THE POLITICS OF MERCY: THE USE OF THE ROYAL PARDON IN FOURTEENTH-CENTURY ENGLAND

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Abstract

The fundamental contention of this study is that the royal prerogative of mercy played a pivotal role in later medieval society, both in influencing the day-to-day application of the law in the royal courts, and in shaping relations within the political community. In light of the recent neglect by historians of the role of the royal pardon, this study suggests that medieval notions of mercy and grace deserve a more thorough and nuanced appraisal than they have so far received.

This thesis deals with several different facets of the royal pardon: its place in the legal system as a safeguard against inequitable judgements at common law; its role in reconciling the polity with the crown at moments of political crisis; and the discussion it provoked among legal theorists, literary authors, jurors and supplicants for mercy. Furthermore, it seeks to develop the study of medieval political culture by examining the role of the royal pardon across a whole range of institutions and models of political thought. Medieval perceptions of pardoning were influenced by legal theory, but also by the dictates of an evolving common law and by the role of patronage and affinity. The aim of this thesis is to examine the whole variety of political principles and practical constraints which shaped attitudes towards prerogative rights such as the royal pardon. This approach not only allows the full importance of this prerogative to be realised, but also, in a broader sense, demonstrates that 'new constitutional history' can usefully be taken forward and adapted for future scholarship.

This thesis establishes the central role played by the royal pardon in the life of the medieval English populace, and, in so doing, demonstrates the value of new methodological approaches in pushing forward the boundaries of research into medieval political culture.

Contents

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Abbreviations

All manuscript references are to documents in The National Archives, London, unless otherwise stated.

Anon. Chron.	V.H. Galbraith (ed.), *The Anonimalle Chronicle, 1333-1381* (Manchester, 1927).
BIHR	*Bulletin of the Institute of Historical Research.*
BJRL	*Bulletin of the John Rylands Library.*
BL	British Library.
CA	Thomas Walsingham, *Chronicon Angliae 1328-1388,* ed. E.M. Thompson, Rolls Series 64 (1874).
CChR	*Calendar of Charter Rolls.*
CCR	*Calendar of Close Rolls.*
CFR	*Calendar of Fine Rolls.*
CIM	*Calendar of Inquisitions Miscellaneous.*
CIPM	*Calendar of Inquisitions Post Mortem.*
CPR	*Calendar of Patent Rolls.*
EETS	Early English Text Society.
EHR	*English Historical Review.*
Foedera	Thomas Rymer, *Foedera, Conventiones, Literae et Cujuscunque Generis Acta,* Record Commission edn, 3 vols in 6 parts (1816-30).
Foedera [First edition]	Thomas Rymer, *Foedera, Conventiones, Literae et Cujuscunque Generis Acta* (London, 1704-35).
JBS	*Journal of British Studies.*
P&P	*Past and Present.*
PMLA	*Proceedings of the Modern Language Association of America.*
PPC	N.H. Nicolas (ed.), *Proceedings and Ordinances of the Privy Council of England,* 7 vols. (London, 1834-7).
Rôles gascons	C. Bémont (ed.), *Rôles gascons, 1290-1307* (Paris, 1906).
RP	J. Strachey (ed.), *Rotuli parliamentorum,* 6 vols. (London, 1783).
RPHI	H.G. Richardson and G.O. Sayles (eds.), *Rotuli Parliamentorum Anglie hactenus inediti, 1279-1373,* Camden Society, 3rd series 51 (London,1935).
RS	Rolls Series.
SCCKB	G.O. Sayles (ed.), *Select Cases in the Court of King's Bench,* 7 vols. Selden Society, 55, 57, 58, 74, 76, 82, 88 (1936-71).
SR	A. Luders *et al* (eds.), *Statutes of the Realm, 1101-1713,* Record Commission, 11 vols. (London, 1810-28).
TRHS	*Transactions of the Royal Historical Society.*

Chapter One

Introduction

The monarchs of later medieval England inherited the power to grant mercy to their subjects as one of the prerogative rights of the crown. In practical terms this privilege was extended to supplicants in the form of letters patent of pardon, which were authorised by the monarch or his chancellor and then issued from the royal chancery to the individual deemed worthy of receiving grace. The prerogative was wide-ranging: as ultimate arbiter of the law, the king could intervene at any point in the legal process and pardon all charges brought in his name. These powers were certainly exercised to the full in this period: from the accession of Edward I to the deposition of Richard II, close to 40,000 of these letters patent are recorded on the patent rolls alone.[1] Whilst in many ways the fourteenth-century monarch had come to preside over the judicial system as a symbolic figurehead, rather than an active judge, the power to grant mercy was one area in which the crown retained a direct and active influence.[2]

Moreover, during the reign of Edward III, the crown took the initiative in introducing a new form of comprehensive pardon, enshrined in statutory form and made available to all those of the king's subjects who chose to sue out individual copies before a stated deadline. These 'general pardons' were negotiated in parliament, and involved the active cooperation of the Commons in their formulation.[3] Indeed, the use

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[1] The exact number of pardons issued cannot be calculated, as not all were recorded in the government archives. However, the total figure is substantially higher, when those recorded on the supplementary patent rolls (The National Archives, series C 67, commonly referred to as the 'pardon rolls') and those on the Gascon and Scottish rolls (C 61; C 71) are taken into account. The C 67 series records the issue of almost 20,000 pardons by Edward I and his three successors. Many of these were recorded separately because they were issued under the grant of a general pardon. A proportion of these were then duplicated onto the main patent roll (C 66). For further discussion of these records, see below, Chapter Two and Appendix 1 and Appendix 2.

