in this way. Moreover, redress for injustices caused by the crown in the exercise of its control over the alien priories could only be secured by petition for the king's grace. Such petitions thus furnish significant evidence of the nature of the king's relations with the alien priories up to the dissolution of 1414, and of the complete control exercised by the crown over the fate of the alien religious and their possessions. The alien religious were dependent on the king for protection against the anti-alien hostility of

1

M.M. Morgan, 'The Suppression of the Alien Priors', pp.204-12.

the time. Petitions illustrate the changing policy of the crown towards them under pressure from the laity in parliament, and reveal the character of royal exploitation of one portion of the endowment of the Church in England.

Edward III was ready to exploit the alien religious for his financial gain, but his attitude seems to have been generally moderate and conservative. Until his death the crown resisted the recurrent anti-alien hostility of the commons in parliament. It remained official policy that priors who gave security for their good conduct, and promised to pay an annual farm at the Exchequer, were allowed to administer their own property. The terms of the seizure of alien possessions in 1369 specified that they were to be leased back to the alien priors, proctors, and presidents for farms to be agreed between the royal council and the farmers.¹ The commons demonstrated their dissatisfaction and xenophobia by a petition in 1346, which demanded that alien monks in England be ousted from the realm. The abbeys and priories in which they dwelt were to be seized into the king's hand, English monks put into them under the supervision of the ordinaries, and the king made their patron in perpetuity.² The view was

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R.P., II, p.302.

2

This drastic measure was justified by the allegation that learning had declined amongst those who should be 'noz Doctours de notre Foi, et voudrent aprendre s'ils feussent en espoir d'eide'. The Faith was in danger of destruction, because the good priories were in the hands of aliens, who sent their apports overseas. R.P., II, p.162.

put forward that such alien religious were laymen.¹ The king retorted sharply that the alien religious were spiritual persons, who had been instituted into their houses, 'quele chose ne poet estre trie en Parlement'. Their possessions had already been taken into his hand, and he received the profits from them. No one might oust them 'saunz aviser le Roi'.²

Here was a clear indication that the crown would allow no interference by the laity with its treatment of the alien priories. For 30 years the commons confined their attention to the danger to the security of the country presented by alien monks.³ Then, in 1376, they returned to the attack, alleging that the French monks sent from overseas for the government of

1

The commons put forward no justification of their interesting statement that 'les Aliens Moignes ne sont que Lays gentz'. It seems likely that this was an expression of their disapproval of these monks, rather than an accurate description of their status, for it was rejected out of hand by the crown.

2

R.P., II, p.162.

3

In 1369, the commons received a favourable response to a request for measures to prevent the disclosure of the secrets of the realm (R.P., II, p.300). In 1373, their demand for an ordinance forbidding alien priors to dwell within 20 leagues of the sea-coast met with the reply that the king would ordain as seemed necessary by advice of the great council (R.P., II, p.320). The crown did take action against alien religious suspected of revealing the secrets of the realm to the enemy. In November 1369, the sheriff of Southampton was ordered for this reason to cause the prior of Hayling, with one companion and one groom, to be taken to the priory of Southwick, where he was to remain under the custody of its prior (C.C.R., 1369-74, p.63).

alien priories had no knowledge of the people, language, or manners of the land. Many of them led notoriously defective lives and wasted the goods of their houses, 'soefffront leur Maisons deschaer, divine Service amenuser'. They prevented even the most able Englishmen from securing advancement among them, betrayed the counsel of the realm, and carried away its goods for the use of enemies. The commons asked that all Frenchmen be banished from England during the war. No aliens were to be accepted to govern conventual or other houses. The mother-houses were to be informed that they might present to the king or other lords as heads of alien houses only English monks of the same order, who would redress the damage caused by their French predecessors,

ensy que la Religione, divine Service, altres Almoignez et Chargez appourtenantz as ditz Maisons, puissent estre parfaitz et accompliez, et lez Maisones reparaillez en dehue manere.¹

The English priors would continue to owe obedience to their superiors overseas, and pay to the king during the war the farms for their houses paid by the Frenchmen. The crown again declined to yield to the anti-alien feelings of its subjects.²

The government looked with like disfavour on papal intrusion into this sphere of royal interest. Esmond

1

R.P., II, p.343.

2

R.P., II, pp.342-3. The royal reply was: 'Rien n'ent estoit fait'.

de Bramfield, a monk of Bury St Edmund's,¹ petitioned to the king circa 1378, stating that the pope had provided him to the alien priory of Deerhurst.² The provision had been granted to him because he was a doctor in theology and proctor at Rome for the English Benedictines, and not because he or others had taken steps to procure such a grant. The priory had become vacant at Rome, and hence the pope claimed the right of presentation to it.³ The present occupant of the house Bramfield described as an alien intruder.⁴ He sought that the priory be granted to him at the same

1

This was evidently the same monk whose papal provision to the abbey of Bury St Edmund resulted in a long struggle from 1379 to 1384. Royal support for the candidate elected by the convent ensured that he, and not Bramfield, obtained the abbey. See Memorials of the Abbey of St Edmund at Bury, III, pp.113-37; and A.H Sweet, 'The Apostolic See and the Heads of English Religious Houses', p.473.

2

The house was dependent on St Denis until 1443, when it became independent for four years, then being granted to Eton College. In 1461 it was restored to St Denis for English monks; but in 1467 only a secular chaplain was maintained with no monks. It was then granted to Tewkesbury Abbey as a cell for a prior and four monks. Its net income in 1535 was over £134. See D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.64.

3

See A.H. Sweet, 'The Apostolic See and the Heads of English Religious Houses', pp.473-5.

4

Deerhurst was committed to Droco Carnerii, its prior, and two clerks in January 1378 at a yearly farm of £110. In June 1378 the priory was farmed to its prior alone at a farm of £140 per annum. C.F.R., 1377-83, pp.67 and 160.

farm as the latter now paid. His petition testifies to the reality of royal control over these houses. The royal reply was a curt refusal, on the grounds that the request was prejudicial to the king and crown.¹

Contact between the French abbeys and their dependencies in England had not yet been cut off. New priors were despatched from the continent, and a sort of supervision maintained over the activities of proctors by their superiors. The mother-houses could assert authority over their English cells, but only if they were able to obtain the goodwill and assistance of the crown for this purpose. Royal cooperation had to be sought by petition. The abbot and convent of St George-de-Boscherville petitioned to the king circa 1355 concerning their cell at Edith Weston,² which was occupied by a monk of the house, Robert Donnebaut. The latter had obtained the farm of the priory from the king in 1339.³ The abbey now brought to the king's

1

P.R.O., Ancient Petitions, S.C.8/94/4687. In 1352 the commons had petitioned for an ordinance that the recipient of any provision to an abbey or priory should be placed outside the royal protection and the law 'eo ipso'. The king had granted that those securing such provisions should be put outside the royal protection, 'Et lise a chescun de faire de eux come des Enemys de Roi et du Roialme'. R.P. II, p.243.

2

There were probably never more than two to three monks here, and the cell was sold to the Carthusian priory at Coventry in 1394. Its income in 1387 was estimated at £38. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.84.

3

C.F.R., 1337-47, p.154.

attention the monk's scandalous life and his wasteful abuse of the goods and possessions of the cell. He was said to be disobedient to his abbot and to his whole profession, so that the priory would be destroyed unless the king provided remedy. The suppliants asked that Donnebaut be removed from government of the cell and a new proctor, William de Beauvey, put in his place.¹

In May 1355, Beauvey was accepted as custodian of the priory by the crown, on presentation of letters patent from his abbey appointing him to this post. The cell had the aid of powerful patronage, for at the request of Queen Philippa Edward III had already pardoned the abbey and keeper of Edith Weston the oppressively large farm of £30 due to him during the wars. Beauvey was likewise granted custody quit of the farm.² The charges laid against the late prior seem to have been justified. In September 1355, an inquiry was instituted into the state of the cell which produced a wholesale condemnation of Donnebaut's period of office, and reported that in consequence of his behaviour pious works, hospitality, and alms had for the greater part ceased since the plague.³ The jury's findings provide evidence to support the accusations of evil government made against the alien priors by the commons. However, the concern of the mother-house for the welfare of its dependency was matched by the willingness of the crown to lend its aid for the purpose of reform.

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P.R.O., Ancient Petitions, S.C.8/227/11337.

2

C.P.R., 1354-58, p.205.

3

C.I.M., III, 1348-77, pp.74-5.

The situation of the alien religious seems to have worsened in the last years of Edward III, as the king's control of affairs became progressively weaker.¹ Despite the official policy laid down in 1369, alien priors were not in all cases allowed to administer the possessions of their houses, cells, and granges. The crown granted farms to other ecclesiastics and to laymen, with results that caused concern in parliament. The commons of 1376 described the expulsion of the alien religious from their temporalities and spiritualities, and the leasing of these at farm to members of other orders and secular persons, as

en destruction des Esglises, Mansions, Meisons,
et des autres choses de lour ditz possessions, et
en subtraction et anientisment des divines
Services, almoignes, et dez autres oeверes de
charite, qui soleient estre faitez pur lez almes
des Fondours de lez ditz possessions....²

1

'Edward himself was past the days of his greatness and though, so late as 1372, he again attempted to take the field in person, his health and intellect were failing and he was becoming increasingly subject to the influence of a group of unpopular courtiers and of his mistress, Alice Perrers'. M. McKisack, The Fourteenth Century, p.384.

2

R.P., II, p.342. The commons proposed that English religious of the same order be given control over these possessions, and restored to them for the farm customarily rendered by the aliens. The king replied thus: 'Endroit des dites fermes comprises et demandez, il plest au Roi que ce lour soit grantee, quant as Priories, Esglises Conventueles, Collegiales, et Parochieles, et Chaunteries; mais quant a ce que est demande des Gouvernours Engloys, et restitution a eulx, le Roi en prendra advis de son Grant Conseil' (ibid.).

The history of the priory of Ecclesfield at this time will serve to indicate the vulnerable position of the alien religious without the protection of a strong and sympathetic monarch, particularly since there were persons in high places ready to exploit their weakness to the full.

John Burdet, monk of St Wandrille, asserted in 1376 that he had held the priory of Ecclesfield from the king at a farm of 40 marks per annum.¹ He had been ousted from it as a result of the royal presentation to the church of Ecclesfield of Henry de Medbourne, chaplain to Lord Latimer,² when an untrue suggestion had been made to the king that the church was in the royal gift through the temporalities of St Wandrille being in his hand.³ A writ of Quare impedit had been sued against

1

The priory had been committed to his custody in 1369 (C.F.R., 1369-77, p.24). This was apparently one of the larger alien priories until 1337, when all the monks seem to have been withdrawn except a prior and one monk. The income from the estates in 1535 under the Carthusian priory of Coventry was over £72 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.84).

2

He was steward of the household 1368-70. 'A violent, self-seeking and unscrupulous man, this baron of the fourth generation became, for the rest of the reign, a leader of the extreme court party.' He became chamberlain in 1371, and remained as such until his impeachment in the Good Parliament. T.F. Tout, Chapters, IV, p.162 and VI, pp.43 and 47.

3

Medbourne was presented to the church in November 1372 (C.P.R., 1370-74, p.220), and the presentation was renewed in November 1373 (C.P.R., 1370-74, p.364).

the abbot of St Wandrille in the king's name; and during the course of the plea the attornies of the abbot and prior, and certain of the jurors impanelled to give a verdict, had been imprisoned. Because a verdict favourable to the king could not be obtained from these jurors, they had been discharged. Another inquest had been fraudulently taken, which had found for the king through the maintenance of Lord Latimer. The crown had thereby lost the farm of 40 marks per annum from the priory, and Medbourne had since committed waste in the cell to the value of 300 marks.¹

The commons of the 1376 parliament, who impeached Latimer for enriching himself at the king's expense,² took up the prior's plaint. Their request for amends to be made to him secured the concession that Burdet should put the matter before parliament by bill, where right would be done after his opponent's reply had been heard.³ As a result of the proceedings in parliament the escheator of Yorkshire was ordered in August 1376 to hold an inquiry into the facts of the case.⁴ His return described the various possessions of the priory,⁵

¹ P.R.O., Ancient Petitions, S.C.8/290/14452.

² See M. McKisack, The Fourteenth Century, pp.387-92.

³ R.P., II, pp.329-30.

⁴ C.F.R., 1369-77, p.362.

⁵ The priory consisted of the manors of Ecclesfield and Wolveleghe, lands in Bradefeld, the church of Ecclesfield with the chapel of Bradefeld, the parish church of Sheffield, formerly a chapel, a yearly pension of 9s 0d
(footnote continued on p.420)

and stated that these had always been occupied by a single monk called prior of Ecclesfield, who had with him two to three other monks. There was a vicarage at Ecclesfield, to which the abbot of St Wandrille should present one of his monks when vacant. The king ought to have been answered for the profits of the temporalities of the cell, as for the temporalities of other alien religious; but Medbourne had occupied them since December 1373, wrongly claiming them as glebe of the church of Ecclesfield.¹

Sufficient doubt had been thrown on Medbourne's claim for a fresh trial to be instituted, yet he seems to have been able to maintain his hold on the property of the cell. A further petition from Burdet suggests that proceedings in Chancery followed the escheator's inquiry, but that his opponent was again able to pervert the course of justice to his own ends by securing a jury favourable to himself on a writ of nisi prius.² Burdet never recovered the priory. In May 1385 Medbourne exchanged the church of Ecclesfield

(footnote 5 continued from p.419)

from the vicarage of Sheffield, and one of 5s 0d from the church of Whistan, with an oblation there called 'Handalmos' on the feast of All Hallows. The manor of Ecclesfield was worth £6 13s 4d yearly net and no more because the priory was built on the site thereof, and there were many buildings in ruins which needed great repair. The manor of Wolveleghe was worth 26s 8d yearly net, and the lands in Bradefeld were worth 3s 4d. C.I.M., III, 1348-77, p.388.

1

C.I.M., III, 1348-77, p.388.

2

P.R.O., Ancient Petitions, S.C.8/107/5323.

for that of Fordyngburgg.¹ Later that year the king granted the advowson to the prior and convent of the charterhouse of Coventry with licence to appropriate it, and stated that the advowson was in his hand after being recovered in the late reign from the abbot and convent of St Wandrille.²

The death of Edward III brought a minor to the throne and accelerated changes in royal policy towards the alien priories. The king no longer stood between his subjects and the object of their attacks. As the new reign coincided with a renewal of French and Castilian raids on England,³ anti-alien feeling ran high in parliament. The commons returned to petitioning against the alien religious in the first parliament of Richard II, and met with a favourable response from the government of the minority, whose members were probably swayed by motives of personal gain. The demand that all aliens belonging to hostile nations, religious as well as others, be expelled from the realm during the war was granted. Conventual priors and other trustworthy persons holding benefices or offices for life were excepted, provided that they had no communication with the continent unless under censorship; but from the time of the next vacancy, only Englishmen were to hold such priories and benefices. The bishops were instructed

¹ C.P.R., 1381-85, p.562.

² C.P.R., 1385-89, p.112.

³ See M. McKisack, The Fourteenth Century, p.145.

to place in the alien priories, at the presentation of the patrons, English monks or suitable secular chaplains up to the existing number in each of these, 'pur demurrer et avoir covenable sustenance en les dites Priories, a faire le divin Service en ycelles durantes les Guerres'.¹

At the same time a significant change in official policy concerning the administration of alien property was announced. Whereas in 1369 the crown had ordered their possessions to be leased back at farm to the alien priors, though this had not always been put into practice, provision was made in 1377 for leases to other ecclesiastics and laymen on a regular basis. If priors could not, or would not, take their spiritualities at farm from the king, they were to be leased to other ecclesiastics. Sureties were to be found by such farmers that they would maintain divine services as before, keep the priories and churches without waste, and make suitable provision for the food and clothing of the priors and their monks or chaplains. Bailiwicks and other temporalities were to be leased at farm to the highest bidders, on their finding sureties to keep them without waste and provide divine service and alms.²

Despite the ordinance a large number of foreign monks were allowed to stay in the realm under royal letters of protection.³ The commons tried unsuccessfully

1

R.P., III, pp.22-23.

2

R.P., III, pp.22-23.

3

M.M. Morgan, 'The Suppression of the Alien Priories', p.206.

in 1379 and 1380 to obtain their expulsion.¹ Nonetheless, the effects of government policy caused concern even among sections of the commons in parliament. A petition was put forward in 1385 against the practice of granting alien priories to laymen and secular chaplains, apparently in an effort to protect the spiritual services endowed in these houses.² The remaining alien priors found themselves in a position of great insecurity. A number of petitions reveal their plight and the pressure exerted on the king by members of the court circle for grants of alien property. The prior of Blyth³ asserted in 1385 that he was a perpetual prior, instituted and inducted by the archbishop of York, and had custody of his house by letters patent of the crown.⁴ Under the terms of the 1377 ordinance no such perpetual prior should be disturbed in his custody, yet Master John de Midelton, who was a 'seculer persone', had obtained letters from the king and ousted the petitioner. The prior alleged that the new farmer had sold the corn belonging to the house, and had wasted its goods and chattels both spiritual and temporal.

1

R.P., III, pp.64 and 96.

2

R.P., III, p.213.

3

The house was dependent on Ste. Trinité, Rouen, until circa 1409, when it became an independent house. It survived until 1536, and contained five monks at the dissolution. Its income in 1535 was over £113. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.60.

4

The priory had been committed to the custody of its prior, Nicholas Anglici, in December 1379 for an annual farm of 50 marks. C.F.R., 1377-83, p.173.

As the king's physician Midelton had ready access to royal favour. Moreover, he had offered an increment of three marks above the sum of 50 marks paid annually by the prior for his custody. His patent specified that he was to maintain the buildings and support the charges incumbent on the priory, and pay to the prior ten marks per annum for his sustenance.¹ He may have neglected his duties, for the prior maintained that he no longer had the means to live and that alms, divine services, and other charges, had been withdrawn.² The plaintiff obtained the examination of his rights in Chancery. When his petition that Midelton's patent be revoked and himself restored to the farm was tried there, he proved his conventual status and life title in the priory. This was sufficient under the received interpretation of the 1377 ordinance to secure his restoration to custody of the house, though at the increased payment for which it had been granted to Midelton.³

The prior of Ware⁴ put forward a similar complaint, possibly in the same parliament of 1385. The house had been committed to his custody in 1377 for a farm of

1

C.F.R., 1383-91, p.91.

2

R.P., III, p.256.

3

C.F.R., 1383-91, p.126.

4

The priory was dependent on St Evroul. Its income in 1297 has been estimated at more than £200, and it was one of the most important alien houses in England, probably maintaining some 13 monks in the thirteenth century. It was dissolved in 1414, and granted to the Carthusians of Sheen. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.91.

£245 per annum.¹ This was an exceedingly large farm. Unless the income of the house in 1297 has been greatly underestimated, the crown must have been exacting everything except the barest maintenance for the inhabitants. Subsequently, the prior had been able to employ the powerful influence of the king's mother in obtaining from Richard II a confirmation of his farm.² Fear of arbitrary dispossession is reflected in the clauses added to his patent that he should not be removed from custody of the priory though a higher payment might be offered, and that no part thereof should be granted away.³ Despite this ratification, after the death of the Princess Joan in August 1385⁴ the king granted the priory by signet letters to one of his knights of the Chamber, John Golofre, for the same farm.⁵ The prior petitioned that his title might be declared in parliament, but his bill provides no evidence of the outcome.⁶

¹ C.F.R., 1377-83, p.32.

² She became lady of the manor and patron of the priory in 1381 on the death of Blanche, Lady Wake. V.C.H., Hertfordshire, III, p.386, and IV, p.456.

³ C.P.R., 1381-85, p.13.

⁴ She died on 8 August 1385 at Wallingford. T.F. Tout, Chapters, III, p.395.

⁵ Golofre had become a knight of the Chamber in 1385, and was receiver of the Chamber in 1387. He was condemned to death in the Merciless Parliament of 1388 with other supporters of Richard II's personal policy, but was soon pardoned and before long brought back into office. T.F. Tout, Chapters, IV, pp.335-6, 341 and 345.

⁶ P.R.O., Ancient Petitions, S.C.8/146/7262.

The king's desire to show favour to another royal servant caused an attempt to intrude his nominee into the priorate of the fully conventual Cluniac priory of Montacute, and a struggle for possession of the house which lasted two years. One Francis de Baugiaco had been provided to the house in 1362 during the period of peace which followed the treaty of Brétigny.¹ After the renewal of the war he had obtained custody of the priory from the king in 1371 for a farm of £120 per annum.² His position had been confirmed in 1383, when he had been cleared before the council of charges that he was a schismatic and heretic, and an adherent of the anti-pope.³ However, in July 1385 Richard II granted the keeping of Montacute at the same farm to his wife's confessor, Nicholas Hornyk,⁴ whose intrusion into the priory provoked petitions of protest from Francis in the parliament of that year. He complained that Hornyk, whom he described as 'un frere mesnour', had assumed the title of prior of Montacute and was appointing new officers as if he was the rightful prior.

1

C.P.P., I, p.393. The priory became denizen in 1407. It had ten monks in 1377 and 24 in 1450, and its income in 1535 was over £456. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.98.

2

C.F.R., 1369-71, p.136.

3

C.C.R., 1381-85, p.271.

4

'Hornyk may have been one of those Bohemians whose presence in the queen's train provoked so much criticism'. T.F. Tout, Chapters, V, p.261.

The parties were summoned before parliament.¹ Francis brought proof that he was a conventual prior, and was accordingly restored to his farm. He and his priory were taken into the special protection of the crown.²

Within seven weeks of the dissolution of parliament this settlement had been nullified. In January 1386, the king revoked his letters patent in favour of Francis, on the grounds that they had been issued without his being consulted. A commission was appointed to arrest the prior and bring him before the king and council.³ The custody of Montacute was again committed to Hornyk in February of the same year 'for past and future good service', and an order for his installation followed.⁴ A petition from Hornyk in September 1386, in which he described himself as prior of Montacute, reveals that Francis had been indicted of various felonies and treasons.⁵ His enemies seem to have taken advantage of the fact that, as an alien, the former prior was an easy target for accusations of treasonous activities. Nonetheless, Francis must have been able to rebut the charges against him, for he successfully

1

P.R.O., Ancient Petitions, S.C.8/125/6219 and 199/9917.

2

C.F.R., 1383-91, pp.108 and 127; C.P.R., 1385-89, p.88.

3

C.P.R., 1385-89, pp.111, 164 and 166-67.

4

C.F.R., 1383-91, p.130; C.P.R., 1385-89, p.174.

