

Justice and Grace: Private Petitioning and the English Parliament in the Late Middle Ages

Review Number:

665

Publish date:

Wednesday, 30 April, 2008

Author:

Gwilym Dodd

ISBN:

9780199202805

Date of Publication:

2007

Price:

£55.00

Pages:

386pp.

Publisher:

Oxford University Press

Place of Publication:

Oxford

Reviewer:

Hannes Kleineke

The central place of petitioning in the work of the English parliament has long been recognised. The 18th-century editors of the rolls of parliament included unenrolled petitions in their text wherever they felt able to assign them to a particular assembly, and to this day Members of the House of Commons may deposit written petitions in a bag provided for this purpose at the back of the Speaker's chair in their chamber at Westminster. Yet, while historians of the 13th and early 14th centuries have continued to take an interest in the place of petitions in the work of parliament, students of the second century of the English parliament have of late rather taken their eye off this particular ball. To this day, the articles of Alec Myers and Doris Rayner on the subject, first published between 1937 and 1941, continue to be the central (and almost the only) works on the subject. (1) It is the declared - and laudable - aim of Dr Dodd's new book 'to restore the private petition to its rightful place in our considerations of the late medieval English parliament' (p. 317). Undeniably, Dodd, who has devoted much of the last ten years to the detailed study of medieval petitioning both in his own postdoctoral work and latterly as one of the directors of a publicly funded project to recatalogue and digitise the class of parliamentary petitions (SC8) in the The National Archives (TNA), is uniquely well placed to undertake this task.

The roots of the practice of petitioning kings or rulers for grace or redress of grievances are impossible to trace. By contrast, the origins of the formal procedure of presenting a petition in the English parliament can be pinpointed fairly precisely. Far from evolving gradually, so Dodd asserts, the practice of petitioning the king in parliament was the result of 'an abrupt and deliberate shift in government policy' (p. 19) in the first years of Edward I's reign. Although the evidence is not entirely conclusive, it appears that the invitation to

individual and corporate members of the community of the realm to bring their requests to parliament may have formed part of Edward's wider judicial programme; certainly, there is an indication that the king used the practice of hearing petitions as an aggressive tool in his wars of conquest in Wales and Scotland by encouraging the inhabitants tacitly to acknowledge his jurisdiction - and by inference sovereignty - by petitioning him for justice or grace. Throughout Edward's dominions, subjects eagerly seized upon the opportunity to present petitions at parliament time, and by the first quarter of the 14th century private petitions in their hundreds came at times to dominate the business transacted. This is not to say that there was a steady growth of petitioning from parliament to parliament to the detriment of weightier matters. The Crown's normal business continued to be discharged; some assemblies did not consider the grievances of private individuals at all. Nevertheless, although not all of Edward II's parliaments were flooded by private supplications, so intrinsic a part of their functions had the dispatch of petitions become by this date that it was explicitly included in the New Ordinances imposed upon Edward in 1311.

Parliamentary petitioning, then, fulfilled an important role within the workings of royal government more broadly; it made up for the shortcomings of other parts of the administration, most notably, perhaps, of the king himself. In keeping with this argument, Dodd finds that under Edward III the proportion of parliamentary time devoted to private petitions declined overall. This, as he points out, was not simply a question of that king's disinclination to address his subjects' grievances, or a dogged determination that parliament should concentrate upon the more important business of providing funds for the French wars, but related at least in part to the re-establishment of strong government at home. Whereas under Edward II, whose name has become synonymous with his disregard for the duties of kingship, a petition in parliament had become an important avenue of securing justice from the Crown, the strengthening of the mechanisms of law enforcement under Edward III opened to the subject a reasonable prospect of gaining redress by the normal channels of the evolving common law.