[2] For legal cases in which the crown intervened directly, see: KB 145/1/18; JUST 1/425, mm. 12d, 13, 21d, 22; SC 1/39/27; SC 1/55/86; A.J. Horwood and L.O. Pike (eds.), *Year Books of the Reign of King Edward the Third, Years XI-XX*, Rolls Series (1883-1911), 3: 196-7; R.R. Sharpe (ed.), *Calendar of Letter Books of the City of London* (London, 1899-1912), G, 2, 23. The king's bench acknowledged the personal influence of the king in its proceedings: *SCCKB*, 3: cxxxiii-iv. See also A. Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester, 2001), pp. 218-64; J. Watts, *Henry VI and the Politics of Kingship* (Cambridge, 1996), pp. 1-80, for discussion of the extent to which the medieval monarch played an active role in the legal system. For discussion of the associated area of royal arbitration, see: E. Powell, 'Arbitration and the Law in England in the Later Middle Ages', *TRHS*, 5th series, 13 (1983): 49-67; E. Powell, 'Settlement of disputes by arbitration in fifteenth-century England', *Law and History Review* 2 (1984): 21-43; C. Rawcliffe, 'English Noblemen and their Advisers: Consultation and Collaboration in the Later Middle Ages', *JBS* 25 (1986): 157-77; C. Rawcliffe, 'Parliament and the Settlement of Disputes by Arbitration in the Later Middle Ages', *Parliamentary History* 9 (1990): 316-42.

[3] For further discussion of general pardons, see below, Chapters Two and Three.

of pardons of all types became a regular feature of parliamentary discussion and debate, an issue to which we will return in the fourth chapter of this thesis.[4] The grant of a general pardon, then, could play an important political role in symbolising reconciliation between the crown and the polity in the aftermath of a governmental crisis on the scale of the Good Parliament in 1376, for example, or the 1381 Peasants' Revolt.[5] Moreover, they provided tangible evidence of the crown's obligation to provide effective justice for its subjects. Accordingly, these public acts of mercy became trademarks of the English crown in the later Middle Ages, yet their role has gone largely unacknowledged.

It is clear even from these preliminary remarks, then, that the prerogative of mercy was an essential feature of later medieval justice and political culture, yet a comprehensive history of its use and implications remains unwritten. The purpose of this introductory chapter is to address the major trends and methodological problems of existing scholarship on the subject, and then to set out the contribution of this thesis to furthering our understanding of the field. Accordingly, the chapter provides an evaluation of the main historiographical controversies before proceeding to outline the role of the thesis in taking forward the study of medieval mercy and pardon, and finally presenting a summary of the wider context of discretionary judgment within which the royal pardon operated..

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One reason for the relative neglect of pardoning in the historiography has been the tendency to dismiss it as a prime example of the corruption and nepotism endemic in the medieval courts of justice. Historians and legal theorists have often struggled with the notion that this kind of personal discretionary judgement could have any legitimate place in a properly functioning legal system. The concept that something defined as a crime might be forgiven without punishment by the power vested in the person of the king carries notions of personal interpretation and modification of the law to its extreme. Pardoning therefore provides an example of law at its most discretionary.

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[4] For analysis of the parliamentary debates surrounding the use of royal pardons, see below, Chapter Four, pp. 119-33.

[5] *SR*, vol. 1, pp. 396-8; *RP*, vol. 2, pp. 361-4; *SR*, vol. 2, pp. 20, 29-30; *RP*, vol. 3, pp. 99, 102, 135-6, 139, 140; W.M. Ormrod, *The Reign of Edward III* (Stroud, 2000), pp. 44-5; W.M. Ormrod, '"Fifty Glorious Years": Edward III and the First English Royal Jubilee', *Medieval History*, new series 1 (2002): 13-20. For further discussion see below, Chapter Three, pp. 83-104.

However, in condemning the later Middle Ages as a 'dark age' of lawlessness and dismissing pardons as nothing more than an example of royal disregard for law and order, scholars have overlooked the significance of concepts of pardon and mercy to medieval society.

Several of the eminent constitutional and legal historians of the nineteenth and early twentieth centuries were scathing about this perceived defect in medieval law.[6] These scholars contrasted the vagaries of the royal prerogative of mercy with the reliable predictability of English common law: a legal code which had reached its apogee in the Victorian courts of justice. For Bishop Stubbs, the parliamentary Commons of the later Middle Ages were fighting a losing battle against the crown's exploitation of the prerogative, which he castigated in no uncertain terms: 'this evil was not merely an abuse of the royal attribute of mercy, or a defeat of the ordinary processes of justice, but a regularly systematised perversion of prerogative.' It was, he added, manipulated by the 'great people of the realm' to secure an exemption from the law for their retainers, or for those who paid them enough to ensure their support.[7] J.J. Jusserand concurred, adding that the royal chancery willingly granted these pardons in order to boost government revenue. As a result, he stated, 'the number of brigands increased by reason of their impunity', and men dared not bring the most formidable criminals to justice for fear of reprisals. The Commons could do little in the face of such corruption, yet they 'unweariedly renewed their complaints against these crying abuses.'[8] It is important to note, however, that not all constitutional historians were so outspoken in their condemnation. Pollock and Maitland took a more measured approach, criticising only the treatment of those who killed in self-defence, or by accident, while J.F. Stephen reserved judgement altogether, and confined himself to a detailed examination of the use of the pardon.[9]

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[6] W. Stubbs, *The Constitutional History of England in its origin and development* (Oxford, 1875), 2: 582; J.J. Jusserand, *English Wayfaring Life in the Middle Ages: XIVth century*, 4th edn (London, 1961), pp. 166-7; F. Pollock and F.M. Maitland, *The History of English Law before the time of Edward I* (Cambridge, 1911), 2: 478-84.

[7] Stubbs, *Constitutional History*, 2: 582.

[8] Jusserand, *English Wayfaring Life*, p. 167.