5

P.R.O., Ancient Petitions, S.C.8/250/12495; P.R.O., Warrants for the Great Seal, C.81/493/4078.

asserted his right to be both prior and royal farmer of Montacute. In November 1386, the priory was committed to the care of commissioners, until it should be determined in the king's court whether custody belonged to Hornyk or to his opponent.¹ Then in July of the next year, the letters patent granted to Hornyk were revoked after the queen's confessor had failed to appear in a suit to decide the matter. Francis was restored to his house,² and held it until his death circa 1404.³ His success, though it involved a long struggle, demonstrates that redress could be obtained by the alien religious through petitions when the king exceeded the bounds of his legal rights. The terms of the ordinance of 1377 were upheld, despite the king's desire to override them in the interests of a royal favourite.

The difficulties of the alien priors prompted them to seek redress as a body in the parliament of 1389. They complained that secular persons had procured their dispossession from the farms of their houses, with the result that divine service and alms had been greatly diminished and their property wasted. An ordinance was sought for the restoration of ousted priors who held by royal patent to possession of their priories and property. Clearly royal exploitation of the alien religious had gone beyond the bounds laid down by the

1

C.P.R., 1385-89, p.240. In December the priory was granted royal protection for one year during the dispute (C.P.R., 1385-89, p.243).

2

C.P.R., 1385-89, pp.331 and 385.

3

C.P.R., 1401-05, p.335.

ordinance of 1377. The crown alone could provide the alien priors with the relief they sought, and Richard II reacted sympathetically to their plaint with substantial concessions that promised them greater security.

Alien priors instituted and inducted by the bishops or by exempt houses before the Schism,¹ conventual and collegiate priors, and those holding office for life, were to enjoy their priories at a reasonable farm without disturbance by others offering more for the privilege. Ousted alien priors who held royal patents were to be restored. No priory, office, or bailiwick with spiritualities annexed to it, was to be granted to laymen or held by ecclesiastics to the use or profit of laymen. Such were to be granted at farm to ecclesiastics, either the religious or the secular clergy, who would support divine service and other charges incumbent on them.²

1

The Great Schism began in 1378. France supported Clement VII and England Urban VI, adding 'yet another obstacle to intercourse between the French abbeys and their dependencies in England; for it became essential to appoint some delegate authorised to receive the professions of religious and appoint fit persons to fill offices as they fell vacant. Cluny and some of the smaller orders including Bec evolved a machinery to deal with disciplinary problems; the single houses had either to keep up their numbers with unprofessed English monks or die out altogether'. M.M. Morgan, 'The Suppression of the Alien Priors', p.207. See also E. Perroy, L'Angleterre et le Grand Schism d'Occident, pp.76-95.

2

R.P., III, pp.262 and 276.

The ordinance was not fully observed by the crown, for the alien priors had to seek redress for royal disregard of its provisions in the parliament of 1393. They obtained a confirmation and an order that all priors holding royal patents, who had been ousted from their priories and farms against its terms, were to be restored to possession.¹ Although they could not free themselves from the threat of dispossession through royal grants to favoured subjects, the alien priors had secured strong grounds for appeal and restoration. The laymen and ecclesiastics who obtained farms of alien property had no such protection against arbitrary eviction at the royal will. The prior of the Augustinian house of Michelham made a vain appeal in the parliament of 1385 against his removal from custody of the alien priory of Wilmington.² The cell had been committed to him in February 1378 for the very reasonable farm of £80 yearly. The king had evidently considered that the priory could bear a higher payment, for the farm had been increased to £100 per annum in the next year. Both these patents had bound the prior of Michelham to find

1

R.P., III, p.301.

2

Wilmington was dependent on Grestain. Its income in 1342, when leased out, had been over £170. It was granted to Chichester cathedral after the dissolution in 1414 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.92). Michelham was a priory for 13 canons. Only five had survived the Black Death, and there were ten here in 1442. Its income in 1291 had been assessed at £81, and in 1535 it was over £160 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.146).

an additional 20 marks yearly for the sustenance of the prior of Wilmington, with a proviso that this sum be added to the farm after the alien prior's death.¹

The petitioner alleged his charitable motives in securing custody of the cell. The priory of Wilmington was only two leagues from his own house; and in order to prevent the ruin and damage that could have befallen it, had the priory come into the hands of seculars, he had obtained the farm himself. He had since incurred great expense in repairing the houses of the cell, and on sea-defences. His custody had been cut short in October 1385 for the benefit of a royal favourite. Richard II had granted Wilmington without farm to his knight of the Chamber, Sir James Berners,² in order to fulfil a grant of £100 per annum made to him without special assignment as to where to receive it.³ The prior of Michelham asked that Berners' patent be revoked; but his suit met with no success.⁴

1

C.F.R., 1377-83, pp.68 and 162. The farm of £100 per annum was said to be less than the ancient farm of the priory, because various manors belonging to it were now in the hands of Michael de la Pole and his brother Edmund, to hold to them and their heirs for ever.

2

He became a knight of the king's Chamber in 1385, and remained a member of the court circle until his condemnation in the Merciless Parliament of 1388 and subsequent execution. T.F. Tout, Chapters, III, pp.434-5, and IV, p.344.

3

C.P.R., 1385-89, p.27.

4

P.R.O., Ancient Petitions, S.C.8/125/6229.

The king exercised a largely unfettered control over the disposal of such alien cells and granges, which allowed him to grant and supersede leases as royal favour or offers of higher rates of farm dictated. Another petition presented in the parliament of 1385 provides evidence of the insecurity of tenure which beset farmers. John Elys and John Shergrene, chaplains, had farmed the cell of Avebury¹ in 1378 for £50 per annum, which they claimed was £17 per annum more than had been customarily rendered before.² Their appointment as custodians had resulted from the effects of the ordinance of the previous year. Except for a few months in 1341, a succession of priors of Avebury had hitherto managed to hold on to their property.³ The last prior

1

A cell of St-George-de-Boscherville, which was probably for two or three monks at most. It was dissolved circa 1414 and granted to Fotheringhay College. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.83.

2

C.F.R., 1377-83, p.83. They were also to pay tenths and other quotas with the clergy, find a secular chaplain to hold divine service in the priory, as well as chantries, alms and other divine services anciently endowed therein, maintain the houses and buildings pertaining to the priory, and support all charges incumbent thereon (*ibid.*). The chaplains seem to have been mistaken in supposing that their farm had been increased by £17 over the preceding grant. In fact the priory had been committed to its last prior in June 1377 for a farm of £36 per annum (C.F.R., 1369-77, p.405).

3

See V.C.H., Wiltshire, III, p.393, and C.F.R., 1337-47, pp.28, 234, 237, 241, and 261, and C.F.R., 1369-77, p.405. The farm paid by these priors had risen from £24 per annum in 1337 to £36 per annum in 1341, but had still been £36 yearly in 1377.

had been expelled from England with other foreign monks in 1378.¹

Elys and Shergrene asserted that they had incurred great expense through their custody of the cell. They had had to pay for the goods and chattels in the priory, and had spent large sums on repairs. Nonetheless, when John Meysey, king's esquire, had sought a grant of the farm from the king in October 1385, he had obtained a royal patent for 40s 0d yearly more than the sum paid by the petitioners.² Here again the former farmers' plea to be restored to their custody seems to have been unsuccessful.³ Their period of tenure had not been so blameless as their petition suggested. A commission instituted in January 1386 to inquire into the state of the priory found that it had suffered damage to the value of £101 0s 6d in the hands of past farmers.⁴

However, though farmers were dependent on the royal whim, they were able to draw benefits from their special relationship with the crown. Since the seizure of the alien priories had brought into the king's hands a fund of patronage and a source of profit, he was an interested party in all matters touching them. His concern to ensure that payment of farms should not be

1

V.C.H., Wiltshire, III, p.393 (citing P.R.O., Treaty Rolls, C.76/61/m.6).

2

C.F.R., 1383-91, p.109.

3

P.R.O., Ancient Petitions, S.C.8/109/5415.

4

C.P.R., 1385-89, pp.165 and 218.

impeded enabled farmers to invoke royal aid and protection against other subjects. In 1404 Richard Leyntwardyn clerk, Henry Wybbe, and Richard Beaumont, custodians since early in 1403 of the lands of the abbey of Lyre in England,¹ sued to the council against the activities of John Collynge of Chepstow, who had forcibly entered the parsonage of the church of Tudenham. The church formed part of the possessions held by the petitioners at farm, and was worth 26 marks or more yearly. Collynge had taken the profits from the time of his intrusion, so that without royal aid the farmers would be unable to pay their farm. As the king's writ did not run in the lordship of Chepstow, the farmers requested letters to its lord, the earl marshal, or his lieutenant, for the arrest of Collynge and his appearance before the council.² They themselves dared not go to Tudenham in search of the profits, as they said, for fear of death and Collynge's threats. The council assented to the despatch of a letter on the requested lines.³

1

The priories of Carisbrook, Wareham, and Hinchley were excepted from the farm, which was held by the farmers for £100 per annum. C.F.R., 1399-1405, p.210.

2

It was literally true of the marcher lordships that the king's writ did not run in them, not even the writ of error. See A.J. Otway-Ruthven, 'The Constitutional Position of the Great Lordships of South Wales', p.11.

3

P.R.O., Council and Privy Seal Records, E.28/file 16.

This concern to safeguard the farms paid to the crown presented a troublesome obstacle to would-be litigants against royal farmers, which they might feel obliged to surmount by petitioning for royal acquiescence in their proposed suit. Thus in 1384 John de Burton, parson of Great Craule,¹ felt it necessary to approach the king for approval before proceeding against the alien prior of Tickford in the ecclesiastical courts.² He stated that the village of Little Craule, and certain lands and tenements in Chicchele, had been from time immemorial within the bounds of his parish. His predecessors had always had tithes and oblations from Little Craule, and since a definitive sentence in the court of Canterbury 80 years previously, they had also had tithes and oblations from the property in Chicchele. During the last three years the prior had robbed his predecessors of these. Burton sought a licence to sue against his opponent in the royal courts or courts christian. He asked that ecclesiastical judges might proceed with the plea, and that he or they should not be impleaded in the Exchequer or elsewhere by the prior

1

Burton was a Chancery clerk and keeper of the Chancery rolls from 1386 to 1394, when he died. T.F. Tout, Chapters, III, p.450.

2

The house was dependent on Marmoutier until 1426, when it became dependent on Holy Trinity, York. Its income at the dissolution of the priory in 1524 was over £57, and there were a prior and five monks at that time (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.79). The house had been committed to the custody of its prior in February 1378 at a farm of 40 marks per annum (C.F.R., 1377-83, p.73).

on account of the annual farm paid to the king. His petition received the royal assent.¹

Remedy also had to be sought from the crown when a serious problem arose through the refusal of farmers to pay tithes from the lands they held at farm. A petition presented by the parson of Burton early in the reign of Richard II illustrates the difficulties of the parish clergy. The parson stated that the alien priory of Frampton² possessed certain property in his parish. The house had been farmed by the king on very favourable terms to the bishop of Worcester,³ who had

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P.R.O., Ancient Petitions, S.C.8/183/9128; P.R.O., Warrants for the Great Seal, C.81/1342/23; C.P.R., 1381-85, p.445. The case was still proceeding in courts christian in 1400; C.P.L., V, pp.93-94 and 271-72.

2

It was dependent on St Etienne, Caen. Its income in 1337 was £294. This was probably one of the largest as well as one of the richest of the alien priories. It was still described as 'conventual' when it was restored to Caen in 1402. However, it was dissolved and eventually granted to St Stephen's College, Westminster, in 1445. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.85.

3

The custody of the priory was granted to the bishop in November 1377 at a yearly farm of £80 (C.F.R., 1377-83, p.48). Up to 1364 Wakefield was a clerk of the earl of Hereford, but later became a royal servant and was keeper of the Wardrobe from 1369 to 1375. The king repeatedly pressed for his advancement to a bishopric, but it was only after a failure to obtain Ely that he was appointed by the pope to Worcester in 1375. He became treasurer in January 1377, but was replaced by Thomas Brantingham, bishop of Exeter, in July 1377 (T.F. Tout, Chapters, IV, pp.153-4 and VI, pp.23 and 27). He remained bishop of Worcester until his death in 1395 (Handbook of British Chronology, p.261).

also secured a lease from the abbey of Caen for a term of 20 years. The bishop would not pay tithes from the property in the petitioner's parish, but threatened the parson with imprisonment 'sil soit si hardy de rienz attempter deuerz lui'. The latter dared not sue for his rights, and asked the council for redress.¹ Such evasion became widespread. In 1404 the commons put forward a complaint that the custodians of alien property would not pay tithes due to the parsons and vicars of parishes in which their farmed possessions lay. An ordinance was sought declaring the liability of farmers to pay all kinds of tithes, 'nientcontrestenant que les ditz possessions sont seisisiez es mayns le Roy, come desuis, et nonobstant ascune prohibition fait ou a faire a contraire'. The king gave his approval, and thus declined to countenance abuse of the special relationship between himself and farmers.²

Abuse of the crown's position was not to be tolerated, then, but that position allowed the king to place heavy burdens on the alien priories. By the last quarter of the fourteenth century some priories were claiming that their burden had become intolerable. The alien priors presented a petition to the king and council early in the reign of Richard II,³ complaining

1

P.R.O., Ancient Petitions, S.C.8/105/5212. His petition has no reply.

2

R.P., III, pp.540-41.

3

The petition has been dated by the Public Record Office? 1377.

of the effect of the plague and of farms so great that they could barely subsist. To add to their burdens royal officers now wished to charge them with the payment of tenths, fifteenths, and other dues. They requested custody of their possessions on the terms originally imposed by Edward III at the start of the war. The crown was not willing to deprive itself of much-needed income by making a concession that would have reduced all farms to the level of 40 years previously. The petition thus met with a refusal.¹

An individual petition from this time indicates the difficulties of some houses in meeting royal exactions. The small priory of Stogursey² was obliged to petition for relief as a result of a combination of bad weather, shortage of labour and unfavourable prices, the last two real enough difficulties for landowners in the period.³ The prior stated that all the income for the support of himself and five companions came from one small parsonage, from which they derived only 'garbes et fein'. They had suffered a great loss in August,

1

P.R.O., Ancient Petitions, S.C.8/88/4384.

2

It was dependent on Lonlay and was apparently for a prior and six monks. Three were sent back to Lonlay in 1270 for economy, and in 1329 there were three monks and the prior. The priory's income in 1291 was assessed at over £34, and in 1535 at over £58 under Eton College, to which it had been granted (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.90). In June 1377, Edward III had committed the cell to its prior's custody at a yearly farm of 35 marks (C.F.R., 1369-77, p.405).

3

See M.M. Postan, in The Cambridge Economic History of Europe, I, pp.595-600.

'que par la pluuye que pur defaute et cherte de seruantz'. The sum paid to the king was so great that the prior had nothing with which to maintain his companions and the buildings. Even if he sold both parts of the corn, it would not suffice to pay the farm because of the small value of corn. Consequently, he asked for a reduction of his farm, and a respite of the 17½ marks due at Michaelmas last. He would pay half of the arrears at Easter next, and the rest at the Michaelmas following, together with his farm.¹ His petition has no reply, but the king appears to have acknowledged that the royal farm left the prior with too narrow a margin of surplus income. In 1380 his farm was reduced to £20 per annum, with the further concession that he should pay nothing in respect of arrears before 35 Edward III (1361-62).²

Final relief from royal exploitation could be secured only through the king's own grants to individual houses of the privileges of denizen status. One house alone seems to have successfully disputed its classification as an alien priory at the start of the

1

P.R.O., Ancient Petitions, S.C.8/139/6929. The crown did sometimes grant relief from their farms to impoverished alien houses. In April 1360, the Exchequer was ordered to discharge the prioress of Lyminster of ten marks yearly for the following three years of her yearly farm of 20 marks, in consideration of the poverty of the priory. C.C.R., 1360-64, p.28.

2

C.F.R., 1377-83, p.194.

Hundred Years War. As it achieved its ends by means of a misrepresentation of the facts, its immunity from seizure into the king's hand remained precarious for much of the century. In 1339 the priory of Boxgrove,¹ which had been taken into the hands of the crown along with the other alien priories, laid a petition before the council seeking to escape this custody. The evidence presented to the king was at least misleading, for the priory was undoubtedly dependent on Lessay abbey in Normandy.² The claim was put forward that the monks of the house had been from time immemorial English, and had been accustomed to elect their prior at each vacancy and present him to the diocesan for

1

The house had six monks in 1381, ten in 1478, and nine in 1534. Its net income in 1535 was over £145. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.60.

2

See D. Mathew, The Norman Monasteries and their English Possessions (Oxford, 1962), pp.45-6. In 1402 Boxgrove stated in a petition to the pope that according to the long observed custom of Lessay, on which their priory depended, and of the priory itself, all postulants in the priory were presented to the abbot of Lessay and there made their profession. On the voidance of the priory the abbot provided another prior and nominated his provisor to the lord of Boxgrove, by whose favour the prior obtained possession and was presented to the ordinary. During the Schism the pope granted that postulants might make their profession to the priors of Boxgrove, and that on the voidance of the priory the convent might choose one of themselves or another of their order, who should be nominated to the said lord and by him presented to the ordinary. C.P.L., V, 1396-1404, pp.470-71.

induction.¹ Boxgrove had not been taken into the king's hand during the war until 1324, when the house had had an alien prior provided by the pope.² The same person had still been prior at the outbreak of war in 1337. Testimony was also given to the king by certain prelates and lords that the priory had been founded by the ancestors of John de St John, that it paid no customary apport overseas, was not subject to any continental religious house, and had always had English priors before its present head.³ On the basis of these statements Edward III pardoned the prior and convent their farm and ordered restoration of their

1

Mathew has noted that 'So far from it being true...that the monks of Boxgrove elected their own prior, three monks from the priory had been summoned to Lessay in 1321 and made to swear that they would never again oppose elections of priors' (D. Mathew, The Norman Monasteries, p.46). He added that the abbey preserved its hold over the priory by a strict control over the appointment of priors which lasted until the end of the fourteenth century. However, the Normans retained no other valuable privileges (D. Mathews, The Norman Monasteries, pp.45-6).

2

This assertion was substantiated by the treasurer and barons from the records of the Exchequer. C.C.R., 1339-41, pp.245-46.

3

'per quosdam Prelatos, Magnates, et Proceres in presenti Parlamento nostro apud Westmonasterium convocato existentes testatum est, quod Prioratus predictus de fundacione antecessorum Johannis de Sancto Johanne existit, et quod apportum inde ad partes transmarinas fieri, seu Prioratus ille alicui Domui Religiosorum in eisdem partibus transmarinis subjici, vel a tempore fundacionis ejusdem per alium quam Priorem Anglicum usque ad tempus profectionis predicti nunc Prioris Regi nullatenus consuevit nec deberet'. R.P., II, p.206.

property. He granted that henceforth Boxgrove should not be taken into his hand when alien property was seized during the wars.¹

The denizen status of the house was not yet fully established in 1347-48. Because the name of the prior had remained on the rolls of the Exchequer as an alien prior, he was still distrained as such. The house put forward a petition asking that his name be removed from the rolls; and the king ordered a memorandum to be entered thereon that the prior of Boxgrove was not henceforth to be charged as an alien.² Nonetheless, the anti-alien legislation of 1377 resulted in a re-examination of the priory's claim to immunity from seizure. The prior and convent complained in parliament early in the reign of Richard II that the prior had been brought before the barons of the Exchequer, on the grounds that the house should be seized into the king's hand during the war. Boxgrove again had an alien prior, although he was claimed to be a subject of the king of Navarre.³ The petitioners asserted that the prior had done fealty in the period of Wykeham's chancellorship,⁴ and had remained the king's liege man ever since. The

¹ C.P.R., 1338-40, p.325. R.P., II, p.206.

² R.P., II, p.206.

³ Charles II the Bad, whose reign was spent in intrigue between the Plantagenets and Valois. See E. Perroy, The Hundred Years War, pp.127-30, 132-39, 150-1, and 169-70.

⁴ 1367-71. Handbook of British Chronology, p.84.

house had been adjudged denizen since the grant of Edward III in 1339, but the barons of the Exchequer would not discharge the prior without instructions from the council. In view of the Exchequer's reluctance to acknowledge the priory's claim to denizen status, the crown alone could make an authoritative pronouncement on the matter. The prior and convent asked for confirmation of the letters patent granted to Boxgrove by the late king. When they obtained such a grant in 1383, the priory was able finally to establish its denizen status on a firm basis.¹

Boxgrove's case appears to have been unique. The repeated attempts to treat the house as alien demonstrate how essential a formal royal grant of denization was, if such alien priories were to avoid challenges to their immunity from seizure by an Exchequer anxious to safeguard royal interests. For the other conventual priories the road to emancipation from the burdens placed on aliens lay through the acquisition of royal charters that gave their recipients full English status. An English prior and powerful advocacy were both essential for this purpose; and the crown exacted a large fine for its renunciation of profitable rights over the house. Lewes led the way in 1351, when the priory secured a grant that the prior and convent and their successors should be reputed denizen, and freed from all aids or other impositions required of aliens. In return for

1

P.R.O., Ancient Petitions, S.C.8/94/4690. C.P.R., 1381-85, p.228.

their patent the priory endowed the king with advowsons in their patronage to the value of 200 marks yearly.¹

The tendency to seek such charters was much accelerated in the last quarter of the fourteenth century, particularly after the 1377 ordinance made the position of all alien priories more difficult and the Schism severed contact with mother-houses on the continent.² A typical example of the process of denization is that of the Cluniac priory of Thetford in 1376.³ The prior and convent justified the grant on the grounds that, whereas in the past their priors and many of their monks had been aliens, the prior and all monks were now Englishmen born within the realm.⁴ Moreover, the house would remain under the government of Englishmen, because the convent already had secured a papal grant of free election of their prior and his confirmation in England without going overseas.⁵ The priory had suffered grave damage

1

C.P.R., 1350-54, p.47. Lewes was a Cluniac house, the first founded in Britain. It had 40 monks in 1381 and 36 in the fifteenth century. Its net income in 1535 was over £920, and it had several dependencies. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.97.

2

See above p.429 n.1.

3

The priory had 22 monks in 1350 and 1390, and 21 in 1450. Its net income in 1535 was over £312. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.100.

4

For similar assertions see the petition presented by Montacute in 1414, and the letters patent granted to St Neot's in 1409. R.P., IV, pp.27 and 42.