Yet, even if only some parliaments were to function as a clearing house for private business which other branches of government had failed to address adequately, large-scale petitioning in parliament, nevertheless, placed the normal conduct of the king's business under considerable strain: the initial encouragement given to petitioners had created an expectation that during parliament, time and resources would be devoted to address the grievances put forward, which could only be met to the detriment of the Crown's other affairs. It was thus essential to devise mechanisms that allowed for the dispatch of petitions without bringing the Crown's business to a standstill. To this end at an early date committees of receivers and triers of petitions were introduced, designed to satisfy the petitioners' needs while allowing parliament as a whole to attend to weightier matters. They did not do so absolutely: those petitions which the triers deemed to affect the king or the Crown's interests directly were referred to the king or the king and council for decision.

For reasons that remain unclear, the membership of the committees of triers underwent considerable expansion just as the numbers of petitions dealt with by parliament apparently diminished. Initially made up in fairly equal proportion of royal judges, spiritual and temporal peers, from the 1350s the numbers of the two latter groups appointed to the committees expanded to such a degree that by the end of the reign as many as half the lords summoned to parliament were formally triers. Although, so Dodd suggests, there was no obvious change in parliamentary procedure, from the 1370s the broadening of the committee found formal reflection in the diplomatic language of the petitions, which were increasingly addressed to the 'king and Lords of parliament' (p. 97). By contrast, another new form of addressing the parliamentary petition which began to appear about the same time indicated a very real change in the work of parliament. Since the reign of Edward II the Commons had presented certain grievances deemed to be relevant to the wider community as 'common' petitions; these were distinguished from the mass of private petitions by being compiled into a single schedule and the Commons jealously defended their control over what should be included among them. From the 1370s individual petitioners for their part began to address their requests to the Commons, rather than directly to the king or Lords, seeking the intercession of the representatives of the shires and boroughs with the monarch and the peers.

This development was indicative of the growing importance of the Commons in a period which saw the Crown increasingly reliant on repeated grants of taxation, but it was also rooted in the increasing exclusivity

of the process of petitioning in parliament. For a majority of supplicants, redress of grievances was more easily obtainable elsewhere. Institutions such as the evolving court of Chancery dispensed the king's equitable justice, and successive monarchs were prepared personally to lend an ear to a wide range of supplicants: both Henry IV and Henry V were said to have heard petitions regularly for a period after dinner, and Dodd is indeed at pains to emphasise that at no point did a parliamentary session lead to a complete suspension of the monarch's normal activity, and that 'the king continued to receive and deal with the overtures of his subjects much as he did when parliament was not in session' (p. 200). What continued to be heard in parliament in the 15th century was only a heavily reduced number of exceptional cases which warranted the effort that the promotion of a petition before the Lords or Commons increasingly required: officials ranging from the Speaker of the Commons to the doorkeepers of either House needed to be paid, and - if the petition was to be presented to the Commons - the support of MPs secured. Simultaneously, the form of the parliamentary petition became increasingly standardised, and as the legal profession rose to prominence among the Members of the lower house, so intending supplicants found themselves obliged to call upon the services of legal counsel to assist not only in the drafting of their requests in the proper format, but also in their promotion in parliament.

In the final part of the book, Dodd turns his attention to the specific content of the petitions brought to parliament and the identity of the individuals and corporate bodies who presented them. As might be expected, complaints about the king's officers and the conduct of royal government, which could not readily be addressed elsewhere in the judicial system, as well as requests for the monarch's assistance and favour, made up more than three quarters of all petitions presented. Perhaps rather less obvious is the finding that members of social groups particularly disadvantaged by the sluggishness and cost of the common law, such as peasants and single women, who at least in the 13th and 14th centuries might have been expected to make use of the direct access to royal justice that a petition in parliament offered, were poorly represented among the recorded petitioners. Conversely, members of the higher aristocracy whose social position might be thought to have given them privileged access to the monarch's ear at all times, were interestingly also highly prominent in the petitioning of parliament. For groupings whose lack of corporate identity precluded the use of the common law in search of redress of grievances, the parliamentary petition offered a useful opportunity to sue as a community. This was particularly relevant in the case of the 'county communities' who through their representatives in parliament formally adopted a clear common identity which they did not otherwise possess. Dodd's finding of a close correlation between the attendance of county representatives in parliament in the period when they were not routinely summoned and the presentation of 'county petitions' provides important evidence not only of the role of MPs in the first century of parliament's existence, but also of contemporary perceptions of a county community.