[9] The Anglo-Saxon customs of *wergild* and *wite* under such circumstances had tackled the problem of differing degrees of liability, but had been replaced with deferment to the king's mercy in each specific case. This, for Pollock and Maitland, was a somewhat inadequate stop-gap measure. Pollock and Maitland, *History of English Law*, 2: 483-4; J.F. Stephen, *History of the Criminal Law of England* (London, 1883), 3: 42-4.

It was not until 1969 that a comprehensive study of the origins and use of the royal pardon in England was published. Naomi Hurnard's detailed examination of the role of pardoning in the legal sphere prior to 1307 provided a thorough and scrupulous survey of the array of archival material relating to royal mercy, and did much to further the cause of empirical research in the study of this prerogative power.[10] However, Hurnard still sought to reiterate the condemnation with which earlier scholars had dismissed royal pardons. Her work sought to drive home the point that royal pardons were responsible for holding back the development of the common law, by substituting 'administrative discretion for judicial decision, uncertainty for the predictability of punishment.'[11] In medieval England, she asserted, the king's prerogative of mercy was certainly used to excess, and yet was scarcely ever available to those condemned to death in error. While Henry III misused the prerogative in his attempts to appease opposing factions, Edward I took this corruption to new heights with his use of pardons as an incentive to enlist military recruits. This 'disastrous expedient' removed all pretence of any equitable motives for pardoning.[12]

The influence of Hurnard's work endured, and resounded in the wider historiographical debate over the state of later medieval law and order and contemporary perceptions of royal justice. Scholars such as H.J. Hewitt and G.L. Harriss took the same approach, and even in the late 1980s her views were still being endorsed in the work of R.W. Kaeuper.[13] Kaeuper argued that they added further

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[10] N.D. Hurnard, *The King's Pardon for Homicide Before A.D. 1307* (Oxford, 1969).

[11] Hurnard, *Homicide*, p. vii.

[12] For discussion of military pardons, see below, Chapter Two, pp. 49-50; Chapter Four, pp. 4-15 and Appendix 4.

[13] H.J. Hewitt, *The Organisation of War under Edward III 1338-62* (Manchester, 1966), p. 173; G.L. Harriss, *King, Parliament and Public Finance in Medieval England to 1369* (Oxford, 1975), pp. 354-5, 516-7; R.G. Nicholson, *Edward III and the Scots: The Formative Years of A Military Career, 1327-1335* (Oxford, 1965), pp. 130, 174, 197; T.F.T. Plucknett, *A Concise History of Common Law* (London, 1956), p. 457; E.G. Kimball (ed.), *The Shropshire Peace Roll, 1400-1414* (Shrewsbury, 1959), pp. 43-5; R.W. Kaeuper, *War, Justice and Public Order: England and France in the Later Middle Ages* (Oxford, 1988), pp. 126-7. Kaeuper references Hurnard's work directly: 'The tension between these basic goals of the medieval state is clearly evident in the policy of royal pardons for felonies. Before 1294 such royal pardons were granted sparingly and, in the view of Naomi Hurnard, served the interests of justice: "Things were moving, however fitfully and slowly, in the right direction so far as the preservation of law and order was concerned. In 1294 they were abruptly put into reverse . . . Edward [I] introduced the policy which made pardon available to every able-bodied criminal who cared to earn it by military service." Royal pronouncements at first hid this motive, piously claiming official pity for those who could lose life or limb through judicial penalties; but before Edward's death the true motive was stated frankly: the king needed troops for his wars in Wales, Gascony and Scotland . . . the real danger was that the royal policy eliminated any value of punishment as prevention or as deterrent and made a mockery of the king's justice.' Kaeuper states that these opinions are based on the work of Hurnard, Hewitt and Nicholson. See: Kaeuper, *War, Justice and Public Order*, pp 126-7.

weight to the evidence of a crisis in public order during the fourteenth-century, as the English crown shifted attention from law and order at home to dynastic ambitions abroad. The parliamentary Commons complained that the use of military pardons contributed to the present state of lawlessness. Thus, in Kaeuper's view, the royal pardon was another short-term expedient taken to channel resources into the war effort, and should accordingly be attributed a relatively minor role in the debate over public order in the later fourteenth-century 'war-state'.[14]

Our understanding of this prerogative power has, more recently, been advanced by the work of literary scholars, who have investigated ideas of government, complaint and the use of legal vocabulary in 'mirrors for princes', and in some of the more politically aware vernacular texts.[15] However, such ideas have been kept largely distinct from historical research by the boundaries which separate the disciplines of history and literature. This scholarship reveals the need for new work on medieval politics and justice at a conceptual level, through an examination of the literature and language of all types of source material, whether traditionally categorised as literary or historical in nature. Studies of later medieval advice literature, for example, have revealed the importance which many such texts attached to the exaltation of mercy and clemency as essential royal virtues.[16] This has raised general questions concerning theories of mercy, but has yet to be assimilated with empirical research on traditionally historical

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[14] Reform of the judicial system had long been on the political agenda of the Commons, echoing the contemporary perception that the quality of the legal system was degenerating. Some historians suggest that this perception reflected a real qualitative slide in the fourteenth century: B.H. Putnam, 'The Transformation of the Keepers of the Peace into the Justices of the Peace, 1327-1380', *TRHS*, 4th series, 12 (1929): 19-48; Harriss, *Public Finance*, pp. 354-5, 516-7; Kaeuper, *War, Justice and Public Order*, pp. 174-83. Others argue that such complaints were prompted by rising expectations and an expanding legal apparatus reaching a greater range of the populace than ever before: A. Musson and W.M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke, 1999), pp. 161-93; A. Musson, *Public Order and Law Enforcement: The Local Administration of Criminal Justice, 1294-1350* (Woodbridge, 1996), pp. 189-201; A.J. Verduyn, 'The Politics of Law and Order during the Early years of Edward III', *EHR* 108 (1993): 842-67; E. Powell, 'The Administration of Criminal Justice in Late-Medieval England: Peace Sessions and Assizes', in R. Eales and D. Sullivan (eds.), *The Political Context of Law: Proceedings of the Seventh British History Conference* (London, 1987), pp. 49-59. Musson and Ormrod's stated aim is to 'assess the evolution of justice in an objective manner, free from the moral hyperbole of medieval - and of some modern - commentators.' Musson and Ormrod, *Evolution*, p. 11. This subject is discussed below, Chapter Four.