5

Thetford secured a papal grant of exemption from the jurisdiction of the abbot of Cluny in 1399, and permission for the convent to elect their prior and have the election confirmed by the prior of Castle Acre (C.P.L., V, 1396-1404, p.196), but I have found no evidence of this earlier grant.

in the past through the ill-rule of alien priors and monks.¹ In return for a fine of £100² the king conceded that the prior and convent and their successors should be regarded as denizens, quit of all seizures, impositions, and aids laid on aliens in time of war. The convent was to have free election of their prior, but it was stipulated that only an Englishman born within the realm could be so elected. During the war the one mark per annum customarily rendered to Cluny, and any other such apport paid overseas, were to be rendered to the king.³

The priory of Eye shortly afterwards followed the example set by its near neighbour.⁴ The prior and convent sought a charter of denization in 1384, and specifically requested the same status as Thetford. Influential patronage was very obviously at work in this

1

Both Montacute and St Neot's made similar allegations. R.P., IV, pp.27 and 42.

2

St Neot's and Montacute paid 300 marks in 1409 and 1407 respectively (C.P.R., 1408-13, p.76, and *ibid.*, 1405-08, p.337). St Neot's had an income in 1535 of over £241 and Montacute of over £456 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, pp.76 and 98).

3

P.R.O., Ancient Petitions, S.C.8/143/7138; W. Dugdale, Monasticon Anglicanum, V, p.153, no.10; C.P.R., 1374-77, p.301. The grant was confirmed in 1380 (C.P.R., 1377-81, p.449).

4

The house was dependent on Bernay. In 1494 and 1526 there were a prior and nine monks, and in 1535 the net income was over £161. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.65.

case, for their petition was promoted by the queen, patron of the house. Eye had been brought to the edge of ruin, if its petition may be believed. It was said to be hardly able to raise more from the revenues than the £20 for its yearly farm. Yet a farm of this size was hardly extortionate, and should not by itself have caused the house acute distress. Other factors must have been at work. By seeking denization the priory was ridding itself of one drain on its income. The house was not without hope of relief. The royal patent granting the priory denizen status also pardoned all debts from the late reign for a fine of £60, since certain persons proposed to relieve and repair the house provided such a pardon was bestowed on it.¹

The crown maintained a strict control over the process of denization, which obliged each house to make a separate suit for royal letters patent. Despite their subordinate status the dependencies of alien priories did not automatically benefit from the charters granted to their mother-houses. That they were subject to a denizen house might be an aid in securing them a similar grant, but their own English character had to be demonstrated and the king's assent bought. The priory of Wangford, a dependency of Thetford, did not obtain denization until 1393, some seventeen years after the grant made to the

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P.R.O., Ancient Petitions, S.C.8/183/9143; P.R.O., Warrants for the Great Seal, C.81/1342/21; C.P.R., 1381-85, p.491.

mother-house.¹ The prior and convent then put forward a petition in which they asserted that the prior and all his monks were Englishmen born and raised within the realm. They sent nothing overseas, but were subject to the priory of Thetford, which was itself denizen. Their request to be discharged of all farms and other impositions like other Englishmen was granted for a fine of 100 marks.²

Denization provided a permanent solution to their difficulties for conventual houses, but only a small fraction of the total number of alien priories, cells, and granges freed themselves from exploitation in this way. As the war continued its protracted course, the inability of the French mother-houses to draw any profit from their dependencies led some abbeys to alienate their English property permanently or for terms of years. Sixteen examples of sales have been discovered during the reign of Richard II.³ Since the king's financial

1

Wangford was a small priory for three to four monks from circa 1350. In 1405 it was said to be for four to five monks. Its net income in 1535 was over £30 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.100). The priory had been committed to the custody of its prior, Roger de Shropham, in March 1376 at a farm of £10 per annum (C.F.R., 1369-77, p.345).

2

P.R.O., Ancient Petitions, S.C.8/146/7256. C.P.R., 1391-6, p.330.

3

C.H. New, History of the Alien Priories to the Confiscation of Henry V (University of Chicago, privately distributed, 1914), pp.80-81. There was a strong repugnance against allowing ecclesiastical possessions to pass into lay hands. Some sales to laymen were made, but most of the property ultimately returned to the Church. See M.M. Morgan, 'The Suppression of the Alien Priories', p.207.

interests were involved in the disposal of alien possessions, which remained under royal control, and negotiations had to be conducted with the enemy, prospective buyers and lessees could proceed only with the express assent of the crown. The king refused to relax his surveillance over such transactions. In 1407 and 1410, the commons requested that licences be readily available in Chancery to subjects who proposed to cross to the continent for negotiations with aliens about sales and leases. They asked that any agreement concluded should be confirmed by the crown for a reasonable fine. On both occasions the king declined to give his approval to the petition.¹

The constant recourse to the crown for sanction during the process of concluding an agreement may be seen in the sale to William de Wykeham² of the priory of Harmondsworth, which the king had committed to the custody of Prior Robert de Beauchamp in 1377 for 80 marks per annum.³ The first step was taken in June 1390, when the bishop obtained preliminary licences for his colleges at Oxford and Winchester to acquire alien

¹

R.P., III, pp.617 and 644.

²

William de Wykeham, bishop of Winchester, had his second term of office as chancellor from May 1389 to September 1391. He had previously been chancellor from 1367 to 1371. Handbook of British Chronology, pp.84-85.

³

C.F.R., 1377-83, p.24. The priory was apparently very small, with one or two monks at most supervising the farm and estate. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.85.

possessions to the value of 250 and 200 marks respectively, free of all farms, rents, pensions, annuities, or other payments due to the king.¹ Having secured a papal licence for the purpose,² he made a compact with the abbey of Sainte-Catherine-du-Mont at Rouen in November of the same year to purchase their English manors of Harmondsworth and Tingewick at a price of 8,400 franks.³ Further royal licences followed in February and March 1391, granting that the abbey might alienate this property to Wykeham's two colleges in perpetuity.⁴ In April the bishop received permission to send out of the country the sums of money necessary to complete the sale.⁵

Wykeham had to make one more approach to the crown before the transfer was effected. In May 1392, he sought royal approval for slightly amended arrangements. His petition asked that licences be issued without fine or fee for the abbey to grant him the two manors, and for him to receive these in perpetuity. He also requested that these letters should bear the same date as the patents granted to his two colleges in March 1391.

1

C.P.R., 1388-92, p.265.

2

T.F. Kirby, 'Charters of Harmondsworth, Isleworth, Heston, Twickenham, and Hampton-on-Thames', Archaeologia, 58, pt.2 (1903), pp.342-43.

3

T.F. Kirby, 'Charters of Harmondsworth', pp.343-44.

4

C.P.R., 1388-92, pp.417-18.

5

C.P.R., 1388-92, p.419.

Royal assent was secured, and he was granted licence to alienate his acquisitions to the warden and scholars of Winchester college.¹ In June the bishop appointed attornies. to take seisin of the property, and to see to payment of the purchase money.²

Without royal cooperation such a transfer of property could not be put into effect. The prior and convent of St Fromond in Normandy alienated their grange of Bonby in perpetuity to the London charterhouse in 13 Richard II (1389-90).³ No royal licence had been obtained, and the London house seems never to have got possession. The grange remained at farm to Walter Malet clerk for 12 marks per annum under a grant of 1378 renewed in 1382,⁴ until he was succeeded as farmer by Robert Hastynge in 1390.⁵ Eventually the London

¹

P.R.O., Council and Privy Seal Records, E.28/file 3.
C.P.R., 1388-92, p.434.

²

T.F. Kirby, 'Charters of Harmondsworth', p.344.

³

In 1403 it was described as consisting of the parish church of Bonby, formerly appropriated to St Fromond; the advowsons and patronage of the churches of Sts. Peter, John, Paul, and George in Stamford, the churches of Saxby and Graston in Lincoln diocese, and the vicarage of Bonby; 10s 0d rent in Saxby and 5½d in Bonby annually, and pensions of 13s 4d from the church of Saxby and 13s 4d from the church of St John, Stamford. Its value was then stated as not exceeding 18 marks per annum.
P.R.O., Ancient Petitions, S.C.8/229/11416.

⁴

C.F.R., 1377-83, pp.74 and 305.

⁵

C.F.R., 1383-91, pp.231-2. Hastynge's grant was renewed in 1399 (C.F.R., 1399-1405, p.13).

charterhouse seems to have given up any rights it had acquired over Bonby to the Carthusians of Beauvale, who recognised that they would obtain the grange only by an act of royal favour. They sued to Henry IV in 1403, and were able to secure a grant of Bonby quit of any farm, rent, or apport, notwithstanding Hastynges' farm of it from the king.¹ That they could obtain such a patent again indicates the arbitrary character of royal control over alien property and the insecurity of farmers' tenure of it. In 1404 the Carthusians strengthened their hold on the grange by obtaining from the mother-house a release of its rights, under condition of an annuity to St Fromond of 26s 8d should there be peace between England and France.²

As long as it continued to be accepted that alien property would be returned to its legal owners when peace was concluded, the French mother-houses could maintain a semblance of control over the disposal of their English possessions. Their assent was sought not only to contracts of sale and permanent alienation of their rights, but also to leases of their property for terms of years. The history of certain manors leased by the abbey of Cluny suggests that, provided royal approval could be obtained for the agreement, lessees enjoyed a

¹

P.R.O., Ancient Petitions, S.C.8/345/E.1317, 229/11416, 229/11417; P.R.O., Warrants for the Great Seal, C.81/1399/34; C.P.R., 1401-05, pp.217 and 270.

²

E.M. Thompson, The Carthusian Order in England (London, 1930), p.162.

security of tenure which was notably absent in the case of those occupying alien possessions at farm from the crown alone. At about the time that peace between England and France was concluded in 1360, the abbot and convent of Cluny leased to Sir Nicholas de Tamworth and his wife for their lives the manors of Letcombe Regis, Offord Cluny, Tixover, and Manton, at a yearly farm of 20 florins of gold of Florence.¹ Royal confirmation of the demise was obtained in the next year.² After the peace broke down in 1369, the manors were taken into the king's hand but farmed to Tamworth and his wife for the rent formerly rendered to Cluny.³ Similarly, on Tamworth's death his wife Joan got custody of the manors for the same farm in 1377, when she produced in the Exchequer the royal confirmation of the agreement of 1360.⁴ Although the lease terminated with her death, continuity of possession was maintained. Joan had re-married, and her surviving husband, Sir Gilbert Talbot, got custody of the manors for life in 1392 together with a licence to acquire them from the abbey of Cluny.⁵

¹ Charters and Records among the Archives of the Ancient Abbey of Cluni, from 1077 to 1534, ed. Sir G.F. Duckett (2 volumes, printed for subscribers only; Lewes, 1888), I, pp.126-34.

² C.P.R., 1361-64, p.3.

³ C.F.R., 1369-77, p.50.

⁴ C.F.R., 1377-83, pp.45-46.

⁵ C.P.R., 1391-96, p.48.

Talbot's protracted negotiations with Cluny resulted in a lease of the manors for life and one year after his death. During the war the annual rent of 20 florins was to be paid to the prior of Lewes, who was to hold it ad interim for the abbot of Cluny.¹ In January 1397 Talbot secured royal ratification of the farm granted to him in 1392, and a licence to acquire the manors from Cluny on the terms agreed.² He died early in 1399 still in possession of the manors.³ Encouraged perhaps by Henry IV's restoration of the custody of many alien priories to their priors in November 1399,⁴ the abbey of Cluny sought to resume possession of these lands. A petition presented to the king noted that since the death of Talbot the property had remained in the hands of the crown, to the prejudice and loss of the suppliants. They prayed letters patent for the release of the manors, and delivery to them of their other rents in England with arrears. The house asserted its readiness to render to the Exchequer during the wars what Talbot had previously paid for his farm.⁵ Their suit met with no

¹ Charters and Records, ed. Sir G.F. Duckett, I, pp.135-48.

² C.P.R., 1396-99, p.58.

³ P.R.O., Inquisitions Post Mortem, C.136/108/47.
C.C.R., 1399-1402, p.81.

⁴ See below and also T. Rymer, Foedera, Conventiones, Litterae (20 volumes, London, 1704-35), VIII, pp.101-2.
C.P.R., 1399-1401, pp.70-72.

⁵ P.R.O., Ancient Petitions, S.C.8/192/9574. Charters and Records, ed. Sir G.F. Duckett, I, pp.177-79 and 190-92.

success, custody of the manors being granted to Simon Felbrigg.¹ Although Cluny retained no effective control over the fate of the estates, it refused to make a permanent alienation of its legal rights. Negotiations for the sale of the manors to Sir William Porter, who secured their custody from Henry V,² failed because the abbot was unwilling to grant more than a lease. Ultimately his obstinacy meant that the manors were lost without any compensation.³

That Cluny had sufficient hopes of recovering its manors as to petition to Henry IV is a measure of the change in royal policy on his accession. The fortunes of the alien priories altered dramatically in 1399, indicating once again the importance of the personality of the monarch in the history of these houses. The farming of the priories to laymen had become a cause of grave concern in ecclesiastical circles. The subject of one of the clerical gravamina presented in the convocation of 1399 was the preservation of such houses from ruin and

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C.P.R., 1399-1401, pp.64, 338 and 525.

2

C.P.R., 1413-16, p.24, 161, 235 and 354.

3

Charters and Records, ed. Sir G.F. Duckett, I, pp.194-96, 219-21, 222-24, 225-33, 238-41, 244-45, 254-55 and 258-62; II, pp.1-5, 9-15, 25, 74 and 100. See also R. Graham, 'The English Province of the Order of Cluny in the Fifteenth Century', in English Ecclesiastical Studies (London, 1929), pp.62-87. The manors of Letcombe Regis and Offord Cluny were eventually given to Westminster Abbey (C.P.R., 1441-46, p.350).

the cessation of divine service. The clergy wanted English monks of the same order to be placed in the priories by the ordinaries at the presentation of the king or the patrons, 'ita quod solitus numerum religiosorum et secularium clericorum, qui in prioratibus illis altissimo famulari, ac alia onera eis incumbencia supportare valeant, inposterum habeatur'. The apport paid to the mother-house before the war was to be reserved to the crown.¹ The sentiments expressed in convocation may have influenced Henry towards his restoration of the custody of many priories to their priors immediately after his coronation. The king released the priors from the heavy annual payments to the Exchequer, but stipulated that the apports formerly sent across the Channel should be paid to the crown for the duration of the war. Fresh appointments were ordered to be made to vacant priories.²

Henry's action prompted certain French mother-houses to essay the reassertion of their rights over property in England. Whilst circumstances were momentarily favourable, the crown had to be approached for approval in each particular case and success depended on royal favour. Whereas the abbot of Fécamp secured the

1

Concilia, ed. D. Wilkins, III, p.244. See also the protest of the University of Oxford in 1414 against the consecrated buildings of the alien priories passing into the hands of lay farmers (Concilia, ed. D. Wilkins, III, p.361).

2

T. Rymer, Foedera, VIII, pp.101-2. C.P.R., 1399-1401, pp.70-72.

restoration of the cell to the nominee he sent over to England as prior of Cogges in April 1402,¹ the abbot and convent of Bernay apparently failed with their grange of Creeting St Mary and manor of Everdon.² Bernay presented to the king one of their monks, Geoffrey Renyer, whom they had chosen as vicar-general and prior of all their English possessions. They asked that Renyer might be allowed to hold these for life, with one companion from the abbey, rendering to the king the ancient apport or the farm paid by the existing farmers, John Straveton esquire and John Ewredon priest. In support of their suit the petitioners alleged that no masses had been celebrated at Creeting St Mary for a long time past.³

Since the farm of the priory was at a sufficiently low level to make its custody an attractive proposition,

1

D. Mathew, Norman Monasteries, p.121. C.P.R., 1401-05, p.87. Cogges had a prior and one or two monks at most, and its income in 1291 had been estimated at over £16. It was eventually granted to Eton College (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.84).

2

After 1327 one prior had supervised both Creeting St Mary and the manor of Everdon. Both were granted to Eton College after the suppression of the alien priories. The income of Creeting St Mary in 1409 was said to be £39 and Everdon was worth £15 per annum in 1535 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, pp. 84 and 85).

3

P.R.O., Council and Privy Seal Records, E.28/file 23. Renyer also presented a petition on his own behalf (P.R.O., Council and Privy Seal Records, E.28/file 23).

the royal farmers had secured custody only by some competitive bidding. They had obtained the farm in November 1399 at a yearly rent of £20, but the priory had been committed to a monk of Eye in May of the next year at £24 per annum. They had again been granted the custody in July 1400, by which time the farm had risen to £26 per annum.¹ Straveton and Ewredon seem to have retained their custody of the priory of Cretyng and Everdon for the rest of the reign. On the accession of Henry V they secured a renewal of the grant with two others, the farm being increased to £30 yearly.²

Weak as was Henry IV's financial position and his hold on the throne, he was soon driven to modify his policy under pressure from the commons, who put forward a petition in his second parliament for the seizure of the dative alien priories.³ In 1402 the commons returned to the subject, requesting the expulsion of French monks

¹ C.F.R., 1399-1405, pp.16, 61 and 68.

² C.F.R., 1413-22, p.46.

³ That is, in the parliament of 1401. The king replied that he wished to obtain the advice of his lords spiritual and temporal before taking action (R.P., III, p.457). The commons made a clear distinction between the dative priories, which they wished to have seized into the king's hand, and the conventual houses. Another petition in the same parliament asked that 'les Maisons qui ount plein Covent, et fount divines Servicez continuelment, et tiegnent Hospitalite, come la Maison de Montagu, et autres tieux sembleables', might yet enjoy the remission of their farm granted by the king in 1399, on condition that they paid to the king the ancient apport formerly sent overseas. This was granted (R.P., III, p.469).

and the seizure of the alien priories, 'en eide d'acquiter voz Dettes, et en relevement et supportation de voz ditz Communes'. They were careful to protect lay interests in the aliens' lands. Provisions were included in the petition which protected from dispossession subjects occupying alien property through agreements with the mother-houses licenced or confirmed by the crown, and secular persons who had received a royal grant. The king agreed to the seizure, but excepted conventual houses.¹

Though the change of policy had been short-lived, its effects were drastic in certain quarters. New Carthusian foundations had received in the later years of Richard II's reign grants of alien priories as part of their endowments. Their enjoyment of these was shown to be entirely dependent on the grace of the king, for Henry IV included within the scope of his restoration of alien property the priories which they had lately acquired from his predecessor. In July 1395, the earl

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R.P., III, p.499; C.C.R., 1402-5, p.25; Proceedings and Ordinances of the Privy Council of England, 10 Richard II. 1386-33 Henry VIII. 1542, ed. Sir N.H. Nicolas (7 vols., London, 1834-7), I, pp.190-99. Under an ordinance passed in 1404, no French monks were allowed to remain in England except the prior of Ogbourne, the proctor of the abbey of Fécamp, conventual priors, and all other priors 'q'ont institution et induction'. All other priors and monks born in France were to be expelled from the realm, and English monks or chaplains put in their places (R.P., III, p.529).

of Nottingham¹ had been granted licence to found the Carthusian priory of Axholme. At his request the charterhouse had received a royal grant of the alien priory of Monks Kirkby, of which he was patron, quit of any farm.² The grant was justified on the grounds that Monks Kirkby had been badly governed against the ordinance of its founders, the property of the house wasted, and divine service for the souls of the earl's ancestors withdrawn. When the priory had been in the hands of French monks, there had been only 'troys moignes viuantz dissolutement sanz obseruance de lour religion'; whereas the income from the alien house was to support at Axholme a prior and 12 monks, who would perform the neglected spiritual services of the alien priory.³ The

1

Thomas de Mowbray, earl of Nottingham, was one of the younger and less prominent of the five Appellants in 1388. Richard II showed particular anxiety to conciliate him, once the king became again his own master. He was continuously employed in the service of the state, entrusted with the most responsible commands, and loaded with exceptional favours. In 1397, he was one of the Appellants against his fellow-Appellants of 1388, Gloucester, Arundel, and Warwick. He was created duke of Norfolk in the same year. However, in 1398 he was banished from the realm along with the other surviving Appellant of 1388, the duke of Hereford, who had laid charges of treasonous words against him. Nottingham died in exile the next year. D.N.B., s.v. Mowbray, Thomas (I).

2

C.P.R., 1391-96, p.607. Monks Kirkby was dependent on St Nicholas, Angers, and was one of the wealthiest alien priories. Its income in 1291 was assessed at over £84, in 1387 at over £165, and in 1414 at over £220. The number of monks was not large, dwindling from seven to two and the prior. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.87.

3

P.R.O., Ancient Petitions, S.C.8/178/8871. C.P.L., IV, p.537.

pope had authorised the transfer.¹ Furthermore, in 1397 Nottingham had bought out the claims of Sir John Robessart, who in 1392 had secured a demise of the priory for 24 years from the abbot and convent of St Nicholas, Angers, and had obtained royal confirmation in 1396.²

From the beginning of Henry IV's reign Axholme found itself in difficulties. The charterhouse complained in his first parliament of their dispossession by Robert Fox and others, apparently in the turmoil of the king's accession. These laymen had forcibly entered the priory, taken its profits, and removed many goods and chattels.³ Shortly afterwards, on information supplied by Robessart, the king revoked completely the royal grants made by his predecessor. He resumed the priory into his hand and restored it to John Godimer, a monk of St Nicholas, Angers.⁴ Then, in 1401, the king obtained papal letters annulling the previous papal licence for the appropriation of Monks Kirkby to the Carthusians.⁵

¹ C.P.L., IV, p.537.

² C.P.R., 1391-96, p.722. C.C.R., 1399-1402, pp.506 and 509. See also E.M. Thompson, The Carthusian Order, p.224.

³ P.R.O., Ancient Petitions, S.C.8/116/5770.

⁴ C.P.R., 1399-1401, p.71. Robessart was well-rewarded for his aid in securing the return of the priory to Godimer. In 1403 the king confirmed a grant to him for life of the manor and lordship of Coppeston, rendering a rose yearly at Michaelmas, which the prior and convent of Monks Kirkby had made by charter in May 1400. C.P.R., 1401-05, p.315.

⁵ C.P.L., V, p.438.

Axholme did not acquiesce in its loss, but the priory's only means of securing redress lay in petitioning to a king who was plainly unsympathetic to their cause. The prior and convent sued to Henry IV for the examination of their title by the most learned persons of the realm.¹ In July 1401, they succeeded in securing a writ of Scire facias against Godimer, whose patent they sought to have revoked on the grounds that it contravened the royal confirmation of Robessart's lease of the priory and his subsequent grant of his rights to Axholme. The case came before Chancery. Godimer was immediately able to obtain royal aid, as holding the priory by royal patent during the war. When the prior of Axholme had overcome this obstacle by obtaining a writ for the plea to proceed,² his opponent then denied the validity of the lease made to Robessart and the royal confirmation, stating that he and his predecessors had always been perpetual and conventual priors. The abbot and convent of Angers, who had presented him, held only the patronage of the house and the right to an apport in time of peace. The priory had been seized into the king's hand during the war, and had remained so seized until the grant made to himself. A jury was assembled, whose verdict was that the prior of Axholme had obtained no legal rights over the alien priory by Robessart's grant. The justices found that the plaintiff was in mercy, and Godimer went sine die.³

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P.R.O., Ancient Petitions, S.C.8/128/6364.