As Dodd himself admits, it is essential to his argument to establish that the petitions gathered in the artificial TNA class SC8 are indeed of parliamentary provenance, and it would thus have been helpful if he could have found room in this book for the more detailed exposition of his methodology for which the reader is referred to one of his past articles. [\(2\)](#) At the root of this methodology lies an examination of a number of obsolete indexes and notebooks which were compiled prior to the archival reorganisation of the 19th century, and which, so the author asserts, allow him to trace the provenance of his material back to the medieval files in which the petitions were placed after being expedited in parliament. It is here that potential problems arise. Until the later 14th century when some petitions began to be explicitly addressed to the king and the 'lords of parliament', they bore no outward marks that distinguished those put forward during parliament from those that were presented at other times. Did the medieval clerks who were charged with filing petitions after they had been discharged really distinguish between the two types? That this was not so seems to be the implication of Dodd's contention that royal letters warranted '*per petitionem in consilio*' in the principal rolls of the king's chancery and exchequer frequently, but by no means exclusively, arose from petitions presented in parliament. His finding that particularly in the case of the Gascon petitions of the early 1340s the dates of the warranty notes often diverged markedly from the periods when parliament was in session surely goes some way to demonstrate that the material placed in the medieval files of 'parliamentary petitions' may not have been uniformly of parliamentary provenance.

For the later period, when the parliamentary provenance of a petition is frequently more readily apparent from its address, archival problems of a different nature arise. Any work as wide-ranging as this must of need be selective in its use of evidence, but this is not so much a study of parliamentary petitioning, as a survey of what a particular record class can tell us about petitioning. Dodd himself is not unaware of the record series that might have provided him with additional sources, but at times he does not seem to take on board their implications for the fullness of his material. Thus, for instance, he concludes that 'All the petitions presented in 1455 by supplicants wishing to be excluded from the Act of Resumption passed in that year appear to have been considered, and adjudged, solely within the confines of the upper house' and finds that 'There are at least eighteen original petitions on this matter in file 28 in SC8' (p. 177). This may well be so, and is in itself interesting, but surely these 18 are in fact strays from the larger series of similar provisos to the same act (at least 75 items) preserved in The National Archives class of parliamentary proceedings (C49, files 61, 63-65)? It has, in any case, to be doubtful how useful for the illustration of ordinary parliamentary practice these documents which originated in the exceptional circumstances of the 1455-6 Parliament (an assembly which saw Henry VI incapacitated for a second time in as many years) are: Michael Hicks has recently discussed in considerable detail the way in which similar petitions for proviso were promoted ten years later. It is generally accepted that Edward IV's first reign saw little innovation, so might Dodd not consider whether Hicks's findings for the 1460s mirror the practice of preceding decades? (3) Equally, the author may be too categorical in his refutation of Sayles's and Richardson's contention that large numbers of petitions were either dispersed, or copied and dispersed. Part of his argument is that duplicate petitions do not survive in sufficient numbers in TNA class SC8 to suggest that copies were regularly made, but surely this is to misunderstand the process of the creation of the class. While the 19th-century archival reorganisers brought together files of petitions where they found them, they did not systematically scour the writ bundles of the royal courts to extract parliamentary petitions. Most of the relevant files of the court of common pleas held by The National Archives are as yet unsorted and consequently inaccessible, but the *recorda* files of the King's Bench which survive from Richard II's reign onwards contain a number of copies of 15th-century parliamentary petitions. Might it not be the case that similar material would have been filed in the (now lost) corresponding files in earlier reigns?