[15] J. Ferster, *Fictions of Advice: The Literature and Politics of Counsel in Late Medieval England* (Pennsylvania, 1996); M. Stokes, *Justice and Mercy in Piers Plowman* (Cambridge, 1984); P. McCune, 'The Ideology of Mercy in English Literature and Law 1200-1600' (PhD thesis, University of Michigan, 1989); R.F. Green, *Poets and Princepleasers: Literature and the English Court in the Later Middle Ages* (Toronto, 1980); A.P. Baldwin, *The Theme of Government in Piers Plowman* (Cambridge, 1981); P. Strohm, *Hochon's Arrow: The Social Imagination of Fourteenth Century Texts* (Princeton, 1992); R.F. Green, *A Crisis of Truth: Literature and Law in Ricardian England* (Pennsylvania, 1999).

[16] Ferster, *Fictions of Advice, passim.*

sources, or examined in the specific context of the royal prerogative power. This thesis aims to bring together these areas of research in a study specifically focused on the use of the royal pardon.

Existing scholarship on royal mercy has, therefore, tended to suggest that medieval perceptions of pardoning belonged to either of two extremes. For historians such as Kaeuper, pardoning was part of a more general exploitation of the law by fourteenth-century kings to serve their military ambitions and financial needs. It was, however, recognised as an abuse of the prerogative by the parliamentary Commons, who repeatedly attempted to limit its use. In contrast, for scholars such as Judith Ferster, the advice literature of the fourteenth century testifies to the extent to which mercy and pardon were essential attributes of kingship. Not all the opinions expressed in medieval sources on the subject can be so easily polarised. While legal theorists and parliamentary representatives alike suggested reforms to the system of pardoning, they continued to express an underlying belief in the value of the prerogative.[17] To some extent these two extremes of opinion were clearly linked: the literature of advice exalted the use of a pure and equitable form of royal mercy, yet failure to live up to this ideal engendered disillusionment among the political community which resulted in resentment and complaint. However, it would be an over-simplification to suggest that this portrayal can adequately explain the diverse perceptions of pardoning held by medieval society. Opinions surrounding pardoning did not follow a clear trajectory from exclusive support for the exercise of mercy, to increasing disillusionment and criticism of royal pardons as the fourteenth-century wore on. It is true, for example, that the parliamentary Commons attacked the use of pardons for military service in the middle years of Edward III's reign, but they also requested the issue of comprehensive pardons to all the king's subjects on several occasions from the 1360s to the end of the century and beyond.[18] The purpose of this thesis is therefore to present a more subtle exposition of such perceptions in the context of the judicial and political developments which occurred throughout the fourteenth century.

This thesis takes into account the political and cultural circumstances which generated the issue of royal pardons. In so doing, it draws on the more general shift in

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[17] For further discussion, see below, Chapter Five, p. 151.

[18] Some historians have suggested that in attacking the use of pardoning on some occasions and yet requesting grants of mercy on others, the parliamentary Commons were demonstrating their 'fickleness and inconsistency' to the question of law and order. G. Dodd, 'Crown, Magnates and Gentry: The English Parliament, 1369-1421' (DPhil. thesis, University of York, 1998), pp. 225-27. The analysis presented in Chapter Three of this thesis suggests that this was not, in fact, the case. See below, Chapter Three, pp. 82-117.

the historiography of medieval politics; away from the McFarlane agenda of the mid-twentieth century, with its exclusive focus on patronage, and towards the study of 'the values, ideals and conventions governing political life', championed in particular by Edward Powell.[19] Powell, has argued that these 'values, ideals and conventions' should be taken to include '. . . not merely such matters as the inalienability of the royal prerogative or the necessity of parliamentary consent to taxation, but also the advice given to rulers in the "mirrors for princes" literature – for example the exhortation that the prince should cultivate the virtues of justice, piety, mercy, patience and so on.' Further, he suggests that the horoscopes of kings, the chivalric ethos and religion all formed an integral part of medieval political culture, a point which 'secular' political historians have tended to overlook. Powell argued for a revival of research into the workings of the machinery of law and government, and central to this was the idea that the development of judicial institutions and codes of law inevitably regulated and constrained the exercise of royal power.

However, Powell argued that the study of patronage should not be abandoned altogether; rather it should be viewed alongside bureaucracy. The Crown, he asserted, supplemented its authority with patron-broker-client ties, both inside and outside the institutional framework. He concluded that the interaction between bureaucracy and patronage lay at the heart of the exercise of royal authority.[20] With this in mind, Powell saw the medieval legal system as one area which exemplified such interaction. Speaking as a legal historian, he expressed a concern to set the workings of the law in their social context, but to make clear that medieval law could not be reduced merely to the play of patronage: 'It was too open, too complex a system, expectations of it were too high, and its rules and procedures had a logic and momentum of their own which restricted, though it did not exclude, manipulation.'[21]

Since Powell made this appeal for a 'new constitutional history', some of the shortcomings of his approach have been revealed. Gwilym Dodd has demonstrated that

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[19] E. Powell, 'After "After McFarlane"', in D.J. Clayton, R.G. Davies and P. McNiven (eds.), *Trade, Devotion and Governance in Later Medieval History* (Stroud, 1994), p. 10; K.B. McFarlane, *The Nobility of Later Medieval England* (Oxford, 1973). For a thorough survey of the historiography, see Dodd, 'Crown, Magnates and Gentry', pp. 1-20.