2

C.C.R., 1399-1402, p.431.

3

P.R.O., Coram Rege Rolls, K.B.27/562/Warr.37.

The prior of Axholme instituted a further action against Godimer, on the basis of Richard II's grant of the alien priory to the Carthusians. His suit soon encountered difficulties. Late in 1402 the king seized the dative alien priories, including Monks Kirkby, into his hand. In March 1403, he committed the house to the custody of three farmers at a yearly farm of £100.¹ The plea, which had already been halted by Godimer's successful prayer for royal aid, was again delayed by the reluctance of the justices to proceed in these circumstances. The prior of Axholme had to petition the king for the grant of a writ de procedendo. This was eventually granted.² By October 1403, the plea had reached the point of judgment,³ but I have not been able to discover the eventual outcome of the suit.⁴ Axholme seems to have been unable to recover the priory whilst Henry IV lived. In July 1405, the king granted custody of Monks Kirkby to Sir John Robessart. The prior

¹ C.F.R., 1399-1405, p.204.

² P.R.O., Ancient Petitions, S.C.8/178/8871. C.C.R., 1402-05, pp.83-84.

³ C.C.R., 1402-05, pp.204-5.

⁴ The priory acted as though it were the rightful holder of Monks Kirkby. In 1405, it was on the complaint of the prior of Axholme that the king instituted a commission to inquire about all wastes, sales, and destructions committed by one John Marchall of Palyngton on the lands, houses, woods, and gardens in Walton on le Strete, parcel of the priory of Monks Kirkby, which had been demised to Marchall for life by the late prior after the house came into the hands of Richard II. C.P.R., 1405-08, p.60.

had fled from the house after becoming implicated in the rebellion of that year.¹ Robessart's claims were not extinguished until the revocation of his letters patent in 1413, when he failed to appear in Chancery to answer the prior of Axholme.² The Carthusians finally achieved the appropriation of Monks Kirkby by means of another royal grant in 1415.³

The Carthusians of Mountgrace suffered a similar dispossession in 1399, but failed to recover the alien priory in question, though they received compensation. In 1398, Thomas Holland, duke of Surrey,⁴ had obtained a licence to found the charterhouse and a grant to it of the alien priory of Ware. For a payment of £1,000 by the duke, the king had granted that the Carthusians should hold Ware during the war quit of the farm of £245

1

C.P.R., 1405-08, p.33. The grant notes that the prior of Monks Kirkby had fled from his house, from which the earl marshal, a leading figure in Scrope's Rebellion in 1405 (see E.F. Jacob, The Fifteenth Century, pp.59-61), had been captured.

2

C.P.R., 1413-16, p.108.

3

C.P.R., 1413-16, p.355.

4

Thomas Holland, earl of Kent and duke of Surrey, was the eldest son of Thomas, second earl of Kent. He was elected a knight of the Garter after his father's death in 1397, and in the same year had a prominent part in the downfall of the Appellants of 1388. He shared in the spoils from the confiscation of the estates of Gloucester, Arundel, and Warwick. In September 1397, he was created duke of Surrey. He was deprived of his dukedom after the deposition of Richard II, and joined a conspiracy against Henry IV in 1400 which led to his death. D.N.B., s.v. Holland, Thomas, Duke of Surrey and Earl of Kent.

per annum payable to the crown. Licence had been given for the abbey of St Evroul to make the transfer permanent by alienating Ware to Mountgrace.¹ At the start of Henry IV's reign the Carthusians petitioned for confirmation of their patent, and received a favourable answer.² Nonetheless, within two months of this ratification, on 22 November 1399, the king committed the keeping of Ware to its prior, William Herberd, at the old farm of £245 yearly, despite a petition of protest from the prior and convent of Mountgrace.³ The charterhouse argued in vain that Herberd's claim to farm the priory under letters patent of Richard II⁴ had been bought out for an annuity of 40 marks per annum paid to him by the suppliants, and that 'le dit Priorie de Ware ne fuist unques meison ne Priorie ne Conuentuel'.⁵ If the king chose to abrogate his predecessor's grant, there was clearly little that the unfortunate grantee house could do about it.

1 C.P.R., 1396-99, pp.280 and 348. Ware was dependent on St Evroul, and was one of the most important alien houses in England. It had probably maintained some 13 monks in the thirteenth century. Its income in 1297 had been assessed at over £200, but this must have been a considerable underestimate in view of the farm of £245 paid in the fourteenth century. See D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.91.

2 P.R.O., Council and Privy Seal Records, E.28/file 27.

3 C.F.R., 1399-1405, p.24.

4 Richard II had granted him custody of the priory in 1377 at a farm of £245 per annum (C.F.R., 1377-83, p.32).

5 P.R.O., Ancient Petitions, S.C.8/128/6368.

Mountgrace never recovered the priory of Ware, which passed eventually to the royal foundation at Shene.¹ The prior and convent quickly turned their attention towards obtaining compensation for their loss, and secured recognition of their claims from the crown. Their request for the grant of an annuity of £100 per annum from the Exchequer, until they received the equivalent in lands and rent, received the royal assent in 1401.² Henry V confirmed the annuity in 1413, and ordered its payment from the farm of the priory of Ware.³ In 1421 Mountgrace was finally compensated out of other alien property. The charterhouse received the alien priories of Long Bennington and Field Dalling, Hough, and Minting, quit of any farm, in return for the surrender of the annuity. Any deficiency from the sum of £100 per annum was to be made up by the Exchequer. If the Carthusians wished to strengthen their legal hold on the priories by an arrangement with the mother-houses, they were granted the necessary licence to acquire the property from the latter.⁴

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C.P.R., 1413-6, p.367; R.P., V, p.365; and C.Ch.R., V, pp.479-80.

2

P.R.O., Ancient Petitions, S.C.8/254/12682. C.P.R., 1399-1401, p.532.

3

C.P.R., 1413-16, p.151. C.C.R., 1413-19, p.49.

4

C.P.R., 1416-22, p.395. Long Bennington, Lincolnshire, appears to have been a grange with a monk-warden in charge, and belonged to Savigny. Field Dalling also appears to have been a grange, and was usually reckoned as parcel of Long Bennington. Hough, Lincolnshire, was a cell dependent on Notre-Dame-du-Voeu-Cherbourg for a prior and chaplain. The chaplain was withdrawn early in the

(footnote continued on p.466)

By that time the final blow had already fallen on the alien priories, whose extinction may have been decided by the desire of the new king, Henry V, to gain support for a large-scale renewal of the war with France. The commons in the parliament of 1414 sought that all the possessions of the alien priories should remain in the hands of the crown in perpetuity, with the exception of those belonging to conventual houses and to priors who were instituted and inducted. A clause was added protecting ecclesiastics and laymen in their possession of alien property acquired under royal licence, 'soit il purchacez ou a purchacerz, en perpetuite, ou a terme de vie, ou a terme d'ans, de les chiefs Maisons de par dela'. It was argued that the realm would be gravely impoverished by the resumption of payments of apports to continental houses, if the property of the alien priories had to be restored to their mother-houses on conclusion of final peace. Moreover, Englishmen had long been ousted from all their possessions in the realm of France. The king gave his assent to the bill, and it is generally regarded as marking the suppression of the alien priories, although the final disposal of their property was not completed until the last quarter of the century.¹

(footnote 4 continued from p.465)
fourteenth century. Minting, Lincolnshire, was an important cell of St Benoit-sur-Loire (Fleury) for a prior and about six monks. During the French war the number of monks was probably reduced to one or two. Its income in 1384 had been £41. See D. Knowles and R.N. Hadcock, Medieval Religious Houses, pp.87, 119, 120 and 161.

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R.P., IV, p.22. See M.M. Morgan, 'The Suppression of the Alien Priories', pp.209-11.

The strength and personality of successive monarchs largely determined the treatment accorded to the alien religious and their property, for the crown was under persistent pressure for more extreme measures from the commons in parliament, whose attitude reflected the anit-alien sentiments aroused by the war. Petitions, as the channel by which the alien religious and all persons involved in the affairs of the alien priories must approach the king, amply demonstrate the almost unrestricted control exercised by the crown over these houses and their possessions. They also reveal the arbitrary character of royal exploitation of alien property. Neither the alien priors themselves nor other farmers had any real security of tenure in the farms they secured from the crown after the 1377 ordinance. Though conventual and perpetual priors were conceded a degree of protection from sudden dispossession, other farmers had no redress beyond an appeal for the king's grace. As Henry IV's proceedings show, the recipients of alien property by royal grant were liable to have their patents revoked in the event of a change in royal policy. Whilst the Church considered as a body lost very little through the suppression of the alien priories, since only a small portion of its property eventually passed into lay hands as a result of their dissolution,¹ the ability of the crown to subject even so small a part of the ecclesiastical estate and its endowment to royal control and exploitation over a long period of time is a striking indication of royal power over the Church in the later middle ages.

¹ M.M. Morgan, 'The Suppression of the Alien Priors', pp.210-11.

Chapter VII

THE CHURCH AND THE PROBLEMS OF VIOLENCE AND ABUSE OF THE LEGAL SYSTEM

The numerous petitions from the clergy complaining of abuses practised on the legal system, and seeking redress for assaults made on ecclesiastical persons and property, reveal the existence of important problems in the life of the late medieval Church which necessitated constant recourse to the crown for aid. England in the fourteenth and fifteenth centuries was far from being a law-abiding country. Contemporaries deplored

Many lawys, and lytylle ryght;
Many actes of parlament,
And few kept wyth tru entente.¹

Those responsible for the maintenance of law and order were frequently faced with obstacles beyond their power to surmount. The judicial system was by no means always able to provide impartially administered justice. Unscrupulous exploitation of the legal processes was common, and officials at all levels were corrupt. Lordship and local influence were everywhere at work to prevent the normal machinery for justice following its due course.²

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Political Poems and Songs Relating to English History, ed T. Wright, (2 vols., Rolls Series, 1859-61), II, p.252.

2

See M. McKisack, The Fourteenth Century, pp.203-7; E.F. Jacob, The Fifteenth Century, pp.458-63; P.H. Winfield, The History of Conspiracy and Abuse of Legal Procedure; M. Hastings, The Court of Common Pleas in Fifteenth Century England (New York, 1947), ch.XV.

In this chapter I shall seek to examine with the aid of petitions the general contemporary problems of violence and abuse of the legal processes from the particular viewpoint of the clergy. Generalizations from individual petitions must necessarily be cautious, but the supplications for aid and redress presented by churchmen will provide illustrations of the major difficulties encountered by the Church as a whole, and also by particular sections of the clerical estate. Whilst it is commonly the case that evidence of the effectiveness of royal action taken in response to petitions is lacking, the cases considered will give at least an indication of how far ecclesiastics were able to secure remedy from the crown for the wrongs which formed the subject of their complaints. Moreover, the clergy's complaints may shed interesting light on the attitude of the laity towards, and their respect for, the Church and its ministers in a period which witnessed the public and literary attacks on the religious orders and the anti-clericalism of the second half of the fourteenth century, and the appearance of heresy in the lollard movement.¹

Although the judicial importance of the local courts of hundred and wapentake² had waned by the fifteenth

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See M. McKisack, The Fourteenth Century, pp.289-91; D. Knowles, The Religious Orders in England, II, ch.VII; K.B. McFarlane, John Wycliffe and the Beginnings of English Nonconformity (London, 1952).

2

Every county of England was divided into districts, generally known as hundreds, but in Lincolnshire, Yorkshire, Nottinghamshire, Derbyshire, and Leicestershire as
(footnote continued on p.470)

century, their capacity for exploitation as instruments of harassment and extortion remained sufficient to cause a group of northern religious houses to make a series of suits in parliament on the subject of certain wapentake courts of the area. The episode seems to reveal a certain degree of anti-religious sentiment, for the monks clearly felt that they were subjected there to much harsher treatment than the laymen impleaded in the courts. The abbot and convent of Furness¹ put forward a plaint in the parliament of 1411, stating that the abbey had possessions in the wapentakes of Staynclif and Frendles in Yorkshire which were 40 leagues from the house. Between the abbey and wapentakes were 'deux periloues braces du Mere contenantz en laeure XII leukes, par queux chescun an pleuseurs gentz sont periez et noiez'. Knowing that the abbot could not come to the wapentake courts without peril to himself,

(footnote 2 continued from p.469)

wapentakes, and elsewhere as wards. These formed an indispensable part of the system of local government. The ordinary court of these districts was held every three weeks, and the sheriff came thither at Michaelmas and Easter to hold his tourn. The judicial importance of the hundred and wapentake courts had waned, but they still continued to deal with many criminal and civil pleas of a lesser nature. H.M. Cam, The Hundred and the Hundred Rolls (London, 1930), passim and particularly pp.167-87.

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The Cistercian abbey of Furness in Lancashire was one of the largest houses of the order. There were 23 monks in 1381, 33 in 1534, and 39 in 1537. The net income of the house in 1535 was over £805. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.109.

many persons hostile to the abbey had brought feigned suits against him there for trespass, debt and contract. When he did not appear, the officers of the wapentakes amerced him heavily, increased the fines excessively from day to day, and wrongly levied them from the tenants of the house.

The abbot sought to free himself from the obligation of personal attendance at the courts. He requested a grant allowing himself and his successors to appoint general attornies therein, who would deal with all pleas concerning the abbot. It would seem that the religious had been singled out for particularly harsh treatment by the officers of the courts, for the petitioner also asked that neither he nor his successors should henceforth be amerced there for nonsuit or default otherwise than secular persons were. The king assented to both the abbot's requests, and issued the appropriate mandates.¹

Furness was but one of a number of northern houses which found reason to complain of extortion in the courts of Staynclif and Frendles. In 1416 the commons promoted

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R.P., III, p.657. The abbot secured letters patent of exemplification of the petition and royal reply in the following year (C.P.R., 1408-13, p.362). See also The Coucher Book of Furness Abbey, I, ed. J.C. Atkinson, (Chetham Society, 9, 1886), p.226; and ibid., II, ed. J. Brownbill, (Chetham Society, 76, 1916), pp.472-3, 474, and 483. The grant still remained in force at the end of the century. In 1494 Henry VII sent a mandate to all sheriffs and others to permit the abbot of Furness to substitute attornies in the courts of Staynclif and Frendles wapentakes in accordance with its terms (C.P.R., 1485-94, p.465).

a petition on behalf of religious houses in Yorkshire and Lancashire, which alleged that the officers of the courts and the farmers of their revenues incited and abetted the bringing of pleas of debt and trespass against abbots and priors.¹ When the religious appeared and sought leave to appoint attornies in the pleas, the seneschals and bailiffs would not receive such attornies. Heavy amercements were laid on the prelates for each plaint. A statute was requested to the effect that the religious might appoint general attornies for all pleas in those courts, whom the officers would be obliged to receive on pain of £10, and were not in future to be amerced differently from secular persons for nonsuit or default. The penalty of £10 for each refusal to receive such attornies was to be divided equally between

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The commons had similarly complained in 1376 that bailiffs holding wapentakes and hundreds at farm caused certain persons to raise plaints and maintain pleas before them, 'qui ne sont en volonte de faire la pleynte ne lever, sinoun par procurement de ditz Baillifs'. This was sometimes done without the knowledge of those in whose names the plaints were made, in order to extort money and fines. The commons added that the bailiffs usurped the jurisdiction of the royal courts by holding pleas concerning large sums of money, but received the reply that the statutes made in the past were to be maintained (R.P., II, p.357). H.M. Cam has noted that the bailiffs of hundreds and wapentakes normally paid a farm for the office to the sheriff or to the lord. They were expected to make their fair profit on the sum paid out of the work they did, whether by perquisites or customary fees. This situation inevitably led to complaints of extortion by the bailiffs. H.M. Cam, The Hundred and the Hundred Rolls, pp.142-53.

the king and the injured party, and the latter was to have an action by writ of debt at common law for its recovery. The king agreed to these proposals in principle, but specified that the whole fine was to go to the crown and restricted the duration of his grant to one year and until the first parliament thereafter.¹

The statute was not renewed,² and after its lapse a period of 15 years went by before the growing difficulties of the religious in the courts of Staynclif and Frendles provoked a further petition in 1431. In addition to their first grievance another form of oppression was now being practised on them. The seneschals and bailiffs would not receive any plea from the abbots and priors except wager of law in order that the religious would have to appear before them in person and incur consequent inconvenience.³ Legislation was again requested to enable

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R.P., IV, pp.76-7; Statutes 3 Henry V, statute 2, c.ii.

2

In 1417 the commons requested an ordinance allowing all subjects, both religious and seculars, to appoint attornies to act for them in the courts of all wapentakes and hundreds and in courts baron. If the seneschals of these courts refused to receive such attornies, they were to incur a penalty of 40s 0d for each refusal to be paid to the crown. It was proposed that the enactment remain in force only until the next parliament. This was granted, but the statute was not renewed after it lapsed in 1419. R.P., IV, p.115; Statutes 5 Henry V.

3

The party who had waged his law had to find a number of people, twelve or some other number fixed by the court according to circumstances, and then take a solemn oath. His companions or 'compurgators' then swore that the oath he had taken was clean. They did not swear to the facts of the case, but merely to their judgment that the party was a credible person. T.F.T. Plucknett, A Concise History of the Common Law, pp.112-3.

prelates with property in Craven to appoint general attornies in the courts of Staynclif and Frendles. They and their attornies were to be allowed to put forward any pleas allowed by the law like other persons, and penalties were laid down for disobedience by the officers of the courts. Rather than grant the petition in full, the government of Henry VI's minority preferred to order enforcement of the 1416 statute during royal pleasure.¹

The crown proved reluctant to sanction further changes in the manner of conducting the wapentake courts, and rejected a petition sponsored by the commons in 1432. The bill asserted that the seneschals of the courts still often refused to receive the attornies of the monks. Even if they received them, they forced them to wage their law and would accept no other plea, in order that the abbots, priors, and other religious would be compelled to appear before the seneschals in person to make their law. When the monks came for this purpose, the plaintiffs consented at the instigation of the seneschals to be nonsuited, but brought another plaint on the same matter after the religious had departed. These proceedings were repeated time and again until the monks made fine with the seneschals. The petition sought full execution of the statute of 1416, and proposed that pleas made by the religious and their attornies might be tried by inquest, if they so wished, as they

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R.P., IV, pp.381-2; Statutes 9 Henry VI, c.x. Born 6 December 1421, Henry VI was not declared of age until 12 November 1437 (Handbook of British Chronology, p.37).

would be before the justices of Common Pleas. Plaintiffs twice nonsuited on the one plaint after the religious had appeared to wage their law were to be barred from a further suit in those courts, though they retained the right to sue in King's Bench or Common Pleas. The royal reply was a complete rejection of the bill.¹

This rebuff may have terminated the renewal of the statute of 1416 granted in 1431. The northern religious promoted another petition in 1437, which sought a fresh grant of the provisions enacted in 1416, and once more asked that they and their attornies be allowed to put forward in the wapentake courts all pleas allowed in law, and not merely wager of law. The statute was no longer to apply to one area or section of the population. The petitioners asked that all the religious and any secular persons might appoint general attornies in each hundred and wapentake. Breaches of the ordinance by the officers of these courts were to be punished by a fine of £10, half of which was to go to the king and half to the person who sued an action for its recovery by writ of debt founded on the statute. The bill received royal approval during the king's pleasure.²

Although for most of the religious houses involved in these petitions the statute of 1437 probably removed the basic causes of their difficulties, for they did not again petition as a group, at least one northern abbey continued to find its treatment in the wapentake courts

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R.P., IV, pp.407-8.

2

R.P., IV, pp.507-8; Statutes 15 Henry VI, c.vii.

a source of grievance. The abbot and convent of Fountains¹ complained in the parliament of 1455 against the large number of malicious suits brought against the abbey in some 20 wapentake courts and courts baron in Yorkshire, Cumberland, and the county of the city of York, where most of their possessions lay. Such complaints were instigated by the officers and farmers of the courts for their own profit, and by persons ill-disposed towards the house. When the abbot's attorney waged his law there, the officers of the courts in conspiracy with the plaintiffs fixed the one day for the abbot to make his law at several widely separated courts and wapentakes, so that he could not appear in person as required by the law. Consequently he had been often condemned in such pleas and heavily amerced, 'where never cause of action was had, nethir by lawe ne by conscience'. If he had come to the court to make his law, the abbot had been put in such fear of bodily harm by his opponents that he dared not appear. At other times the plaintiffs were nonsuited, but immediately brought large numbers of new complaints against him in court after court, until he agreed to make fine with them and the court officers.

As the legal requirement that the abbot appear in person to make his law was the source of their difficulties,

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The Cistercian abbey of Fountains in Yorkshire was the wealthiest of the English houses of the order. Its net income in 1535 was over £1,115. There were 33-4 monks and ten lay-brothers here in 1380-1, and the abbot and 31 priest monks surrendered the abbey in 1539. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.108.

the petitioners requested the grant of a royal privilege which would free the abbot from this burden. After his attorney had waged his law in the courts, the abbot was to be allowed to make his law through the agency of a monk of the house and six other persons, or of a person assigned by the abbot under the common seal of the abbey and six others. The officers of the courts were to accept this arrangement under penalty of £20, and it was to be as effectual in law as if the abbot had made his law in person. A writ of debt was to be made available for recovery of the fine of £20 in cases of disobedience to the ordinance, half of which was to go to the party suing the action and half to the king. Royal assent was secured for the petition.¹

The efforts of the northern religious houses to secure remedial enactments in parliament to deal with their troubles in the local courts had met with notable success. Not only had individual houses been able to obtain privileges for themselves, but also joint-action had been successful in securing general legislation. An attempt by all the clergy to curb abuse of the criminal procedure of the common law was not so favourably received. The fabrication of groundless indictments against ecclesiastics had become a grievance of the whole Church.² Clerks who committed felonies

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R.P., V, pp.325-6; Statutes 33 Henry VI, c.vi. See also Memorials of the Abbey of St Mary of Fountains, ed. J.R. Walbran, II (Surtees Society, 67, 1878), pp.49-59.