Dodd's discussion is a thoughtful and wide-ranging one that seeks to address broader questions of kingship and its projection into the localities alongside the more specific minutiae of the parliamentary process. Naturally, the author is most at home in the first half of his period, where his own chronological specialism lies; he is at his best in discussing the heyday of petitioning in the 14th century. It is thus perhaps prudent that he curtails his discussion in the mid-15th century, but it nevertheless seems a pity that he consequently does not find room to examine the evolution of parliamentary petitioning into the bill procedure of the Tudor era; might not the account of proceedings in the Commons' chamber recorded by the MPs for Colchester in the Parliament of 1485 have afforded some interesting clues as to how petitions were physically treated in the lower house? (4) Such a perspective from the floor of the Commons would be all the more welcome, as there is an occasional sense that the author's fascination with the niceties of the administrative process and their implications for the wider question of the exercise of kingship causes him at least partially to lose sight of the real individuals that populate his discussion. His prosopographical analysis of the magnate membership of Edward III's and Richard II's committees of triers is an interesting one, but might perhaps have gained from a clearer sense of the demographic factors that affected an individual lord's or bishop's availability for service as a trier. How old, and possibly frail, were some of the lords and prelates who were excluded? Was their service curtailed by disabling ailments, such as the well-known blindness of Edward Courtenay, earl of Devon, which serves to explain his poor record of personal parliamentary attendance? Surely the failure of Guichard d'Angle, earl of Huntingdon, to become statistically prominent as a trier owed something to his death less than three years (and four Parliaments) after his creation (p. 98)? At other times the author's argument could be strengthened by a proper identification of the men and women about whom he is writing. So, for instance, the 'abbot of Wheathampstead' (p. 187), who complained about the speakership election of 1454, was of course the chronicler John Whethamstead, abbot of St. Albans, while 'Thomasin, wife of William Fornivall' (p. 211), who petitioned for maintenance from her husband in or before 1383, was Thomasine Dagworth, the wife of William, lord Furnival. Both Whethamstead and

Furnival received summons to parliament, and their membership of the Lords surely adds an interesting perspective to the cases respectively involving them.

This is an interesting book which in many respects sheds welcome light on an often neglected aspect of the work of the medieval English parliament, especially in its early period, when even the membership - let alone the business - of successive assemblies is often difficult to determine. It has much to say about the activities of individual Members of the Lords and Commons in the petitionary process, but importantly also draws attention to the far greater number of informal attendees of parliament: the supplicants, their counsel and other retainers, who combined to make the atmosphere in which parliament met, in Dodd's words, 'extremely chaotic' (p. 311), a theme which has to date attracted rather more interest from early modern than from medieval historians. It is to be hoped that this study will encourage others to undertake further investigation of some of its many themes, but they need to be aware of the serious methodological and archival problems that it throws up.

Notes

1. A. R. Myers, 'Parliamentary petitions in the 15th century', *English Historical Review*, 52 (1937), 385-404, 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), 51-73; D. Rayner, 'Forms and machinery of the "commune petition" in the 14th century', *English Historical Review*, 56 (1941), 198-233, 549-70. [Back to \(1\)](#)
2. G. Dodd, 'The hidden presence: parliament and the private petition in the 14th century', in *Expectations of the Law in the Middle Ages*, ed. A. Musson (Woodbridge, 2001), pp. 135-49. [Back to \(2\)](#)
3. M.A. Hicks, 'King in Lords and Commons: three insights into late 15th century parliaments, 1461-85', in *People, Places and Perspectives: Essays on Later Medieval and Early Tudor England in Honour of Ralph A. Griffiths*, ed. K. Dockray and P. Fleming (Stroud, 2005), pp. 131-53. [Back to \(3\)](#)
4. *Parliamentary Texts of the Later Middle Ages*, ed. N. Pronay and J. Taylor (Oxford, 1980), pp. 185-9. [Back to \(4\)](#)

Other reviews:

oxford journals

<http://ehr.oxfordjournals.org/content/CXXIV/506/140.full> [2]

Source URL: <http://www.history.ac.uk/reviews/review/665>

Links

[1] <http://www.history.ac.uk/reviews/item/3639>

[2] <http://ehr.oxfordjournals.org/content/CXXIV/506/140.full>