[20] J. Watts has demonstrated the utility of this approach, by elucidating the impact of advice literature on contemporary politics - asserting that the failure of Henry VI's polity to live up to the ideals and principles of political society precipitated the mid-fifteenth century dynastic crisis. J. Watts, 'Domestic Politics and the Constitution in the Reign of Henry VI, c. 1435-61' (PhD thesis, Cambridge University, 1990); Watts, *Henry VI.*

[21] Powell, 'After "After McFarlane"', p. 12.

Powell's focus on the fifteenth-century legal system led him to marginalise the importance of institutions such as parliament, and to reduce the study of the medieval constitution to questions of law and property, thus obscuring the complete range of political principles at work.[22] One of the fundamental aims of this thesis, then, is to demonstrate that we can move past these limitations, and further the study of the attitudes which prevailed in medieval legal and political culture, by examining a defined subject area, such as pardoning, across the whole range of institutions and models of political thought. The role of the royal pardon is ideally suited for such a study: the concept of pardoning generated discussion which spanned a whole variety of institutions and political modes of thought, while at a practical level, it was used on a day-to-day basis in the king's courts and in parliament itself. The status of the royal pardon can be examined across the whole range of medieval institutions and political principles, which comprised the medieval constitution, conceived of in its broadest sense. A study of pardoning not only in parliament and in the legal system, but also in the advice literature of Gower or Chaucer, in the visionary-political discourse of *Piers Plowman* and in the didactic drama and satire of the Corpus Christi pageants, sheds light on the dynamic way in which political debates developed and were articulated.

As Powell made clear, bureaucracy and patronage interacted in the medieval legal system, and no subject demonstrates this more clearly than the use of royal pardons. Pardoning occupied a unique place in the English judicial system: on the one hand the procedure of receiving pardon through due legal process, had, by the fourteenth-century, been enshrined in statutory form; on the other hand, however, the 'patron-broker-client' ties of patronage to which Powell refers continued to be used by those seeking mercy via less official means.[23] Moreover, this use of patronage served to reinforce royal authority, as an alternative means of allowing subjects to gain access to the discretionary judgement of the king. Rather than dismissing this use of royal grace as a corrupt and cynical abuse of the law, it is surely more profitable to examine closely the moral principles which lay behind it. The notion that informal standards would be applied in passing judgement, and that the process of personal arbitration worked to offset the rigidity of legal categories, was clearly a notion entrenched in medieval thought, and therefore worthy of serious consideration. An investigation of the cultural norms which justices and jurors were required to translate in order to meet the claims of

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[22] Dodd, 'Crown, Magnates and Gentry', pp. 17-18.

[23] Powell, 'After "After McFarlane"', p. 12. See also: Powell, 'Administration'.

justice and mercy, surely brings us closer to medieval perceptions of pardoning, and gives a more valuable insight than that obtained if we simply seek to pass judgement on the objectivity of the medieval legal system.[24] Moreover, the role of parliament in shaping and articulating the ideals and principles of the fourteenth-century polity must not be overlooked.[25] Again, debate surrounding the issue of pardoning exemplifies this point. The use of the royal pardon became a frequent theme of parliamentary discussion, and a close study of this theme usefully sheds light on the way in which parliamentary debates were generated. These debates cannot be viewed in isolation: they influenced, and were in turn informed by, the views of a whole range of commentators, whether they were legal theorists, theologians or writers of satire or advice.[26]

The work of John Watts on fifteenth-century theories of kingship has demonstrated the value of focusing study at a conceptual level and elucidating the impact of the ideas and principles expressed in advice literature, on contemporary politics.[27] However, it is true to say that these mirrors for princes presented only one model for political ideas, and while they expressed important principles concerning the use of mercy, they must be studied alongside ideas based on the common law or prerogative rights. The aim of this thesis is to examine both the perceptions of royal pardons and the uses which they were put to, by drawing on the whole range of evidence concerning pardoning. In so doing, this study examines the political ideals laid down in normative tracts concerned with mercy; but it also seeks to elucidate the practical understanding of the role of the prerogative, articulated in parliamentary debates, legal commentaries and literary texts, and by the actions of court officials, royal justices, juries and supplicants, recorded in the judicial and administrative records of government.

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Returning to recent work on royal pardons, it is important to note that in the last decade or so studies of the prerogative outside the English medieval context have helped to point the way forward for future scholarship. The work of Claude Gauvard and Natalie

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[24] T.A. Green, 'A Retrospective' in J.S. Cockburn and T.A. Green (eds.), *Twelve Good Men and True: The Criminal Trial Jury in England, 1200-1800* (Princeton, 1988), p. 386.

[25] Dodd, 'Crown, Magnates and Gentry', p. 18.

[26] See below, Chapters Four and Five.

[27] See above, n. 20.