2

The problem was shared by the laity. The commons put forward petitions on the subject of false and malicious appeals and indictments in county Lancaster and elsewhere
(footnote continued on p.478)

could be tried and punished only in the ecclesiastical courts, though the king's court, before delivering up a clerk claimed by the ecclesiastical authorities, took an inquest as to his guilt.¹ However, the privilege of Benefit of Clergy did not protect churchmen from harassment by their enemies through malicious indictments.

The archbishop of Canterbury gave as one reason for summoning convocation in 1439 the fact that ecclesiastics, both seculars and regulars, were troubled more than ever before by false indictments and other such practices.² A petition was prepared for presentation to the king in parliament, which asserted that indictments

oftyn tyme be procured to extorcion of sherefes and other officers, to lucre of mayntenours of querels and to inriching of jurours, whiche in thees daies in many contrees be withholdyn of fee and clothing as men lernid in lawe.³

(footnote 2 continued from p.477)
in 1419, 1420, 1421, and 1439 (R.P., IV, pp.120, 127, and 147, and *ibid.*, V, p.28. Statutes 7 Henry V; 9 Henry V, statute 1, c.i; and 18 Henry VI, c.xii). The Assize of Clarendon (1166) had set up machinery for discovering alleged criminals by means of the jury of inquest - the grand jury of modern times. These indictments were at first taken before royal justices and sheriffs, but under Edward II the justices of the peace were also given powers of taking indictments. Anyone who care to could procure an indictment and carry on the necessary proceedings, though the grand jury could ignore a bill as it saw fit. See T.F.T. Plucknett, A Concise History of the Common Law, pp.404-5.

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See Sir F. Pollock and F.W. Maitland, The History of English Law, I, pp.441-457; and Sir W. Holdsworth, A History of English Law, 5th edition (London, 1942), III, pp.294-302.

2

The Register of Henry Chichele, ed. E.F. Jacob, III, p.282.

3

The Register of Henry Chichele, ed. E.F. Jacob, III, p.284.

Many poor men were compelled to make annual payments to maintainers and jurors in order to avoid such indictments, whilst other persons left their lawful employment and intended to live by bearing false witness on inquests and participation in conspiracies. The clergy proposed a fundamental change in the law. Henceforth in all cases of trespass, robbery and felonies, when an action might properly be commenced against an offender by writ or plaint at the suit of the injured party, indictments were to have no force in law except in certain specified cases.¹ No such measure appears to have been adopted in parliament.²

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The exceptions were 'where only the kyng and no othir may be partie agayn suche trespassours in matirs of trespas, rape, robbry, and other felonyes and except murdurs and manslaughtirs wher' the partie grevid ys not abiding in nature to sue his accion', and except robbirs and famous thefes that be fugitive, and also of thefes unknowyn to the partie robbid, where the robbry is evidently famed in knowing'. The Register of Henry Chichele, ed. E.F. Jacob, III, p.285.

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However, the commons in the parliament of 1439 asked for and obtained renewal of a statute of 1421. This had declared null and void appeals and indictments, and process on them, which maliciously alleged treasons and felonies to have been committed in certain places in the county, when no such places existed there. Persons responsible for such indictments and appeals were to be punished by imprisonment, fine and ransom at the discretion of the justices; and the injured parties were to have writs of conspiracy against the offenders and recover their damages. R.P., V, p.28; Statutes 18 Henry VI, c.xii.

On the other hand, a petition presented by the abbot of Vale Royal in the parliament of 1442 serves to show that an individual suppliant might secure redress for his difficulties in particular courts.¹ The abbey was seised of the church of Llanpadernvaure and other property in Carmarthenshire and Cardiganshire, where the king's justice or his lieutenant held a yearly Great Sessions and monthly Petty Sessions. All kinds of appeals and indictments were received in the Petty Sessions as well as in the Great Sessions, and process was instituted by distress or capias from one Petty Sessions to the next, until the party appealed or indicted was outlawed.² The abbot complained that certain Welshmen, who had not received from himself and his predecessors the rewards they desired, had indicted him and former abbots at the Sessions for felonies of which they were not guilty, with the intention of

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The Cistercian abbey of Vale Royal was situated in Cheshire. It contained 18 monks in 1381 and 19 in 1508-9. The net income of the house in 1535 was over £518. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.117.

2

See W. Rees, South Wales and the March, 1284-1415: A Social and Agrarian Study (Oxford, 1924), pp.83-92 and particularly p.91. Under common law procedure the person appealed or indicted, who did not appear to answer, must be exacted, i.e. asked for or demanded, in four successive county courts. If he still did not come, he was declared an outlaw in the fifth such court. Generally one writ of capias issued and then the process of exacting began. Sir W. Holdsworth, A History of English law, 5th edition (London, 1942), III, pp.604-7. Sir F. Pollock and F.W. Maitland, The History of English Law, II, pp.580-2.

compelling payment of the coveted fees and rewards. As the monastery was some 120 miles outside the shires in question, writs of exigent had been awarded against the abbots before they knew of the indictments or the proceedings on them. In addition it was dangerous for the abbot to attend the Petty Sessions to answer an indictment. He could not pass through the royal lordships in his path without safe conduct, and even so he and his retinue were assaulted. He asserted that he dare not go to that part of the country except during the Great Sessions.

The abbot proposed a modification of the judicial process in cases concerning him, whereby he might be freed from the need to attend the Petty Sessions and safeguarded from outlawry proceedings without sufficient warning. In future when process was awarded against him and his successors by attachment or distraint on all appeals, indictments and presentments of felonies or treasons in the Petty Sessions, a writ of capias would be granted returnable at the next Great Sessions and nowhere else. At that Great Sessions open proclamation would be made of the appeal, indictment or presentment. The abbot and his successors would appear to answer at the next Great Sessions; and if they did not, lawful process according to the common law might be awarded against them. When an appeal, indictment or presentment was made against the abbot in the Great Sessions, proclamation of it was to be made in that Sessions and a capias awarded returnable at the next Great Sessions. If he did not then appear, process according to the common law would be awarded against him.

The crown was ready to grant the abbot relief from genuine hardship, but a similar petition presented in the preceding parliament had evidently failed to convince the king of the need to allow him so privileged a position in the courts. Instead of giving his assent, the king had commanded only that before the abbot of Vale Royal was outlawed, proclamation was to be made in one or both of the shires, as required by the case, at three of the last full county courts held prior to the pronouncement of outlawry. The abbot described this solution as worse than the common law.¹ On his second attempt he was more successful, and secured royal assent to his bill.²

One form of relief was available to all victims of malicious indictments. They might petition to the crown for charters of pardon of the alleged offences. One John Horewell chaplain sued to the king in 1398, stating that 'par malice et abettement de ses enemys' he had been indicted for ravishing Agnes, wife of Walter Beek, and harbouring her for the following eight days against the will of Walter four years previously. His request for letters of pardon received royal assent.³ Similarly, in 1444, one John Nayleston priest complained to the king that 'by the grete labour and procuryng of

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As noted above, the common law provided for the exaction of the accused in four successive county courts, and outlawry in the fifth.

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R.P., V, p.43.

3

P.R.O., Ancient Petitions, S.C.8/252/12568. C.P.R., 1396-9, p.422.

his mortell enemys' he stood indicted before the justices of the peace in Yorkshire for ravishing Katherine Curson. He pleaded his innocence of the charge. The efforts of his enemies had delayed his deliverance, and he sought the grant of a royal pardon. The crown seems to have been ready enough to grant such pardons, though for a fee, and his bill received royal assent.¹

Malicious indictments seem to have constituted a particularly serious problem for the Universities. The chancellor and scholars of Cambridge had to sue as a body in 1388 for the grant of pardons to many members of the University, as a result of the activities of the townsmen in their perennial struggle against the privileged institution in their midst. The University, which had only recently suffered attacks by the townsmen during the revolt of 1381,² complained to the king in parliament that many scholars and their servants had been maliciously indicted of various offences before the justices of Cambridge. They had fled the town and dared not return. The suppliants sought pardons for all indicted persons without payment of any fees.³ By royal grant the University had cognizance of all personal pleas and trespasses against the peace involving the master, scholars, and their servants, and the ministers

¹ P.R.O., Council and Privy Seal Records, E.28/file 73.

² See R.P., III, pp.106-9.

³ P.R.O., Ancient Petitions, S.C.8/183/9101. R.P., III, p.260.

of the University; but mayhem and felony were excepted from the privilege. The mayor and commonalty had taken advantage of the exception to have 23 scholars indicted.

Although these indictments were quashed, the townsmen continued to make others. In June and October 1389 royal mandates were issued to the guardians of the peace and justices of Oyer and terminer in Cambridgeshire, ordering them to send into Chancery all indictments in their hands against the chancellor and scholars of Cambridge University. Any indictments made after the date of the writ were also to be sent thither until the next parliament, and all process on them was to be stayed until further order from the king and council.¹ The stage had thus been set for trial of the matter in parliament.

The University put forward a petition in the first parliament of 1390, alleging that the chancellor and proctors had been indicted of trespass and felony for performing their offices, and that many scholars had been likewise indicted. They would have been taken and imprisoned, if the chancellor had not left the town in secret. The ministers of the University were daily indicted of felony for small offences, '*et ascun foitz pur trespas feyne par la ou null fuist fait, mes pur execution faite appertenant a lour Office*'. In consequence the chancellor and scholars could not attend to their learning, but must leave the University unless redress was provided. The crown responded to their

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C.C.R., 1385-9, p.680. C.C.R., 1389-92, p.75.

plaint by summoning the mayor and bailiffs of Cambridge to appear in parliament before the king and council, with sufficient power under the common seal of the town to answer for themselves and the commonalty.¹ When they appeared, they were held not to have brought sufficient warrant for the commonalty and adjudged in contempt.²

However, no final judgment was reached in this parliament, and the University was unable to obtain more than a respite from proceedings on indictments by the townsmen. The chancellor and scholars received a grant that until the next parliament neither they nor their servants should be impeached, taken, attached or molested by virtue of any indictment made by the men of Cambridge before a royal justice or officer. The latter were ordered to supersede process on such indictments in the interim.³ A further petition by the chancellor and scholars in the second parliament of 1390 obtained only a renewal of this supersession until the next parliament.⁴ Similarly, notwithstanding a protest in the parliament of 1391 at the trouble and expense of suing in parliament after parliament, and the ill-

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P.R.O., Ancient Petitions, S.C.8/102/5075.

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R.P., III, p.260.

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P.R.O., Ancient Petitions, S.C.8/21/1024. C.P.R., 1388-92, p.225.

4

P.R.O., Ancient Petitions, S.C.8/101/5048. C.P.R., 1388-92, p.330.

effects on the good government of the University to which their absence led, the suppliants succeeded in securing no more than another Supersedeas to the following parliament.¹

The whole matter seems to have been shelved at this point until 1414, when the University reopened the question of indictments made against its members. The chancellor and scholars complained of the loss and hurt suffered by scholars through convictions for felonies procured against them despite their innocence. The request was put forward that commissions of the peace be addressed to the chancellor of the University and suitable persons both within the town of Cambridge and outside its walls, appointing them to perform all the functions pertaining to the office of justice of the peace within the town and suburbs. Whenever scholars were indicted before these justices for felony or mayhem, the presentment was to be made by sufficient persons, of whom half would be burgesses and half men from the county outside the town. The scholars and their servants were not to be compelled to answer indictments made in any other form. Though the king expressed his desire that a remedy should be provided, no grant to the University along these lines appears to have been made.²

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P.R.O., Ancient Petitions, S.C.8/103/5105. C.P.R., 1388-92, p.512.

2

R.P., IV, p.30. However, the vice-chancellor and other members of the University were invariably on the commissions of the peace appointed in the borough of Cambridge (see V.C.H., Cambridge, III, p.55). For details of the
(footnote continued on p.487)

In contrast royal favour had secured for Oxford University eight years previously the grant of an exceptional, and controversial, privilege designed to free it from difficulties of a similar nature. Despite the vehement protests of other interested parties, the University had been able to retain this privilege intact. As long ago as 1320 the University had complained to the crown that the bailiffs and burgesses of Oxford often caused the masters and scholars to be indicted maliciously. The royal reply had then been that injured parties should sue in Chancery, as sufficient redress had been ordained.¹ However, in 1406, the University received letters patent to the effect that if a person under its privileges was indicted or appealed touching treason, felony, or mayhem done in Oxford, Oxfordshire or Berkshire, and was afterwards arrested within the precincts of the University, the chancellor might claim custody and cause him to be delivered to his steward on pain of £200 to be paid to the king. Such appeals or indictments were to be sent to the steward on demand, so that the person arrested or imprisoned should stand to judgment before the steward and no other judge. If the accused placed himself on a verdict of the country, half the jury was to be drawn from persons under the

(footnote 2 continued from p.486)

history of the University in the fourteenth and fifteenth centuries, see J.B. Mullinger, The University of Cambridge from the Earliest Times to the Royal Injunctions of 1535 (Cambridge, 1873), chs.II-III; V.C.H., Cambridge, III, pp.2-15 and 150-166; and H. Rashdall, The Universities of Europe in the Middle Ages, rev.ed. by F.M. Powicke and A.B. Emden (3 vols., Oxford, 1936), III, pp.274-324.

¹

R.P., I, p.373.

privileges of the University, and half from the neighbourhood where the crime was supposed to have taken place. If the accused claimed benefit of clergy, he was to be turned over to the ordinary.¹

The bad relations between the Universities and the men of Oxford and Cambridge was but one aspect of the larger problem of recurrent strife between townsmen and the privileged ecclesiastical corporations situated within the walls of the boroughs.² Such discord gave rise elsewhere to judicial problems of a different nature. Churchmen whose rights had been infringed by townsmen sometimes found that borough franchises constituted a serious obstacle to their securing

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C.Ch.R., V, pp.430-1. A petition put forward in the parliament of 1407 on behalf of the knights, esquires, and gentry of Oxfordshire and Berkshire, and the mayor and burgesses of Oxford, protested against the grant and requested its revocation. The king agreed to a reconsideration of the privilege. He committed the matter to the council for examination, and suspended the charter so far as it affected franchises granted to others in the past. When the same petition was again presented in 1410, the king directed that the chancellor of Oxford be summoned before the council, which was given power to deal with the case. However, a third request for revocation of the University's patent in 1411 met with outright refusal (R.P., III, pp.613-14, 638, and 660-1). For a discussion of the relations of University and town in the middle ages, see H. Rashdall, The Universities of Europe in the Middle Ages, rev.ed., III, pp.79-113; and V.C.H., Oxford, III, pp.1-39.

2

For a discussion of the struggles between the medieval municipalities and the religious corporations within the town walls, see J.R. Green, Town Life in the Fifteenth Century, I, ch.XI.

justice, which they could overcome only by seeking the intervention of the crown. The abbey of St Augustine, Bristol, thus found it necessary to sue to the king for the grant of a special commission to deal with the activities of the men of that city, which had been erected into a county of itself in 1373.¹

The abbot and convent² complained in 1399 that the mayor and certain of the commons of Bristol had riotously broken his mills at Trenelemill, placed planks across the watercourse, and put forward a spurious claim to a common passage there. Under cover of their franchise they had taken and imprisoned servants and tenants of the abbot living in the mills and nearby, on the pretext that they were by covin excluding the mayor and commonalty from their right of way. They had

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C.Ch.R., V, p.228; Bristol Charters 1155-1373, ed. N. Dermott Harding, (Bristol Record Society Publications, I, 1930), pp.119-41. Among other privileges conveyed by this charter the mayor and sheriffs of Bristol were granted the full powers comprised under the office of justice of the peace. They were given power to arrest felons for delivery by the king's justices, of whom the mayor was to be one in the court of the town. No burgess or other person was to implead or be impleaded before any judge outside Bristol concerning his tenures in the town or actions done there; nor were they to be convicted in pleas of contract, debt, or transgression by foreigners, but only by burgesses of Bristol.

2

The abbey of St Augustine was an Augustinian house, with a net income in 1535 of over £670. Before the Black Death there were probably at least 25 canons, but in 1353 the number was down to 18, and to 17 in 1491, rising to 24 in 1498. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.130.

threatened, seized, and imprisoned certain canons of the abbey and their servants without reasonable cause. The suppliants asserted that they could have no redress, unless they received royal aid. The abbey requested a special commission to inquire into the matter and do justice, notwithstanding the franchises of Bristol.¹ The king granted their petition and appointed a commission to inquire and certify the extent and nature of the trespasses and damages.²

The willingness of the crown to respond to complaints of the abuse of borough franchises with remedial action is demonstrated at Lincoln, where denial of justice in the city court to the clergy of the cathedral close caused the bishop and the dean and chapter to petition in the parliament of 1390 for the virtual abrogation of the franchise of Lincoln in all cases concerning them there.³ The activities which provoked this plaint formed part of a general assault on the privileges of the cathedral close by the city authorities at that time.⁴

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P.R.O., Ancient Petitions, S.C.8/250/12456.

2

P.R.O., Warrants for the Great Seal, C.81/582/12948.
C.P.R., 1396-9, p.585.

3

The bishop of Lincoln at this time was John Buckingham. He had been a prominent royal servant under Edward III and keeper of the privy seal from 1360 to 1363. He had received papal provision to Lincoln in 1362 at the request of the king. He retired from his bishopric to the monastery of Christ Church, Canterbury, rather than accept translation to Lichfield in 1397, and died there in the following year. Dictionary of National Biography, s.v. Bokyngham or Buckingham, John.

4

See Sir Francis Hill, Medieval Lincoln (Cambridge, 1965), pp.259-68.

The suppliants asserted that they and certain prebendaries of the chapter all had various lands, tenements, rents and possessions in Lincoln. Lately they had been disseised of many of these and great nuisance caused to certain of their tenements by the men of the city, whilst arrears of rent amounted to some £100. Because of the franchise of Lincoln pleas concerning these matters could be tried only within the city by an inquest of the citizens,¹ who had agreed that each would give his verdict for the other. Thus the bishop and the dean and chapter could obtain no redress. Moreover, when the dean and chapter attempted to levy rents by distraint, the citizens sued their servants for trespass and secured favourable verdicts 'par meyntenance de alliance, assurance, et tutions de lour Franchise sus ditz'.

The churchmen sought a permanent solution to their difficulties. Henceforth when the bishop and the dean and chapter, the prebendaries, their servants, and the ministers of the cathedral church were parties in any plea or assize begun within Lincoln by the men of the city by writ, indictment of felony, presentment of trespass or otherwise, they proposed that the inquest or jury should be composed of persons from outside the city. An ordinance was requested that any such plea, assize, indictment or presentment could be removed into the king's court for the array of the inquest. In effect the

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In 1330 the king had granted to the mayor, bailiffs and citizens that all pleas of lands and tenements, whether pleas of assizes or other pleas, should be pleaded and determined in the Burghmanmote in the Guildhall of the city before the mayor and bailiffs (C.Ch.R., IV, p.160).

jurisdictional privileges of Lincoln would have been revoked in cases involving the bishop and cathedral.

Although the king was not disposed to deal so damaging a blow to the city's privileges, he was ready to provide a reasonable means of securing redress for their abuse. A statute was enacted that if a party complained of a false verdict returned by an assize, jury or inquest taken before the mayor and bailiffs of the city, an action of attaintr would be granted and the record of the plea sent by writ into King's Bench or Common Pleas. The sheriff would then array a jury composed of 'foreins du Counte' without sending to the franchise of the city.¹

The statute apparently provided an effective remedy for default of justice in Lincoln, as the bishop and the dean and chapter petitioned in the parliament of 1415 for its renewal after the status of the city was changed. Lincoln had been erected into a county in 1409, and the name of the bailiffs altered to that of sheriffs.² This had caused doubt as to whether the statute of 1390 still remained in force. The king granted their request that the same process on complaints of false verdicts should apply to the county and sheriffs as had formerly applied to the bailiffs and city, 'non obstant que la Citee de Nicholl

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R.P., III, pp.259-60; Statutes 13 Richard II, statute 1, c.xviii.

2

C.Ch.R., V, p.442. The bishop of Lincoln was now Philip Repingdon, provided to the bishopric in 1404. He resigned in 1419 (Handbook of British Chronology, p.236).

est fait et incorporat Countee par luy mesmes, et
severee de le Countee de Nicholl'.¹

The problem of securing justice in the courts of the cities and boroughs was shared by all the clergy with property within their walls. A petition was presented to the king and council in 7 Richard II (1383-4) on behalf of the many abbots, priors, cathedral and collegiate churches, and other ecclesiastics with rents in the towns, some of long standing and others newly acquired. The suppliants asserted that under their franchises the townsmen had the right to try every issue concerning a free tenement within their city or borough. Since each wished to aid his fellow and to discharge his own tenement of its rent, inquests taken in such towns gave their verdicts for the inhabitants by conspiracy among the burgesses, and deprived outsiders of their rights. An attempt was made to establish a procedure whereby a more equitable trial would be secured. The clergy sought an ordinance that persons from outside the towns who had been deprived of their rents might have recovery by writ of Scire facias against the deforcians or the tenants of the land charged with them. If the matter had to be tried by inquest, the jury would be composed half of townsmen and half of persons from outside the borough franchise. The crown was evidently unwilling to curtail the privileges of all the boroughs

¹

R.P., IV, pp.74-5; Statutes 3 Henry V, statute 2, c.v.

in this fashion, and no general measure of the kind requested was enacted.¹

Friction between the lay inhabitants of the towns and the religious foundations situated within their walls was always liable to flare into violence, which threatened injury to the persons and property of the clergy. When their rights were menaced by the use of force, these foundations had to seek protection from the crown. The Friars Preachers of Thetford² complained to Richard II that the men of the town planned to deprive them of their easements within its bounds, and had threatened and slandered them. They sought letters patent taking them into royal protection, and a mandate to the mayor and men of the town to do no injury to the friars or their house. They were to be allowed to enjoy their easements without hindrance. The king granted them his protection.³ Such a grant would not by itself necessarily bring the parties to a settlement of their

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R.P., III, p.176. The laity had also found it difficult to obtain justice in the boroughs earlier in the century. They had complained in 1330 of the offences which went unpunished there, because the townsmen could not be impleaded outside the bounds of their franchises for deeds done within the towns. The king had replied that injured parties should sue at common law; and if this could give them no aid, the king would provide another remedy (R.P., II, p.37).

2

A small house founded in 1335, the prior and five other friars signed the deed of surrender in 1538. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.187.

3

P.R.O., Ancient Petitions, S.C.8/272/13561.

quarrel. Once he had intervened thus far, the king might be led to take a series of further steps in an effort to create the conditions in which peaceful trial of conflicting claims could take place. The role of the crown may be illustrated by a dispute in the city of York midway through the fourteenth century.

Contention between the citizens of York and the abbey of St Mary on the subject of the district of Bouthom had been recurrent throughout the first half of the century. The extensive liberty of the abbey within the city excluded the city officials from any jurisdiction over the whole of Bouthom. A settlement made in 1275 had declared Bouthom to be a free borough belonging to the abbey, in which the mayor and bailiffs of York had no powers. The men dwelling there were exempt from tallages imposed by the city; the abbot and his men were quit of tolls and murage; and the abbot had the right to administer the assize of measure in his liberty.¹ The city authorities had subsequently made a number of unsuccessful attempts to extend their jurisdiction over Bouthom.²

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V.C.H., City of York, pp.38-40 and 68-9. C.P.R., 1272-81, pp.111 and 119-20. C.P.R., 1334-8, pp.15-19. The great Benedictine abbey of St Mary, York, had a net income in 1535 of over £1650. It was surrendered in 1539 by the abbot and 50 monks. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.82.

2

See V.C.H., City of York, pp.38-40 and 68-9. C.P.R., 1307-13, pp.470-1. C.P.R., 1313-17, p.692. C.P.R., 1334-8, pp.15-19, 27-8 and 85-6. C.C.R., 1343-6, p.96.

In 1350 the citizens renewed their assault on the privileges of the abbey. The abbot of St Mary's appealed to the king against the revived claim of the mayor and citizens that Bouthom was a suburb of the city, and against interference with the carriage of victuals to his house.¹ In April 1350, Edward III granted the abbot and convent his protection for one year, and took the borough of Bouthom into his hand pending discussion of the dispute before the council. The mayor and bailiffs were commanded to appear before the council later in the year on pain of seizure of the city and its liberties, and meantime not to meddle with the borough or the abbey. A commission was appointed to examine the evidence of both parties and determine the whole matter.²

Shortly afterwards the king had to take further steps to protect the abbey, when the monks reported the resistance of the citizens to the previous royal measures. They alleged that the mayor and commons had refused to allow the escheator to execute the royal mandate for the seizure of Bouthom into the hands of the crown, and the mayor had refused to receive a writ ordering him to appear before the council. Despite the king's grant of his protection to St Mary's, threats of

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P.R.O., Ancient Petitions, S.C.8/176/8780.

2

C.P.R., 1348-50, pp.496, 497, 530 and 584. The commission consisted of the bishop of Worcester, chancellor, the bishop of Winchester, treasurer, Bartholomew de Burgherssh, king's chamberlain, Guy de Bryan, knight of the Chamber, William de Thorpe, John de Stonore, Richard de Wylughby, Roger Hillary, and William de Shareshull, justices (ibid., p.584). In July 1350, a further commission appointing certain persons to custody of Boutham was issued (C.P.R., 1348-50, p.550).

violence had been made by the commons of York; the servants of the abbey had been maliciously indicted and imprisoned; and other action had been taken to harass the house and to prevent it obtaining victuals.¹ In June 1350, the mayor and bailiffs were ordered to make public proclamation that no one, on pain of forfeiture of life and members, make illicit assemblies, or place any impediment in the way of the abbot, his monks, or their men-re-entering the abbey and staying there peacefully, or hinder their ministers from buying victuals freely in the city and taking them by land or water to the abbey. Offenders were to be imprisoned, and not released without the king's special order.²

The case came before the council, which may have doubted its competence to try the plea, for it referred the plaintiffs to the ordinary channels of the common law.³ In February 1351, the escheator was ordered to restore Bouthom and its liberties to the mayor and

¹ P.R.O., Parliamentary and Council Proceedings, C.49/7/25.

² C.C.R., 1349-54, p.232.

³ J.F. Baldwin has noted that 'the council did not usually conduct the trials, but confined itself rather to aiding or correcting the processes of other courts. Even when the parties were summoned to appear and to explain themselves, their cases were generally committed to one or another of the ordinary courts or commissions for trial. The council might give its advice, and would sometimes communicate a very positive opinion, but it was usually preferred that the decision should be rendered by "due process of law" in a regular court of record.' J.F. Baldwin, The King's Council in England during the Middle Ages, p.264.

bailiffs of York, against whom the abbot of St Mary's might sue at common law if he saw fit. An inspection of the plea before the chancellor, treasurer, and others of the council had shown that it had been begun without an original writ or other due process thereupon, and the king had superseded further proceedings before the council.¹

Nonetheless, as long as the dispute continued, the abbey remained under royal protection. In June 1352, the king granted the abbot and convent his protection for another year.² When the abbot complained of the continued activities of the townsmen against his liberties in Bouthom, a commission of Oyer and terminer was issued in November 1352.³ The royal protection granted to the abbey was extended for a further year in June 1353;⁴ and soon after this expired a settlement was reached. In July 1354, the crown confirmed a compromise made through the mediation of the archbishop of York. Bouthom, except for Marygate and some adjacent areas, was brought under the jurisdiction of

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C.C.R., 1349-54, p.286. A petition was put forward by the commons in the parliament which assembled in February 1351, asking that no man should answer for his free tenement or for matters of life or limb before the council. The king consented as regards free tenements, for which no one was to be required to answer except 'par processe de Ley' (R.P., II, p.228).

2

C.P.R., 1350-4, p.292.

3

C.P.R., 1350-4, pp.392-3.

4

C.P.R., 1350-4, p.471.

the mayor and commonalty, but the abbot and monks were not to be arrested there by the city authorities except for felony and trespass, or by command of the king and his justices. The abbey was to have freedom of navigation on the Ouse for boats carrying supplies.¹ The whole struggle indicates the reliance of churchmen in the towns on royal aid for preserving their rights and safeguarding their persons.

The foregoing case illustrates one aspect of a larger question. A definitive judgment concerning the frequency of lay violence against the clergy in the later middle ages, as compared with preceding centuries, is not possible on the available evidence. The generalizations made from petitions must be cautious, for the complaints made by individual clerks, particularly by those in areas distant from the centre of government, may not reflect the general state of affairs throughout the country. However, such petitions do demonstrate that lay violence constituted a considerable problem for the Church, which the ecclesiastical authorities were unable to combat effectively by spiritual censure alone. The supreme spiritual penalty of excommunication had lost a good many of its terrors since it had been used

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C.P.R., 1354-8, pp.84-6. As his own contribution towards pacifying the dissension between the parties, the king had granted the abbot and convent licence to appropriate the church of Rudstane in January 1354. The abbey held the advowson of the king in chief (C.P.R., 1354-8, p.4).

too often as a penalty for minor offences to retain all its original solemnity'.¹

The parish clergy had to look to the crown for help in this matter. A group describing themselves as 'les gents de seinte esglise dengleterre' complained to Richard II² that when the bishops collated and inducted clerks into benefices, the men of the country occupied these by lay force and took the oblations. The clerks to whom the churches had been given dared not enter them for fear of death, so that divine service was not performed. The clergy sought a remedy for these wrongs. The king's reply did no more than refer them to the existing machinery for securing redress. Such clerks might have writs de vi laica amovenda and other writs at common law.³

Petitions provide some evidence of the difficulties encountered by incumbents, and their readiness to appeal

1

R. Hill, Ecclesiastical Letter-Books of the Thirteenth Century, (privately printed 1937), p.36.

2

The petition has been dated by the Public Record Office as possibly circa 1391.

3

P.R.O., Ancient Petitions, S.C.8/46/2285. I.J. Churchill noted the use of applications to the crown for the removal of lay force in the diocese of Canterbury: 'Where the carrying out of decrees of the ecclesiastical court were frustrated by the intervention of lay power, supplication was made by the Archbishop for its removal; and this appears to be issued most often in connection with a suit on appeal for protection of the Court of Canterbury'. I.J. Churchill, Canterbury Administration, I, p.523.

directly to the crown for aid. In a bill presented to the council late in the reign of Edward III, the vicar of Adyngham alleged that neither he nor his servants dare approach the vicarage because of the menaces of Richard de Salkeld, lord of Adyngham and a great maintainer of quarrels. Consequently the parishioners suffered from the lack of divine services, and the sick were left in great peril. The vicar requested a writ Supplicavit to the justices of the peace in county Cumberland, commanding them to take sureties from Salkeld, his brother and his followers, so that he might serve his parishioners in peace. This was granted.¹

That a determined layman might keep a clerk from possession of his benefice over a long period of time is demonstrated by a petition presented in 1402. When William Fayrok, parson of Frethorn, sought redress in the parliament of that year for the activities of James Clifford, his possession of the benefice had been disturbed over a period of some 15 years, despite two previous suits to the crown. Initially he had held the church for over six years before he had been ousted without process of law by Clifford. The latter had purchased the manor of Frethorn and its appurtenances, and had then procured the parson's indictment for rape. Fayrok had been duly purged of this offence, and had sued for restoration of his church. Richard II had granted him letters of protection, ordering that no one meddle with the church or its goods. In addition the

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P.R.O., Ancient Petitions, S.C.8/216/10766.

agreement of the ordinary, the bishop of Worcester, had been secured. Yet Clifford had kept Fayrok out of his church for a period of about seven years from 10 Richard II (1386-7).

The parson had sued to the chancellor for restitution in 1394, and Clifford had promised in Chancery never again to disturb Fayrok's tenure of the church. He and his mainpernors had entered sureties to this end.¹ Doubt is cast on the worth of such sureties by subsequent events, for one John Harsefeld on Clifford's behalf had prevented the proctor appointed by the parson to administer its fruits and possessions from obtaining livery of the church. Moreover, Clifford had wrongly appropriated the lesser tithes of the benefice and certain of its lands for 15 years, and had so threatened the parochial chaplain engaged by Fayrok that he dared not stay there. He had refused to grant the parson a licence to exchange his benefice with someone else, unless he found pledges that his successor would allow Clifford to continue his unlawful enjoyment of the lesser tithes and other property of the church. In response to Fayrok's plea that he be restored to his benefice with all the goods wrongly taken by Clifford, the king and lords agreed that the latter should be summoned before the council and right done.²

On some occasions the crown did act with summary effectiveness on complaints of this nature, as may be

¹ C.C.R., 1392-6, p.261.

² R.P., III, p.514.

seen from the royal response to a petition put forward by the prior of Upholland in Lancashire,¹ who was compelled to seek the help of the council by the shortcomings of the sheriff of Leicester. The prior had sued out writs to the sheriff for the arrest of Henry Tebbe of Threnguston and other malefactors, until they found sureties to keep the peace towards the prior and his servants. Tebbe and his associates had driven the prior from his appropriated church of Whitewyk in Leicestershire, taken 100s 0d of oblations from the high altar, and threatened to kill him if he entered the church. Tebbe had also refused to pay 40 marks due to the prior for certain tithes sold to him, and torn up the agreement when the sum was demanded. The sheriff had refused to take the offenders or to serve the writs through favour towards them.

The prior appealed to the crown to enforce its authority. He presented a petition asking that his enemies be made to appear before the council in the parliament of 1391. A serjeant-at-arms was thereupon commissioned to bring the principal misdoers before the king and lords.² On their appearance they confessed their guilt and put themselves on the grace of the king and of the prior. They were committed to the Fleet

1

Upholland was a small Benedictine priory, founded in 1319 for a prior and 12 monks. At the Dissolution in 1536 there were four monks and the prior, and the net income was over £78. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.79.

2

C.P.R., 1391-6, p.79.

during the royal pleasure, but later allowed to make fine with the king, satisfaction to the prior, and sureties for their good conduct.¹

For many such incumbents an appeal to the crown was virtually the only means by which they could hope to secure redress, since they could place no trust in the common law courts. Suppliants state their fear that local influence would be able to thwart the course of the common law in their case. Thomas Cove, prebendary of Wodeford in Westbury collegiate church,² complained to the chancellor in 1389 of the invasion of the college by John Trevysa and his maintainer, John Poleyne. His vicar and servants had been ill-used, and the church polluted by bloodshed. His enemies had occupied the prebend at Wodeford and refused to yield it to the sheriff of the county, who had been authorized by royal writ to arrest all those involved. He could not recover his rights at common law, because Poleyne was 'tant endose de grant seigneurie et aliance et commune meintenour des querels en la paiis suisdit'.³ The crown

1

R.P., III, pp.286-7 and 298-9. C.C.R., 1389-92, p.532.

2

Westbury upon Trym, county Gloucester. The college, founded in 1288, was enlarged and reconstituted in 1447, with a grammar school and an almshouse. Its net income circa 1535 was over £232, and it then consisted of a dean, five prebendaries, a sub-dean, a bishop's chaplain, a schoolmaster, eight fellows, four clerks, six aged priests, and 12 choristers besides the poor people in the almshouse. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.344.

3

P.R.O., Ancient Petitions, S.C.8/84/4193.

recognized that it had a duty to take action where the legal system was helpless. As a result of this plaint and a similar one from the dean of Westbury,¹ the king committed Poleyne to the Tower, from which he was released only on finding mainprise and giving an oath to keep the peace towards Cove and the dean.²

The foregoing cases reveal a notable lack of lay respect for the ministers and property of the Church, whose effects were felt by the religious no less than the secular clergy. A powerful lord would not scruple to assert his claims over a religious house within his sphere of influence by violent means, as is demonstrated by the excesses which Philip Courtenay committed at Newenham abbey on the pretext that he was patron of the house.³ The dispute seems to have centred on the

1

The dean stated that John Poleyne had come with an armed force to Westbury and besieged him there in 11 Richard II. He had broken into the dean's house, taken him from his bed, and imprisoned him until for fear of death the dean promised to make fine with him and give up the goods taken from his house. Poleyne, Trevysa, and others had again come armed to Westbury in 12 Richard II, broken into his house, beaten his servants, and removed goods to the value of £40. The suppliant asked redress from king and council, because he could not secure it at common law, Poleyne being so great a maintainer of quarrels and 'taunt endose de grand seigneurie' in that part of the world. P.R.O., Ancient Petitions, S.C.8/148/7355.

2

C.C.R., 1389-92, pp.25-6.

3

Newenham abbey in county Devon was a Cistercian house. It contained seven monks in 1377, and the abbot and nine monks received pensions in 1539. The net income of the abbey in 1535 was over £227 (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.112). The Courtenay against
(footnote continued on p.506)

deposition of one abbot and his replacement by another. The abbot of Newenham related in a petition presented to the council in July 1402 that his predecessor, one John Legge, had resigned his position following a visitation of the house which had revealed his maladministration. The suppliant had been elected by the chapter to succeed him, but forcibly removed from the abbey by Courtenay's men and imprisoned at the latter's manor of Bykelegh. He sued for a writ ordering his release. The council responded by commanding Courtenay to appear before them to answer for his actions, and commissioned a sergeant-at-arms to restore the abbot to liberty.¹

The abbot faced a formidable opponent, and it took the full weight of the authority of the king in parliament to curb his activities. Courtenay failed to appear before the council, and his influence in Devon evidently prevented action against him in that county. The abbot stated in a petition to the chancellor that a writ delivered to the sheriff of Devon, which ordered the arrest of Courtenay to find sureties of the peace, had not been served on him.² The abbot laid a further petition before the commons in the parliament which

(footnote 3 continued from p.505)

whom the abbot brought his charges was presumably Sir Philip Courtenay of Powderham in Devon, the younger son of Hugh, tenth earl of Devon. He died in 1406. See G.E. Cokayne, The Complete Peerage, IV, p.335.

1

P.R.O., Ancient Petitions, S.C.8/216/10798 A. C.C.R., 1399-1402, p.537. C.P.R., 1401-5, p.133.

2

P.R.O., Ancient Petitions, S.C.8/216/10798 B.

assembled in September 1402. He alleged that despite mandates sent to his opponent to keep the peace and not to meddle with the government of the abbey, Courtenay had come to the house with armed men and threatened him. The visitor of the abbey, the abbot of Beaulieu,¹ had not dared approach the house to perform his office, nor dare the suppliant remain there. Courtenay had detained two monks of the abbey, whom he had made take part in hunting and falconry against their order. The abbot asked that remedy might be provided in parliament, since a suit at common law against a person with such local influence would lay burdens on the abbey too heavy for it to bear:

Considerantz,..., que le dit Philipp est si grand de Seigneurie et de meintenance en le dit Counte, que le dit suppliant ne poet avoir envers luy la commune Ley sanz importable charge, et destruction du dit suppliant et de sa Maison avant dit.²

The commons referred the bill to the king and lords, who took immediate and effective action to deal with the plaint. As Courtenay was present in parliament, he was asked to answer the charges made against him. His only defence was that 'il quidoit bien q'il feusse foundour de l'Abbeie de Newenham, et le Roi notre Seigneur dessuz luy'. He provided no proof of this, and his

¹

Beaulieu was the mother-house of Newenham (D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.112). The Carta Caritatis made provision for a yearly visitation of each abbey by the abbot of the founding house. See D. Knowles, The Monastic Order in England, p.213.

²

R.P., III, p.489.

replies were not accepted as sufficient to meet the abbot's complaints. Judgment was given that he must restore the two monks to their abbot, leave the latter and his house in peace, and find sufficient sureties for his future good conduct. For his offences here and in another case he was sent to the Tower during the king's pleasure.¹

Both the last two petitioners have stressed their need to appeal directly to the crown because lordship and maintenance would have presented insuperable obstacles to their securing justice in the common law courts. The problem troubled both clergy and laity alike. The commons spoke in 1381 of the

grevouses oppressions en pays par la
outrageouse multitude braceours des
quereles, et maintenours, qi sont come
Rois en pays, que droit ne loye est a
poy fait a nully....²

1

R.P., III, p.489. In the same parliament Sir Thomas Pomeroy and his wife complained that they had been forcibly disseised of certain manors through the maintenance of Philip Courtenay, and redress was provided for them (R.P., III, pp.488-9). The constable of the Tower was ordered to receive Courtenay and to keep him in custody until further order on 14 November, 1402 (C.C.R., 1402-5, p.14). On 29 November four persons entered mainprise of £100 on his behalf, and Courtenay undertook on pain of £1,000 not to harm or procure the hurt of the abbot of Newenham and his monks, or Thomas Pomeroy and his wife (C.C.R., 1402-5, p.133). Courtenay's activities in Devon had been the subject of complaints in the previous reign. Two petitions for justice were put forward in the parliament of 1393, and it was asserted that Courtenay was so great in the county that no one dare sue against him or speak the truth concerning his doings (R.P., III, p.302).

2

R.P., III, p.100.

Attempts had been made to check maintenance since 1275.¹ Many complaints had been made in parliament, and a number of statutes promulgated without success in an effort to eradicate it.² As the course of justice continued to be perverted by maintainers, injured parties had to seek redress by petition from Chancery, Council, or Parliament, which possessed the authority necessary to deal with influential offenders.³ The ability of a local personage to secure virtual control over the normal judicial processes, and thereby compel his opponent to seek redress from the crown, is illustrated by a petition presented by the abbot of St Osyth in the parliament of 1390.⁴

1

See Statutes 3 Edward I, cc.xxv, xxviii, and xxxiii.

2

See P.H. Winfield, The History of Conspiracy and Abuse of Legal Procedure, ch.VI.

3

The essential nature of the council's activities in this direction was recognized by a commons' petition of 1377. The bill sought that pleas between parties should not be tried or determined before the council, but at common law, 's'il ne soit tiele Querele, et encontre si graunde Personne, que homme ne suppose aillours d'avoir droit' (R.P., III, p.21). In the following year the royal government asserted the council's power, if credibly informed that the common law could not take its course because of maintenance and oppression, to send for the person against whom the plaint was made for examination. At their discretion they might compel such a person to find sureties of his good conduct (R.P., III, p.44).

4

St Osyth was a substantial Augustinian house in Essex, originally for 30 canons though in 1434 there were apparently only ten. In 1534 the abbot and 20 canons subscribed to the act of supremacy. The income from the temporalities was over £135 in 1291, and the net income of the abbey in 1535 was over £677. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.152.

The abbot asserted that one John Rokell had corrupted all the grand jurors of the county, so that they would serve him in every undertaking. In consequence he had been unable to sue for his rights after Rokell had procured the withdrawal of services and dues by tenants and debtors of the house, and had withdrawn his own services as a tenant. When the abbot had demanded tithes from certain woods, Rokell had got the persons concerned to refuse payment by promising to maintain the quarrel.¹ The petitioner had begun a suit for the tithes in the ecclesiastical courts. A prohibition had been obtained against him, but he had secured a consultation from Chancery allowing the plea to proceed.² Nonetheless, the abbot had been attached in King's Bench for proceeding with the action, and condemned by a jury of the county to pay damages of 300 marks through the embracery of Rokell. The abbot added that whilst Rokell had been escheator of the county, he

1

The tithability of cut wood was a matter of contention between clergy and laity in the second half of the fourteenth century. A distinction was made between great wood and underwood. Great wood, trees that had already attained their growth and yielded no increase from year to year, were not tithable by the common law. Save in particular areas, underwood alone was subject to the demands of the Church. This wood when cut and ready for sale was the Silva Cedua, a tithe of which was claimed by the clergy. See N. Adams, 'The Judicial Conflict over Tithes', English Historical Review, 52 (1937), pp.19-22.

2

On prohibitions and consultations, see G.B. Flahiff, 'The Writ of Prohibition to Court Christian in the Thirteenth Century', Medieval Studies, VII (1945), pp.229-290.

had extorted four marks from him by the threat that otherwise he would put him to great trouble and expense 'par colour de son office'.¹

Here, as in the Newenham case, the crown acted decisively to deal with a serious case of oppression. When Rokell appeared in parliament to answer the charges, he was sent to the Tower by the advice of the lords and justices.² With the assent of both parties the matter was submitted for adjudication to one of the most powerful persons in the realm, the duke of Lancaster, whose decision would carry authority.³ His findings were entirely in the abbot's favour. The duke concluded that the action in King's Bench had been procured without reasonable cause, and that therefore the abbot should be discharged of the damages of 300 marks or further actions on the matter. The tithes question was to be settled by four arbitrators chosen for the purpose, two learned in canon law and two cognizant of the custom of those parts. Any rent which the abbot could prove to be due to him from Rokell was to be paid in future, with the arrears. Rokell was to find a recognizance of £40 in Chancery for his future good behaviour toward the abbot.

1

R.P., III, pp.287-8.

2

He was released when parliament was dissolved on mainprise of £100; C.C.R., 1389-92, p.308.

3

John of Gaunt, duke of Lancaster (1340-1399), was the fourth son of Edward III and uncle of Richard II. After his return from Gascony in 1389, 'the duke of Lancaster stood at the king's right hand, encouraging him to assert himself at home and to pursue peace abroad'. M. McKisack, The Fourteenth Century, p.465; and D.N.B., s.v. John of Gaunt, Duke of Lancaster.