Zemon Davis on the role of letters of remission in medieval France has demonstrated the importance of examining these archives in the light of a variety of source material - including chronicles, journals, documents from urban and seigneurial officials, and theoretical treatises on justice.[28] In the English context, the work of Edward Powell and Krista Kesselring has given specific attention to the role of the royal pardon and its wider political and cultural context in the fifteenth and sixteenth centuries.[29] Powell examined Henry V's pardons against the backdrop not only of the judicial problems that faced the king at his accession, but also the political unrest, illustrating the benefits of examining the political context behind the issue of general pardons. He has persuasively demonstrated that the general pardons issued by Henry V were aimed at reconciling political society to the government, in a public display of their commitment to the regime. The cost of pardons lent them an exclusivity which suggests they were granted with the expectation of a favour in return. Powell also convincingly maintained that the success of Henry V's general pardons, compared to those of other regimes, was in large part due to his ability to present them as an assertion of royal authority rather than an admission of weakness. This impression is reinforced by John Watts' examination of monarchical ideology: to be deployed effectively, the pardon needed to be seen to issue from a king who was acting on his own initiative, independent of external pressures. Kesselring's work on the sixteenth century has also done much to elucidate the dramatic and visual impact of pardoning as a public display of reconciliation. She examined the 'scaffold speeches' of leading members of the Tudor polity, and concluded that mercy functioned alongside punishment to articulate and construct royal authority, while public expectations of pardoning also shaped the sovereign's exercise of this power.[30]

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[28] C. Gauvard, *"De grace especiall": Crime, etat et société en France à la fin du Moyen Age* (Paris, 1991); C. Gauvard, 'Résistants et collaborateurs pendant la guerre de Cent ans: le témoignage des lettres de rémission', *Actes du 3e congrès national des sociétés savantes (Poitiers, 1986): section d'histoire médiévale et de philologie, 1: la "France anglaise" au moyen âge* (Paris, 1988), pp. 123-38; N.Z. Davis, *Fiction in the Archives: pardon tales and their tellers in sixteenth-century France* (Cambridge, 1987).

[29] E. Powell, *Kingship, Law and Society: Criminal Justice in the Reign of Henry V* (Oxford, 1989), *passim*; E. Powell, 'The Restoration of Law and Order', in G.L. Harriss (ed.), *Henry V; The Practice of Kingship* (Oxford, 1985), pp. 53-74; K.J. Kesselring, 'Abjuration and its Demise: The Changing Face of Royal Justice under the Tudors', *Canadian Journal of History* 34 (1999): 345-58; K.J. Kesselring, 'To Pardon and to Punish: Mercy and Authority in Tudor England', (PhD thesis, Queens University, Ontario, 2000); K.J. Kesselring, *Mercy and Authority in the Tudor State* (Cambridge, 2003). Powell's approach is endorsed by Musson and Ormrod, *Evolution*, p. 82.

[30] Kesselring, *Mercy and Authority*, pp. 1-22.

However, such conclusions cannot simply be transposed onto the political circumstances of the fourteenth century. In the case of the general pardon issued in the wake of the 1381 Peasants' Revolt, to take one example, new questions are raised by the grant of mercy to all of the king's subjects free of any requirement to purchase individual pardons. Even more pressing than the need to examine the specific political circumstances of the fourteenth century, however, is the need to address the process of pardoning which lay behind them. A detailed analysis of pardoning procedure remained absent from the revisionist approach that Powell pioneered, and the assumptions about the workings of the general pardon which underlie his conclusions, have yet to be elucidated. This thesis therefore addresses both the established procedures of pardoning which lay behind grants of royal mercy, and their more immediate significance in promoting reconciliation in the aftermath of political crises. The basis for such a study lies in the need to bring an understanding of the processes of pardon together with an examination of the response of the government and the polity in the wake of political upheaval.

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The structure of this thesis reflects my aim to examine the role of pardoning in the legal, political and cultural spheres. Chapter Two introduces the different forms of pardon available in the fourteenth century, and then provides a survey of the evolution of the general pardon as a measure deployed to signal the bestowal of royal grace. It draws on the evidence of the administrative records of government, the pardon and patent rolls of chancery and receipt rolls of the exchequer, and examines them in conjunction with the evidence of the judicial records, the eyre, gaol delivery and king's bench rolls and the year books, to analyse the apparatus of the general pardons and to establish the precise way in which such pardons were designed to operate.[31] The third chapter then examines in more detail the implications of these general pardons, and of the exemptions they contained, both for those who played a direct role in government and for the lower

[31] C 67/26-37; C 237; C 81; C 49; C 266; C 66; E 401; JUST 1; KB 27. The bails on special pardons contained in C 237 provide valuable information concerning the legal procedures surrounding pardoning. Several privy seal writs warranting letters under the great seal relate to pardons, C 81; as do the king's remembrancer rolls, C 49; cancelled letters patent, C 266; and patent rolls, C 66. Information about the financial aspect of pardoning is contained in the exchequer receipt rolls, E 401. Petitions concerning pardons can also be found in the SC 8 class of ancient petitions to the crown. Of the court rolls, the eyre and gaol delivery records, JUST 1, have been sampled to provide evidence for the use of royal pardons, as have the king's bench rolls, KB 27. Further evidence has been drawn from the year books. For detailed analysis of these sources, see below, Chapter Two, *passim*.

echelons of society. This chapter focuses on the role of general pardons at key moments of political instability and the insight they reveal into the interaction between the crown and it subjects in the wake of crises on the scale of the Good Parliament of 1376, the 1381 Peasants' Revolt or Richard II's Revenge Parliament of 1397. Evidence for such episodes is drawn from the parliament and statute rolls and from the chronicles of Walsingham, Froissart, Knighton and Usk, among others.[32] The final two chapters seek to set the pardon in a wider cultural context and address medieval perceptions of pardoning. Chapter Four examines the evidence of the abuse and misuse of the prerogative, drawing on the opinions expressed in legal tracts such as *Bracton* and *Fleta*; in outlaw romances such as the *Tale of Gamelyn*; in the visionary-political discourse of *Piers Plowman*; in the didactic drama of Corpus Christi plays including *The Killing of Abel*; and finally in the common petitions to parliament.[33] Chapter Five considers the praise and reverence the prerogative attracted as a manifestation of the virtue of mercy in a variety of medieval texts, including homiletic pieces, sermons, pastoralia, chronicles, mystery, morality and academic plays, devotional entertainment, court poetry and royal propaganda.[34] This final chapter then examines the evidence of continued popular support for the use of discretionary mercy, through the opinions expressed by the representatives of the commonalty, and the impressions which can be gleaned from their actions on trial juries or as petitioners for mercy. The lenient verdicts of trial juries, the continued presence of older notions of local mitigation, and the