The award was completed in November 1391, by which time parliament was again in session. The abbot ensured its execution by a further petition to the king and lords. He pointed out the need to avoid delay, since the Supersedeas of the judgment in King's Bench granted to him in 1390 was effective only until that session of parliament. Rokell was brought before parliament, and there agreed to perform the duke's award in its entirety. The chancellor was charged with ensuring his obedience to this undertaking.¹ The records of Chancery reveal that the necessary steps were taken shortly afterwards.²

Whereas the religious were the victims of a flagrant abuse of the courts in the preceding case, allegations made by John de Henle, canon of the chapel of St Stephen in Westminster Palace, suggest that not all their number were guiltless of participating in maintenance and embracery. He stated in parliament circa 1391 that he had purchased a tenement in London with the intention of appropriating it to the chapel. An assize had been brought against him concerning the property by Richard atte Nook, a servant of John de Botisham, goldsmith of the city. The suit had been maintained by Botisham with the aid of the abbot and the prior and convent of Westminster, 'qi cleyment le dit Richard destre lour Nayf'.³

¹ R.P., III, pp.287-8.

² C.C.R., 1389-92, pp.535, 536, 537 and 545

³ The great Benedictine abbey of Westminster was the wealthiest of all the houses of the order in England, with a net income in 1535 of over £3,470. The house contained 29 monks in 1381, and in the fifteenth century the numbers ranged from 40 to 50. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.80.

Henle related that he had brought much evidence of his right, whilst his opponent had produced none. He had offered, and was still ready, to submit the dispute to the arbitration of the royal council, the duke of Lancaster, or another lord of the realm. However, his opponents had procured a panel of jurors composed largely of the servants and tenants of the abbey. The bailiff who had arrayed the panel was an officer of the abbey and retained in fees and robes by the monks. Although Henle had challenged these jurors before the justices, they had been sworn and had found against him. The canon appealed to the king and council to punish these offences, because such maintenance and the expense of suing an action of attainr prevented poor men from securing redress:

Consideranz pur dieu toutz les seigneurs
 esteantz ore en cest dit present parlement que
 chescun poure homme du dit Royalme esteantz en
 celle cas ne poet sustenir la suyte datteynte.
 Et sil la voudra poursuivre il ne vendra iames a
 son purpos a cause des coustages et despenses
 diuerses et principalement a cause de tiele
 meyntenance parmye le Royalme auandit.¹

His petition does not record whether action was taken by the government.

1

P.R.O., Ancient Petitions, S.C.8/116/5760. By the process of attainr the 12 jurors suspected of a false verdict were accused before 24 jurors and, if they were convicted of a false oath, their verdict was replaced by that of the 24. The attainted juror forfeited his movables to the king, was imprisoned for a year at least, and became infamous. See P.H. Winfield, The History of Conspiracy and Abuse of Legal Procedure, pp.193-5.

The heavy expense of sustaining actions at common law was frequently mentioned in petitions seeking justice from the crown by more summary procedures. That poor litigants might be deprived of their rights through their inability to support the costs of a suit was recognised by the government as a real problem, which merited sympathetic treatment. If its help was sought on these grounds, the crown was prepared to halt a plea already proceeding at common law and order its trial before the council. Thus the king and lords in parliament circa 1384 agreed in answer to a petition from the master and scholars of University College, Oxford,¹ that as the suppliants were too poor to defend their rights in a plea on a writ of formedon, the matter would be determined before the council and writs of Supersedeas sent to Common Pleas.²

The cost of suing against an influential opponent seems to have been a formidable obstacle to litigation at common law, for it caused so substantial a foundation as the great hospital of St Leonard, York, to seek trial of its plaint before the council rather than in the

1

William of Durham, who died in 1249, left funds for ten or more Masters studying theology. The University spent the money on various objects, including some houses which as University Hall achieved collegiate existence circa 1280. The income of the college in 1535 was over £78. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.351.

2

R.P., III, p.176.

ordinary courts.¹ The master and brethren asserted in 1416 that John Langton esquire, claiming common in their turbary of Heslyngton, had cut and carried away turf. The man was of such great 'lynage et alliance en pays' that the goods of the hospital were insufficient to support a plea against him, if they had to sue at common law.² Though the petitioners made no mention of it, the hospital had brought a suit in King's Bench under Henry IV for similar reasons. Lack of success in that court was perhaps partly responsible for their desire to bring the matter before the council. The master had charged certain persons in King's Bench at Trinity 1408 with trespassing on his turbary and carrying off his turf. The defendants, two of whom were tenants of Langton and the rest their servants, had claimed that lordship over the vill of Heslyngton was divided between John Langton, the prebendary of Ampleforth in York Minster, and the master of the hospital. As these held all turbaries and wastes belonging to the vill jointly, their tenants had a right to common in the turbary under discussion. The master had denied that this particular

1

St Leonard's was one of the greatest of all the English hospitals, and its full establishment apparently consisted of the master, 13 chaplain brothers, four secular chaplains, eight regular sisters, 30 choristers with two schoolmasters, lay-brothers and sisters with 206 sick people. The hospital contained in 1376 eight chaplain brothers, eight sisters, 30 choristers, 199 sick people and 17 corrodari, ten acting as brothers, some as sisters and three as servants. In 1535 the total income was over £500, and the net income over £309. D. Knowles and R.N. Hadcock, Medieval Religious Houses, p.322.

2

P.R.O., Ancient Petitions, S.C.8/230/11481.

turbary was held in common, and both parties had put themselves on the verdict of the country. A writ had been issued for the assembling of a jury. The sheriff failed to make a return at several successive terms, and the record breaks off without a judgment.¹

The council lent the hospital its aid in reaching a settlement. In July 1416, a commission was issued for the arrest of Langton and two of the defendants in the earlier plea. All three were to be brought before the king in Chancery.² In November of the same year Langton entered a recognisance of 500 marks that he would appear in Chancery at the quinzaine of Michaelmas following to answer charges to be laid by the master of St Leonard's, unless an agreement between the parties had already been reached.³ These measures proved sufficient, and the dispute was settled without coming before the chancellor.⁴ The case suggests the essential function of the petition as the means by which suppliants could secure justice when the common law courts could not provide this, and indicates the willingness of the crown to supply the extraordinary forms of procedure necessary in the circumstances.

¹ P.R.O., Coram Rege Rolls, K.B.27/589/Ebor.71.

² C.P.R., 1416-22, p.81.

³ C.C.R., 1413-19, p.372.

⁴ The earl of Westmoreland certified in Chancery by letters patent that an agreement between the parties had been reached; C.C.R., 1413-19, pp.455-6.

The prevalence of violence in medieval society, the weaknesses of the judicial system, and corruption of the legal processes, were beyond the power of contemporary governments to eradicate. The clergy were constantly obliged to seek relief from the crown. The evidence of the cases presented in this chapter shows ecclesiastics able on most occasions to obtain some form of redress for their grievances by means of petitions, though it is not in many cases possible to say whether the remedy provided by king and council was effectively enforced. Whilst the clergy's proposals for legislation to deal with general problems like malicious indictments or injustice in the boroughs were not adopted, suppliants seeking a remedy in parliament for their personal difficulties in specific courts proved able to obtain enactments in their favour from the crown.

In a period which provides indications of a distinct lack of respect for the clergy on the part of many laymen, who did not scruple to employ force against churchmen in order to achieve their ends, ecclesiastics were very dependent on royal aid for the protection of their persons and property. However, the response given to their complaints against the threats and assaults of townsmen and influential laymen, or the perversion of justice in the common law courts through lordship and maintenance, has shown the crown ready to take strong action on their behalf to curb abusive use of local power, and willing to provide summary forms of trial outside the ordinary courts. An important effect of the clergy's frequent recourse to the crown for aid was to make royal authority felt in areas remote from the

centre of government with traditions of independence,
and hence to accelerate the centralization of power in
the state.

CONCLUSION

Diverse as are the subjects considered in the foregoing chapters, certain general conclusions about the relations of crown and Church in the later middle ages may be drawn from these studies. Royal demands on the clerical estate were clearly a most important factor in the life of the Church, and prompted numerous suits by the clergy for relief and redress. The French war brought a long period of regular, often heavy taxation, and led to the seizure and exploitation of the property of the alien priories by the crown. There is evidence that taxation placed a heavy burden on the poorest section of the clerical community, and on the religious houses which had to collect the clergy's grants. The arbitrary character of royal exploitation of the possessions of the alien religious has also been noted. Moreover, the crown has been shown to have been extending its claims over the clergy in other directions. Thus the king was entitled to pensions and corrodies in royal foundations, but made imperative demands where he had no legal rights. Petitions have indicated how difficult it was for the houses from which corrodies were demanded unjustly to resist the royal will. In addition, the fourteenth century was a period in which the crown intensified its exploitation of royal rights of patronage over the benefices of the Church. Here too the king's exercise of his prerogatives provoked complaints of injustice, though the means of securing redress do seem to have been made available to complainants.

To some extent royal demands on the Church must be regarded as offset by the assistance and protection that the king provided for the clergy in time of need. Royal houses in financial distress, for example, were granted commissions of custody and protection, which placed their finances in the control of royal appointees, provided a moratorium on debts, and gave temporary relief from other burdens. The scant respect shown for the rights of other subjects caused protests by the commons in parliament. Similarly, in an age when violence was prevalent and the judicial system weak, ecclesiastics were often dependent on royal aid for the protection of their persons and property. Petitions have revealed a lack of respect for the clergy amongst many laymen, who did not scruple to use force in their quarrels with ecclesiastics. We have seen that the crown was ready to take strong action to curb abusive use of local power, and was willing to supply summary forms of trial outside the ordinary courts.

Another theme that has constantly recurred in the preceding chapters has been the problem of securing redress for the unjust acts committed by the king and his ministers. The important question has been raised of how far the crown was willing to go in providing redress for wrongs perpetrated by the king himself. In general the crown has appeared careful to protect royal prerogatives, but not disposed to refuse suppliants a proper trial of their legitimate claims. The attitude of the crown was well illustrated by its response to complaints about the king's exercise of his rights of presentation to benefices. The machinery of royal

patronage was inadequate to prevent the occurrence of mistaken grants and unjust dispossession of incumbents. Whilst the king refused to accept the commons' proposals that would have dispensed with the necessity for injured parties to seek his grace by petition, a reasonable means of securing remedy was furnished through trial of suits on the common law side of Chancery. Similarly, the disputes involving rights of lordship and liberties revealed the concern of the crown to prevent encroachment on its rights, but also showed that ecclesiastical lords could obtain justice by petition.

Perhaps the most important part of the discussion has been concerned with the light shed by petitions on the power of the crown over the Church in the later middle ages. The second half of the fourteenth century and the early fifteenth century was a period in which the laity in parliament were urging the king to assume greater control over ecclesiastical affairs. Thus the commons pressed for stricter supervision over the amortizing activities of the clergy, and sought greater royal intervention in the process of appropriation of benefices in the interests of the spiritual needs of the laity. They demanded an end to, or at least stringent royal regulation of, papal provisions. They made recurrent petitions for drastic action by the king against the alien religious.

Whilst the crown acceded to the most radical proposals of the commons only reluctantly, if at all, the reality of royal power over the Church has been demonstrated in a number of ways. The licencing system enforced after the statute of Mortmain enabled the king

to maintain a profitable control over the further endowment of the Church and efforts to augment the income of ecclesiastical institutions. His control was strengthened in the late fourteenth century by the elimination of loopholes in the mortmain legislation that allowed evasion of the need to seek a royal licence, and by the closer regulation of the form of appropriations that the king undertook at the commons' request. The anti-papal legislation of the period placed in the king's hand power to regulate the execution of all papal provisions to Church benefices, since a royal licence for this purpose became essential. Again, the king exercised during the French wars a virtually complete command over the fate of the alien religious and the disposal of their possessions.

On the other hand, the king was led to intervene in ecclesiastical matters, not necessarily because he set out to extend his control over the Church or was led to do so by pressure from his lay subjects in parliament, but because ecclesiastics themselves sought from him help and relief from injustice that he alone could provide for them. The petitions cited in preceding chapters have clearly shown that the clergy constantly invoked the aid of the crown, sometimes with little regard for the autonomy and independence claimed for their own estate, and thereby accelerated the centralization of power in the state. Of all sections of the clergy the religious have appeared particularly dependent on the crown for aid and protection, and the most forward in invoking royal intervention in ecclesiastical affairs. One of the most significant features of the group of

petitions concerned with clerical taxation was the readiness of the clergy to bypass their own assembly, convocation, and to approach the king directly with their complaints. This was particularly true of the religious. Unable to free themselves from what they considered unjust burdens in the matter of tax-collection, partly perhaps because convocation was dominated by the secular clergy and unsympathetic to their cause, they turned to the king for relief both as a group and as individuals.

The crown did not hesitate to take action in matters that one might expect would have been the concern of the ecclesiastical authorities. An example is the king's supervision of royal foundations in their performance of the spiritual services and works of piety established within their walls. The masses and alms endowed by members of the royal family in these houses were protected against neglect by the vigilance of royal officers and the institution of special inquiries where allegations of laxness came to the king's ear. Moreover, houses in the royal patronage constantly sought the king's aid to deal with the social and economic problems that faced them, even when this involved royal interference in the internal discipline of the foundations concerned. The king did, however, show some desire not to trespass on the spiritual jurisdiction of the ordinaries in lending his help to these houses.

These studies, then, provide evidence of how much power the crown wielded over the late medieval Church. The attack on the independence of the Church in the sixteenth century and the radical changes then brought

about could be carried through by the crown at least partly because the king had for long exercised so substantial a degree of control over ecclesiastical matters. The special contribution petitions make to an understanding of how this control came about is the proof that royal intervention in ecclesiastical affairs was being constantly sought by the clergy themselves in the fourteenth and fifteenth centuries.

BIBLIOGRAPHY

A. MANUSCRIPT SOURCES

All the manuscript sources consulted for this thesis and listed below are preserved in the Public Record Office, London. The notes on the various classes of documents have been taken largely from M.S. Guiseppi, Guide to the Contents of the Public Record Office, rev. ed., London, 1963.

Ancient Petitions: S.C. 8.

These consist of petitions, both originals and duplicates, with some enrolments, brought together from various sources. They include petitions to the King, to the King and Council, to Parliament, and to the Chancellor and other officers of state in their executive capacities. All the files in this collection (files 1-346) have been consulted, and a total of some 800 documents relevant to the thesis drawn from them.

Council And Privy Seal Records: E. 28.

These include petitions granted by the King and Council and other documents serving as warrants for the Privy Seal office, with drafts and memoranda of letters and other instruments prepared there. Files 1-81 have been consulted, and a total of some 200 petitions and other documents drawn from this source.

Warrants For The Great Seal: Series I: C. 81.

Under this head are included the various instruments which constituted the authority of the Chancellor or Keeper for affixing the Great Seal to acts signifying the royal pleasure. Such authority has always come from the Crown, either directly or through one of its ministers. Petitions which had received royal approval were enclosed in these warrants in many cases and sent into Chancery.

C.81, files 339/20343, 345/20991, 350/21439, 366/23044, 461/844, 470/1735, 478/25561, 483/3073, 488/3544, 489/3673, 493/4078, 501/4896, 508/5553, 509/5663, 513/6100, 514/6177, 514/6195, 515/6211, 517/6469, 519/6662, 521/6852, 523/7051-2, 524/7197, 526/7330,

527/7453, 528/7568, 529/7650, 529/7665,
 537/8461, 540/8716, 542/8917, 543/9041,
 580/12712, 582/12948, 582/12959, 606/2368,
 651/6900, 662/483, 666/842, 668/1066,
 674/444, 686/1606, 908/39, 1333/60,
 1334/2, 1334/13, 1334/35, 1340/3, 1340/36,
 1340/38, 1341/4, 1341/32, 1342/14, 1342/21,
 1342/23, 1343/46-8, 1345/21, 1345/57,
 1349/54, 1353/54, 1355/22, 1355/40, 1355/51,
 1352/51, 1363/30, 1364/62, 1364/66, 1399/34,
 1402/30, 1443/18, 1445/16.

Placita Coram Rege or Coram Rege Rolls: K.B. 27.

These contain entries of all proceedings in the Court of King's Bench. The first part of each terminal roll is devoted to pleas on the civil side, the concluding part, known as the Rex roll, to pleas on the Crown side. The rolls also contain some enrolments of private deeds.

K.B. 27, rolls 290, 343, 344, 360, 365, 404, 408, 410,
 442, 452, 457, 460, 463, 466, 470, 472,
 477, 494, 498, 504, 510, 511, 516, 522,
 558, 562, 566, 568, 570, 571, 587, 589,
 614, 626, 642, 703.

Eyre Rolls, Assize Rolls, Etc.: Just. Itin.1.

In addition to the Eyre Rolls and the Assize Rolls this class includes a number of plea rolls belonging to the permanent central courts as well as some, from 1225 onwards, of specially constituted courts and, from the 14th century, of sessions of trailbaston and general oyer and terminer. Just. Itin. 1, 340/4, 774/7, 1477, 1506.

Plea Rolls, Exchequer Of Pleas: E.13.

E. 13, rolls 82a, 97.

Re-disseisin Rolls: C.69.

These contain the enrolment of special writs addressed to sheriffs for the restoration to tenants of lands, etc., of which, having been adjudged in actions of Novel disseisin to have been unlawfully dispossessed, they had again been disseised by the original disseisors. C.69, roll 25.

Judicial Proceedings (Common Law Side), Placita In Cancellaria, Tower Series: C.44.

The pleadings on the ordinary or common law side of the Court of Chancery consist of pleadings on writs and petitions of right and respecting recognisances acknowledged in Chancery, proceedings on traverses of inquisitions post mortem, on writs of Scire facias for the repeal of letters patent, on writs of partition of lands in coparcenary or for dower, and in all personal actions by or against any officer of the court.
C. 44, files 12/12, 12/15, 12/20, 14/14, 17/13, 23/12, 25/19, 27/2.

Parliamentary And Council Proceedings: C. 49.

A collection of transcripts of statutes, pleadings, and other proceedings in Parliament and before the Council.
C.49, roll 2, roll 17, file 7/25, file 9/19, file 12/9, file 47/6, file 47/14.

Miscellanea Of The Chancery: C. 47.

A variety of documents is comprised under this title.
C. 47, Bundle 10 (Channel Islands, Ireland and Wales), 24/2-3.
C. 47, Bundle 15 (Ecclesiastical Documents), 2/8.
C. 47, Bundle 20 (Ecclesiastical Documents), 1/6, 1/10, no.3.
C. 47, Bundle 20 (Ecclesiastical Documents), no.4.
C. 47, Bundle 47 (Transcripts of Records), 3/40.
C. 47, Bundle 48 (Transcripts of Records), 1/11.
C. 47, Bundle 55 (Transcripts of Records), 1/30.
C. 47, Bundle 59 (Transcripts of Records), 2/44.
C. 47, Bundle 64 (Transcripts of Records), 10/323.
C. 47, Bundle 67 (Transcripts of Records), 4/138.
C. 47, Bundle 68 (Transcripts of Records), 12/368.
C. 47, Bundle 70 (Transcripts of Records), 1/15-6, 2/55, 7/264.
C. 47, Bundle 73 (Transcripts of Records), 2/84.
C. 47, Bundle 80 (Transcripts of Records), 1/13, 1/20.
C. 47, Bundle 84 (Transcripts of Records), 1/29, 2/43.
C. 47, Bundle 86 (Transcripts of Records), 19/454.
C. 47, Bundle 87 (Transcripts of Records), 1/14, 1/21a.

Inquisitions ad quod damnum: C. 143.

These inquisitions were taken by virtue of writs addressed to the escheators of the several counties or

districts, when any grant of a market, fair, or other privilege, or a licence for the alienation of land was solicited, directing them to inquire, by means of a jury, whether such a grant would be prejudicial to the interests of the Crown or others.

C. 143, files 395/4, 436/16.

Inquisitions Post Mortem: Series I, C. 132-C. 141.

These documents consist principally of the inquests held, on the death of any tenant supposed to hold of the King in chief, by the escheator or escheators of the several counties or districts, who summoned a jury to inquire upon oath of what lands etc., the tenant was seised at the time of his death, by what rents or services they were held, and the name and age of the next heir, in order that the King might be duly informed of his right of escheat or wardship or other advantages accruing to him.

C. 136, file 108/47.

C. 138, file 57/29.

C. 139, file 28/26.

Miscellaneous Inquisitions: C. 145.

C. 145, file 287/4.

Ecclesiastical Documents: E. 135.

These consist principally of transcripts of proceedings in various courts relating to ecclesiastical and monastic matters and of documents touching the possession of Church lands and tithes, rights of presentation, taxation, indulgences, wills, etc., with a few cartularies.

E. 135, bundle 3, no.43.

E. 135, bundle 23, no.64.

Chancery Files: C. 202.

These files contain, among other writs, a number of writs of Scire facias summoning royal grantees to appear in the Court of Chancery.

C. 202, C. 78/38, C. 81/45-7, C. 81/81, C. 87/114,
C. 88/181, C. 88/208, C. 88/214, C. 90/152-3,
C. 90/165-7, C. 92/150-2, C. 94/162, C. 96/179,
C. 97/49, C. 98/77, C. 99/36, C. 101/115,
C. 101/133, C. 101/137, C. 103/35, C. 106/120.

B. PRINTED SOURCES

Sources which have been used extensively are indicated below by an asterisk (*).

Annales Monasterii Sancti Albani a Johanne Amundesham monacho ut videtur conscripti, ed. H.T. Riley. 2 vols, Rolls Series, 1870-1.

Bristol Charters 1155-1373, ed. N. Dermott Harding. Bristol Record Society Publications, I, 1930.

(*) Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Papal Letters, 1198-1471, ed. W.H. Bliss, C. Johnson and J.A. Twemlow. 12 vols, London, 1893-1933.

(*) Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Petitions to the Pope, I, ed. W.H. Bliss. London, 1896.

(*) Calendar of Inquisitions Miscellaneous - Chancery - Preserved in the Public Record Office, 1219-1399, 6 vols, London, 1916-63.

(*) Calendar of the Charter Rolls Preserved in the Public Record Office, 1225-1509. 6 vols, London, 1903-27.

(*) Calendar of the Close Rolls Preserved in the Public Record Office, 1272-1509. 47 vols, London, 1892-1963.

(*) Calendar of the Fine Rolls Preserved in the Public Record Office, 1272-1509. 22 vols, London, 1911-62.

(*) Calendar of the Patent Rolls Preserved in the Public Record Office, 1216-1485. 52 vols, London, 1891-1916.

Cartae Antiquae, Rolls 11-20, ed. J. Conway Davies. Pipe Roll Society, New Series, 33, 1957.

Cartulary of Eynsham Abbey, ed. H.E. Salter. 2 vols, Oxford Historical Society, 49 and 51, 1906-8.

Charters and Records among the Archives of the Ancient Abbey of Cluni, from 1077-1534, ed. Sir G.F. Duckett. 2 vols, printed for subscribers only: Lewes, 1888.

'The Charters of Harmondsworth, Isleworth, Heston, Twickenham, and Hampton-on-Thames', ed. T.F. Kirby. Archaeologia, 58, pt.2, 1903, pp.341-58.

Chronicles of London, ed. C.L. Kingsford. Oxford, 1905.

Chronicon Anglie, 1322-88, ed. E.M. Thompson. Rolls Series, 1874.

(*) Concilia Magnae Britanniae et Hiberniae, ed. D. Wilkins. 4 vols, London, 1737.

The Coucher Book of Furness Abbey, I, ed. J.C. Atkinson. Chetham Society, 9, 11, and 14, 1886-8.

The Coucher Book of Furness Abbey, II, ed. J. Brownbill. Chetham Society, 74, 76, and 78, 1915-19.

The Diplomatic Correspondence of Richard II, ed. E. Perroy. Camden Society, third series 48, 1933.

Domesday Book: seu liber censualis Wilhelmi primi Regis Angliae, inter archivos regni in domo capitulari Westmonasterie asservatus jubente rege... Georgio Tertio praelo mandatus typis, ed. H. Farley. 2v. in 1, London, 1783.

(*) Dugdale, W. Monasticon Anglicanum, ed. J. Caley and others. 6 vols, London, 1846.

Early Yorkshire Charters, ed. W. Farrer. 3 vols, Edinburgh, 1914-6.

Foedera, Conventiones, Litterae, ed. T. Rymer. 20 vols, London, 1704-35.

Gesta Abbatum Monasterii Sancti Albani, ed. H.T. Riley. 3 vols, Rolls Series, 1867-9.

Historiae Dunelmensis Scriptores Tres, Gaufridus de Coldingham, Robertus de Graystanes, et Willielmus de Chambre, ed. J. Raine. Surtees Society, 9, 1839.

Historical Charters and Constitutional Documents of the City of London, ed. W. de Gray Birch. 1887.

Loci e Libro Veritatum. Passages Selected from Gascoigne's Theological Dictionary, Illustrating the Condition of Church and State, 1403-58, ed. J.E.T. Rogers, Oxford, 1881.

Materials for the History of the Church of Lancaster, ed. W.O. Roper. Chetham Society, 31, 1894.

Matthaei Parisiensis Chronica Majora, ed. H.R. Luard. 7 vols, Rolls Series, 1872-84.

Memorials of St Edmund's Abbey, ed. T. Arnold. 3 vols, Rolls Series, 1890-6.

Memorials of the Abbey of St Mary of Fountains, ed. J.R. Walbran. 2 vols, Surtees Society, 42 and 67, 1863-78. Continued by J.T. Fowler, Surtees Society, 130, 1918.

Political Poems and Songs Relating to English History, ed. T. Wright. 2 vols, Rolls Series, 1859-61.

Polychronicon Ranulphi Higden, Monachi Cestrensis, IX, ed. J.R. Lumby. Rolls Series, 1886.

Proceedings and Ordinances of the Privy Council of England, 10 Richard II. 1386- 33 Henry VIII. 1542, ed. Sir N.H. Nicolas. 7 vols, London, 1834-7.

Regesta Regum Anglo-Normannorum 1066-1154, II, ed. C. Johnson and H.A. Cronne. Oxford, 1956.

(*) The Register of Henry Chichele, ed. E.F. Jacob. 4 vols, (vol.II with H.C. Johnson), Oxford, 1938-47.

The Register of John de Grandisson, Bishop of Exeter, 1327-1369, with some Account of the Episcopate of James de Berkeley, 1327, ed. F.C. Hingeston-Randolph. 3 vols, London and Exeter, 1894-9.

Registrum Palatinum Dunelmense, ed. T. Duffus Hardy. 4 vols, Rolls Series, 1873-8.

Rotuli Chartarum, ed. T. Duffus Hardy. Record Commission, 1837.

(*) Rotuli Parliamentorum Anglie Hactenus Inediti, ed. H.G. Richardson and G. Sayles. Camden Society, third series 51, 1935.

(*) Rotuli Parliamentorum; ut et Petitiones, et Placita in Parlamento, ed. J. Strachey and others. 6 vols, 1767 and Index, London, 1832.

Select Cases before the King's Council, 1245-1482, ed. I.S. Leadam and J.F. Baldwin. Selden Society, 35, 1918.

Select Cases in Chancery, 1364-1471, ed. W.P. Baildon. Selden Society, 10, 1896.

Select Cases in the Court of King's Bench under Edward I, III, ed. G.O. Sayles. Selden Society, 58, 1939.

(*) Select Charters and other Illustrations of English Constitutional History from the Earliest Times to the Reign of Edward the First, ed. W. Stubbs. Ninth edition revised throughout by H.W.C. Davis, Oxford, 1913.

(*) The Statutes at Large, from Magna Carta, to the End of the Last Parliament, 1761, by Owen Ruffhead, I. London, 1763.

(*) The Statutes of the Realm. 12 vols, Record Commission, 1810-28.

Taxatio Ecclesiastica Angliae et Walliae auctoritate P. Nicholai IV circa 1291, ed. S. Ayscough and J. Caley. Record Commission, 1802.

Thomae Walsingham, Historia Anglicana, ed. H.T. Riley. 2 vols, Rolls Series, 1863-4.

Two Cartularies of the Augustinian Priory of Bruton and the Cluniac Priory of Montacute in the County of Somerset, ed. T.S. Holmes, E. Hobhouse and H.C. Maxwell Lyte, with a contribution by F.W. Weaver. Somerset Record Society, 8, 1894.

Valor Ecclesiasticus temp. Henrici VIII, auctoritate regia institutus, ed. J. Caley and J. Hunter. 6 vols, Record Commission, 1810-34.

William of Malmesbury, de Gestis Pontificum, ed. N.E.S.A. Hamilton. Rolls Series, 1870.

Wykeham's Register, ed. T.F. Kirby. 2 vols, Hampshire Record Society, 1896-9.

Year Book, 20 Edward III, ed. L.O. Pike. 2 vols, Rolls Series, 1908-11.

C. SECONDARY SOURCES

1. Works of Reference

Burn R. The Ecclesiastical Law. 4 vols, 8th edition, London, 1824.

Cheney, C.R. (ed.). Handbook of Dates for Students of English History. London, 1961.

Cokayne, G.E. The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct, or Dormant. Revised edition, ed. V. Gibbs, H.A. Doubleday, G.H. White and R.S. Lea, 12 vols, London, 1910-59.

Davis, G.R.C. Medieval Cartularies of Great Britain, A Short Catalogue. London, 1958.

Dictionary of National Biography. 22 vols, Oxford, 1885-1900.

Giuseppi, M.S. Guide to the Contents of the Public Record Office. Revised edition, 2 vols, London, 1963.

Knowles, D. and Hadcock, R. Neville. Medieval Religious Houses: England and Wales. London, 1953.

Le Neve, J. Fasti Ecclesiae Anglicanae, 1300-1541. Compiled by Joyce M. Horn, B. Jones, and H.P.F. King, 12 vols, London, 1962-7.

Powicke, F.M. and Fryde, E.B. Handbook of British Chronology. 2nd. edition, London, 1961.

Stubbs, W. Registrum Sacrum Anglicanum. 2nd edition, Oxford, 1897.

The Victoria History of the Counties of England. London, 1900-.

2. General Works and Articles

Abbott, I.R. 'Taxation of Personal Property and of Clerical Incomes, 1399 to 1402', Speculum, 17 (1942), pp.471-98.

Adams, N. 'The Judicial Conflict over Tithes', English Historical Review, 52 (1937), pp.1-22.

Aston, M. Thomas Arundel: A Study of Church Life in the Reign of Richard II. Oxford, 1967.

Baldwin, J.F. The King's Council in England during the Middle Ages. Oxford, 1913.

Barracclough, G. 'The Constitution "Execrabilis" of Alexander IV', English Historical Review, 49 (1934), pp.193-218.

- - - - - . Papal Provisions. Aspects of Church History Constitutional, Legal and Administrative in the Later Middle Ages. Oxford, 1935.

Bean, J.M.W. The Decline of English Feudalism, 1215-1540. Manchester, 1968.

Bishop, T.A.M. 'Monastic Demesnes and the Statute of Mortmain', English Historical Review, 49 (1934), pp.303-6.

Cam, H.M. The Hundred and the Hundred Rolls. London, 1930.

Capes, W.W. The English Church in the Fourteenth and Fifteenth Centuries. London, 1903.

Chew, H.M. 'Mortmain in Medieval London', English Historical Review, 60 (1945), pp.1-15.

- Churchill, I.J. Canterbury Administration: The Administrative Machinery of the Archbishopric of Canterbury Illustrated from Original Records. 2 vols, London, 1933.
- Clarke, M.V. Medieval Representation and Consent. A Study of Early Parliaments in England and Ireland, with Special Reference to the Modus Tenendi Parliamentum. New York, 1964.
- Clay, R.M. The Medieval Hospitals of England. London, 1909.
- Davies, C. 'The Statute of Provisors of 1351', History, 38 (1953), pp.116-33.
- Deeley, A. 'Papal Provision and Royal Rights of Patronage in the Early Fourteenth Century', English Historical Review, 43 (1928), pp.497-527.
- Driver, J.T. 'The Papacy and the Diocese of Hereford, 1307-77', Church Quarterly Review, 145 (1947), pp.31-47.
- Du Boulay, F.R.H. 'A Rentier Economy in the Later Middle Ages: The Archbishopric of Canterbury', Economic History Review, 2nd series 16 (1964), pp.427-38.
- - - - - . The Lordship of Canterbury: An Essay on Medieval Society. London, 1966.
- Edwards, K. The English Secular Cathedrals in the Middle Ages. 2nd edition, Manchester, 1967.
- Ehrlich, L. 'Proceedings against the Crown, (1216-1377)', in Oxford Studies in Social and Legal History, ed. Sir Paul Vinogradoff, VI, Oxford, 1921.
- Evans, Seiriol J.A. 'The Purchase and Mortification of Mepal by the Prior and Convent of Ely, 1361', English Historical Review, 51 (1936), pp.113-20.
- Flahiff, G.B. 'The Use of Prohibition by Clerics against the Ecclesiastical Courts in England', Medieval Studies, III (1941), pp.101-16.

- Flahiff, G.B. 'The Writ of Prohibition to Court Christian in the Thirteenth Century', Medieval Studies, VI (1944), pp.261-313, VII (1945), pp.229-90.
- Fraser, C.M. 'Prerogative and the Bishops of Durham, 1267-1376', English Historical Review, 74 (1959), pp.467-76.
- Galbraith, V.H. 'Articles laid before the Parliament of 1371', English Historical Review, 34 (1919), pp.579-82.
- Graham, R. 'The Papal Schism of 1378 and the English Province of the Order of Cluny', in English Ecclesiastical Studies, London, 1929, pp.46-61.
- - - - - 'The English Province of the Order of Cluny in the Fifteenth Century', in English Ecclesiastical Studies, London, 1929, pp.62-90.
- - - - - 'The Great Schism and the English Monasteries of the Cistercian Order', English Historical Review, 44 (1929), pp.373-87.
- Graves, E.B. 'The Legal Significance of the Statute of Praemunire of 1353', in Anniversary Essays...by Students of C.H. Haskins, New York, 1929, pp.57-80.
- Gray, J.W. 'The Ius Praesentandi in England from the Constitutions of Clarendon to Bracton', English Historical Review, 67 (1952), pp.481-509.
- Green, J.R. Town Life in the Fifteenth Century, 2 vols, New York, 1894.
- Gross, C. 'Mortmain in Medieval Boroughs', American Historical Review, 12 (1907), pp.733-42.
- Hargreaves, A.D. 'Equity and the Latin Side of Chancery', Law Quarterly Review, 68 (1952), pp.481-99.
- Hartridge, R.A.R. 'Edward I's Exercise of the Right of Presentation to Benefices as shown by the Patent Rolls', Cambridge Historical Journal, 2 (1927), pp.171-7.

- Hartridge, R.A.R. A History of Vicarages in the Middle Ages. Cambridge, 1930.
- Hastings, M. The Court of Common Pleas in Fifteenth Century England. Cornell University Press, 1947.
- Highfield, J.R.L. 'The English Hierarchy in the Reign of Edward III', Transactions of the Royal Historical Society, fifth series 6 (1956), pp.115-38.
- Holdsworth, W.S. A History of English Law. 12 vols, fifth edition, London, 1942.
- Holmes, G.A. The Estates of the Higher Nobility in Fourteenth Century England. Cambridge, 1957.
- Howell, M. Regalian Right in Medieval England. London, 1962.
- Jack, R.I. 'The Ecclesiastical Patronage Exercised by a Baronial Family in the Later Middle Ages', Journal of Religious History, 3 (1964-5), pp.275-95.
- Jacob, E.F. 'Petitions for Benefices from English Universities during the Great Schism', Transactions of the Royal Historical Society, 4th series 27 (1945), pp.41-59.
- - - - - . 'On the Promotion of English University Clerks during the Later Middle Ages', Journal of Ecclesiastical History, 1 (1950), pp.172-86.
- - - - - . The Fifteenth Century, 1399-1485. Oxford, 1961.
- - - - - . 'A Note on the English Concordat of 1418', in Medieval Studies Presented to Aubrey Gwynn, S.J., ed. J.A. Watt, J.B. Morrall and F.X. Martin, Dublin, 1961.
- - - - - . 'Archbishop John Stafford', Transactions of the Royal Historical Society, 5th series 12 (1962), pp.1-23.
- - - - - . Archbishop Henry Chichele. London, 1967.

- Jones, W.R. 'Bishops, Politics and the Two Laws: The Gravamina of the English Clergy, 1237-1399', Speculum, 41 (1966), pp.209-45.
- Kemp, E.W. 'The Origins of the Canterbury Convocation', Journal of Ecclesiastical History, 3 (1952), pp.132-43.
- - - - - . Counsel and Consent. London, 1961.
- Knowles, D. The Monastic Order in England. Cambridge, 1949.
- - - - - . The Religious Orders in England. 3 vols, Cambridge, 1950-9.
- Lambrick, G. 'The Impeachment of the Abbot of Abingdon in 1368', English Historical Review, 82 (1967), pp.250-76.
- Lapsley, G.T. The County Palatine of Durham. Harvard Historical Studies, VIII, 1900.
- Lawrence, C.H. (ed.). The English Church and the Papacy in the Middle Ages. New York, 1965.
- Leff, G. 'Heresy and the Decline of the Medieval Church', Past and Present, 20 (1961), pp.36-51.
- Little, A.G. 'The Franciscans and the Statute of Mortmain', English Historical Review, 49 (1934), pp.673-6.
- Lobel, M.D. The Borough of Bury St Edmund's. Oxford, 1935.
- Lunt, W.E. 'The Consent of the English Lower Clergy to Taxation, 1166-1216', in Facts and Factors in Economic History: Articles by Former Students of Edwin Francis Gay, Harvard University Press, 1932.
- - - - - . 'The Collectors of Clerical Subsidies', in The English Government at Work, 1327-1336, II, ed. W.A. Morris and J.R. Strayer, Cambridge Mass., 1947, pp.227-80.

- Lunt, W.E. Financial Relations of the Papacy with England, 1327-1534. Cambridge Mass., 1962.
- Lyte, H.C. Maxwell. Historical Notes on the Use of the Great Seal of England. London, 1926.
- Matthew, D. The Norman Monasteries and their English Possessions. Oxford, 1962.
- McFarlane, K.B. John Wycliffe and the Beginnings of English Nonconformity. London, 1952.
- McKisack, M. The Fourteenth Century, 1307-1399. Oxford, 1959.
- Mollat, G. The Popes at Avignon, 1305-78. Translated from the ninth French edition (1949), London, 1963.
- Morgan, M.M. 'The Suppression of the Alien Priories', History, 26 (1941-2), pp.204-12.
- - - - -. The English Lands of the Abbey of Bec. Oxford, 1946.
- Myers, A.R. 'Parliamentary Petitions in the Fifteenth Century', English Historical Review, 52 (1937), pp.385-404 and 590-613.
- - - - -. 'Some Observations on the Procedure of the Commons in Dealing with Bills in the Lancastrian Period', University of Toronto Law Journal, 3 (1939), pp.51-73.
- Otway-Ruthven, A.J. 'The Constitutional Position of the Great Lordships of South Wales', Transactions of the Royal Historical Society, fifth series 8 (1958), pp.1-20.
- Pantin, W.A. The English Church in the Fourteenth Century. Cambridge, 1955.
- Perroy, E. L'Angleterre et le Grand Schisme d'Occident. Paris, 1933.
- - - - -. The Hundred Years War. Indiana University Press, Bloomington, 1959.

Plucknett, T.F.T. Statutes and their Interpretation in the First Half of the Fourteenth Century. Cambridge, 1922.

- - - - - . 'The Lancastrian Constitution', in Tudor Studies presented...to Albert Frederick Pollard, ed. R.W. Seton-Watson, London, 1924, pp.161-81.

- - - - - . A Concise History of the Common Law. 4th edition, London, 1948.

Pollard, A.F. 'The Clerical Organization of Parliament', English Historical Review, 57 (1942), pp.31-58.

- - - - - . 'Receivers of Petitions and Clerks of Parliament', English Historical Review, 57 (1942), pp.202-26.

Pollock, Sir F. and Maitland, F.W. The History of English Law before the Time of Edward I. 2 vols, 2nd edition, Cambridge, 1952.

Postan, M.M. 'The Fifteenth Century', Economic History Review, 9 (1939), pp.160-7.

- - - - - . 'Some Social Consequences of the Hundred Years War', Economic History Review, 12 (1942), pp.1-12.

- - - - - (ed.). Cambridge Economic History of Europe, I. 2nd edition, Cambridge, 1966.

Potter, H. Historical Introduction to English Law and its Institutions. 4th edition by A.K.R. Kiralfy, London, 1958.

Power, E.E. Medieval English Nunneries, 1275-1535. Cambridge, 1922.

Powicke, Sir F.M. The Thirteenth Century, 1216-1307. Oxford, 1953.

Rashdall, H. The Universities of Europe in the Middle Ages. Revised edition by F.M. Powicke and A.B. Emden, 3 vols, Oxford, 1936.

- Rayner, D. 'The Forms and Machinery of the "Commune Petition" in the Fourteenth Century', English Historical Review, 56 (1941), pp.198-233 and 549-70.
- Richardson, H.G. 'Heresy and the Lay Power under Richard II', English Historical Review, 51 (1936), pp.1-28.
- - - - - and Sayles, G. 'The Parliaments of Edward III', Bulletin of the Institute of Historical Research, 8 (1930), pp.65-82, 9 (1931), pp.1-18.
- - - - - 'The King's Ministers in Parliament, 1272-1377', English Historical Review, 46 (1931), pp.529-50, 47 (1932), pp.194-203 and 377-97.
- Robinson, J. Armitage. 'Convocation of Canterbury: Its Early History', Church Quarterly Review, 71 (1915), pp.81-137.
- Scammell, J. 'The Origin and Limitations of the Liberty of Durham', English Historical Review, 81 (1966), pp.449-73.
- Scarisbrick, J.J. 'Clerical Taxation in England, 1485 to 1547', Journal of Ecclesiastical History, 7 (1960), pp.41-54.
- Snape, R.H. English Monastic Finances in the Later Middle Ages. Cambridge, 1926.
- Steel, A. The Receipt of the Exchequer 1377-1485. Cambridge, 1954.
- Stevenson, E.R. 'The Escheator', in The English Government at Work, 1327-1336, II, ed. W.A. Morris and J.R. Strayer, Cambridge Mass., 1947, pp.109-67.
- Storey, R.L. Thomas Langley and the Bishopric of Durham, 1406-37. London, 1961.
- Sutherland, D.W. Quo Warranto Proceedings in the Reign of Edward I, 1278-94. Oxford, 1963.

- Sweet, A.H. 'The Apostolic See and the Heads of English Religious Houses', Speculum, 28 (1953), pp.468-84.
- Thompson, A.H. 'Pluralism in the Medieval Church', Associated Architectural Societies' Reports, 33 (1915), pp.35-73, 34 (1916), pp.1-26, 35 (1919-20), pp.87-108 and 199-242, and 36 (1921), pp.1-41.
- - - - - 'A Corrody from Leicester Abbey, A.D. 1393-4: With Some Notes on Corrodies', Transactions of the Leicestershire Archaeological Society, (1925), pp.114-34.
- - - - - 'Thomas Langley, Bishop of Durham 1406-1437', The Durham University Journal, new series 7 (1945), pp.1-16.
- - - - - The English Clergy and Their Organization in the Later Middle Ages. Oxford, 1947.
- Thompson, E.M. The Carthusian Order in England. London, 1930.
- Tout, T.F. 'The English Civil Service in the Fourteenth Century', Bulletin of the John Rylands Library, 3 (1916-17), pp.185-214.
- - - - - Chapters in the Administrative History of Medieval England. 6 vols, Manchester, 1928-37.
- Trenholme, N.M. The English Monastic Boroughs. A Study in Medieval History. University of Missouri Studies, II, Columbia, 1927.
- Warren, W.L. 'A Reappraisal of Simon Sudbury, Bishop of London (1361-75) and Archbishop of Canterbury (1375-81)', Journal of Ecclesiastical History, 10 (1959), pp.139-52.
- Watt, D.E.R., 'University Clerks and Rolls of Petitions for Benefices', Speculum, 34 (1959), pp.213-29.
- Weske, D.B. The Convocation of the Clergy. London, 1937.

- Wilkinson, B. The Chancery under Edward III.
Manchester, 1929.
- Willard, J.F. 'The English Church and the Lay Taxes of
the Fourteenth Century', in The University of
Colorado Studies, Boulder, Colorado, 1907.
- Winfield, P.H. The History of Conspiracy and Abuse of
Legal Procedure. Cambridge, 1921.
- Wood, S. English Monasteries and Their Patrons in the
Thirteenth Century. Oxford, 1955.
- Wood-Legh, K.L. Studies in Church Life in England under
Edward III. Cambridge, 1934.

3. Unpublished Theses

- Avery, M.E. 'Proceedings in the Court of Chancery up
to circa 1460'. M.A., London, 1958.
- Carstens, C. 'The Enforcement of the Statute of
Provisors'. Ph.D., Harvard, 1937.
- Highfield, J.R.L. 'The Relations between the Church and
the English Crown from the Death of Archbishop
Stratford to the Opening of the Great Schism, 1348-
78'. D.Phil., Oxford, 1950.