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[32] *RP*, vols. 2 and 3; Adam Usk, *The Chronicle of Adam Usk 1377-1421*, ed. C. Given-Wilson (Oxford, 1997); G.B. Stow (ed.), *Historia Vitae et Regni Ricardi Secundi* (Pennsylvania, 1977); Henry Knighton, *Knighton's Chronicle, 1337-1394*, ed. G.H. Martin (Oxford, 1995); Richard of Maidstone, *Concordia: The Reconciliation of Richard II with London* ed. A.G. Rigg and D.R. Carlson (Kalamazoo, 2003); L.C. Hector and B.F. Harvey (eds.), *The Westminster Chronicle 1381-1394* (Oxford, 1982); A. Gransden (ed.), *The Chronicle of Bury St. Edmunds 1212-1301* (London, 1964); V.H. Galbraith (ed.), *The Anonimalle Chronicle* (Manchester, 1927); G. Brereton (ed.), *Froissart: Chronicles* (Harmondsworth, 1978). See below, Chapter Three, pp. 83-118, for discussion of these general pardons.

[33] H.G. Richardson and G.O. Sayles (eds.), *Fleta*, *Selden Society* 72, 89, 99 (London, 1955-84), vol. 2; F.M. Nichols (ed.), *Britton* (Oxford, 1865), vol. 1; S.E. Thorne (ed.), *Bracton on the Laws and Customs of England* (Cambridge, Mass., 1968-77); G.D.G. Hall (ed.), *The Treatise on the Laws and Customs of the Realm of England commonly called Glanvill* (London, 1965); S. Knight and T. Ohlgren (eds.), *Robin Hood and Other Outlaw Tales* (Kalamazoo, 1997); A.V.C. Schmitt (ed.), *The Vision of Piers Plowman* (London, 1995); A.C. Cawley (ed.), *The Wakefield Pageants in the Towneley Cycle* (Manchester, 1958).

[34] G.C. Macaulay (ed.), *The Complete Works of John Gower* (Oxford, 1901); W.N. Francis (ed.), *The Book of Vices and Virtues*, EETS, OS 217 (London, 1942); Richard Rolle, *The Pricke of Conscience*, ed. R. Morris, *Philological Society* 6 (Berlin, 1863); N. Love, *The Mirour of the Blessed Lyf of Jesu Christ*, ed. L.R. Powell (Oxford, 1908); K.S. Block (ed.), *Ludus Coventriae or the Plaie Called Corpus Christi*, EETS, OS 120 (Oxford, 1922); R. Morris (ed.), *Cusor Mundi*, EETS, OS 57, 59, 62, 66, 68, 69, 101 (London, 1874-93); S.J.H. Herrtage (ed.), *The Early English Versions of the Gesta Romanorum*, EETS, ES 33 (London, 1879); M. Eccles (ed.), *The Macro Plays: The Castle of Perseverance; Wisdom; Mankind*, EETS, OS 262 (London, 1969).

popularity of new forums for discretionary justice in the court of chancery, for example, all suggest that the royal pardon was accepted as one manifestation of discretionary mercy among many, even if this particular route led the petitioner to the king himself.

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Indeed, it is important to make the point at the outset of this thesis that the royal pardon operated in a wider context of discretionary mitigation of the law. The attention which has, justifiably, been given to the Angevin reform and expansion of the legal system has meant that the continuing power of kings, judges, juries and local communities to mitigate the severity of the law has been somewhat overlooked.[35] It therefore needs to be emphasised that obtaining a royal pardon was one of several methods available for circumventing the law, albeit by far the most popular. Indeed, it is essential to recognise that discretionary justice was a common and accepted practice at all levels of the legal system: prosecution decisions, jury verdicts, judicial sentences, and royal pardons all to some extent embodied this approach to the law.[36] The worst offenders might be singled out for exemplary punishment but jurors, justices and monarchs had the means to mitigate the severity of the law and offset the rigidity of legal categories.[37]

The king's pardon was unique in the sense that it could be obtained on the recommendation of the justices after due legal proceedings had taken place, or alternatively it could be sued out by individuals who by-passed the judicial process altogether. All other methods of mitigation can be roughly divided between those which arose out of criminal trial proceedings, and those which circumvented the king's courts entirely. The former category comprised challenges to validity of a charge of

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[35] Several studies have focused on the strengthening range and application of the king's law in this period. See, for example: R.H. Helmholz, *Oxford History of the Laws of England* (Oxford, 2004), vol. 1; A. Harding, *Medieval Law and the Foundations of the State* (Oxford, 2002); J. Hudson, *The Formation of the English Common Law: Law and Society in England from the Norman Conquest to Magna Carta* (London, 1996); P. Brand, *The Making of the Common Law* (London, 1992); R.C. van Caenegan, *The Birth of the English Common Law* (Cambridge, 1973); C.M. Gray (ed.), *The History of the Common Law of England* (London, 1971); S.F.C. Milsom, *Historical Foundations of the Common Law* (London, 1969); Plucknett, *Common Law*.

[36] E. Powell, 'Administration', *passim;* Green, 'A Retrospective', *passim*. See below, Chapter Five, pp. 153-9.

[37] Green, 'A Retrospective', p. 386.

felony, often on the basis of a technical flaw identified with some point of law.[38] T.A. Green has also demonstrated that juries of presentment played a crucial part in determining why some accusations failed to conform to the standards of written charges, and so were judged insufficient in law. Green argues that trial jurors worked around the strict rules of common law procedure so as to find pardonable homicides that they believed warranted excuse, but for which the only penalty at law was forfeiture and death (he terms this 'jury nullification'). The fact of their arrest, and the time they spent in prison before the arrival of the justices, simultaneously satisfied the concerns of communal opinion and represented punishment for antisocial behaviour.[39]

In contrast, the latter category of mitigation by-passed the common law trial entirely through an appeal to the ecclesiastical privilege of bestowing mercy. This could be granted to a layman who sought sanctuary, or to a cleric who pursued his right to 'benefit of clergy'.[40] For the layman, sanctuary and abjuration provided a potential means of avoiding a criminal trial altogether, while the claim of 'benefit of clergy' gave a cleric the chance to be sentenced, if not actually tried, by an ecclesiastical tribunal unable to authorise capital punishment.

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[38] An increasing number of challenges were based on technical flaws identified in the prosecution case. Refusal to plea could also be maintained if the principal in an alleged felony had died not yet convicted. C.J. Neville demonstrates that a broad cross section of society were equipped with the legal knowledge to put forward challenges based on technical points of law. C.J. Neville, 'Common Knowledge of the Common Law in Later Medieval England', *Canadian Journal of History* 29 (1994): 465-7.

[39] Evidence of spoiled indictments perhaps testify to an expression of communal sentiment: the poor quality of some written charges is so marked as to suggest there was never any intention that the suspects they named be subjected to a full trial (the law did not allow a suspect to be tried more than once on a single charge). T.A. Green, *Verdict According to Conscience: Perspectives on the English Criminal Trial Jury, 1200-1800* (Chicago, 1985), *passim.* See also: B.W. McLane, 'Juror Attitudes toward Local Disorder: The Evidence of the 1328 Trailbaston Proceedings', in Cockburn and Green (eds.), *Twelve Good Men,* pp. 51-2; E. Powell, 'Jury Trial at Gaol Delivery in the Late Middle Ages: The Midland Circuit, 1400-1429', in Cockburn and Green (eds.), *Twelve Good Men*, p. 112; P.C. Maddern, *Violence and Social Order: East Anglia 1422-1442* (Oxford, 1992), pp. 33-63; B.A. Hanawalt, *Crime and Conflict in English Communities 1300-1348* (Cambridge, Mass., 1979), pp. 53-63.

[40] Records of the numbers of sanctuary seekers only exist for the later fifteenth and early sixteenth centuries: the registers of the Durham sanctuary recorded the arrival of 332 individuals between 1464 and 1524; the Beverley sanctuary admitted some 493 sanctuary-seekers in the years between 1478 and 1531. A census of June 1533 from the Westminster sanctuary noted 95 residents. J. Raine (ed.), *Sanctuarium Dunelmense et Sanctuarium Beverlacensis,* Surtees Society 5 (Durham, 1837); *Letters and Papers, Foreign and Domestic, Henry VIII,* vol. 1, no. 848. See also BL, MS Harleian 4292, for a Yorkshire register. While figures for the earlier period can only be conjectural, the pardon seems to have remained a far more popular method of mitigation, from the point of view of the defendant. It was also the only form of mitigation which the court or the crown could bestow at its own initiative, rather than at the request of the defendant. See below, Chapter Two, pp. 25-43. The work of C.J. Cox and L.C. Gabel on sanctuary and benefit of the clergy respectively, remain the standard sources for the topic: J.C. Cox, *The Sanctuaries and Sanctuary Seekers of Medieval England* (London, 1911); L.C. Gabel, *Benefit of Clergy in England in the Later Middle Ages* (Northampton, Mass., 1928-29).

Abjuration was a familiar method of avoiding trial in the later Middle Ages, but the consequences of abjuration - the perpetual banishment of the abjurer on pain of execution - meant that few suspects actually chose to avoid prosecution in this manner. After a flight to a parish church or other consecrated ground, the offender confessed his or her crime to the king's coroner, and was accompanied to the coast to find passage out of the country after promising never to return.[41] Some did do so, and then succeeded in having their abjuration adjudged null and void by demonstrating that the process had been unlawfully performed or imposed. These sanctuaries attained their status by custom and papal or royal grant and afforded protection to anyone who fled there for forty days.[42] During this time, they could be supplied with food by clergy or friends, and those who tried to intervene were to be excommunicated. After that, the person either had to surrender for trial, or abjure the realm and leave by the nearest port. If neither action was taken, they could be seized for trial.[43] A few places had right of permanent sanctuary, originating in a royal grant. Although this was a secular jurisdictional privilege, such sanctuaries were independent of royal justice.[44]

The rights which became known as 'benefit of clergy' allowed clerics to avoid trial in the king's courts. The privilege had been articulated in the conflict between

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[41] Cox, *Sanctuaries and Sanctuary Seekers*, pp. 1-20. See also: R.F. Hunnisett, *The Medieval Coroner* (Cambridge, 1961), pp. 37-54; J.G. Bellamy, *Crime and Public Order in England in the Later Middle Ages* (London, 1973), pp. 106-12; R.F. Hunnisett, 'The Late Sussex Abjurations', *Sussex Archaeological Collections* 102 (1964): 39-51 and Kesselring, 'Abjuration and its Demise', pp. 345-58. Records in KB 9 show that at least 212 individuals did so between 1485 and 1545. This is a minimum number, as coroners did not have to submit records of abjuration.

[42] I.D. Thornley, 'The Destruction of Sanctuary', in R.W. Seton-Watson (ed.), *Tudor Studies Presented to Albert Frederick Pollard* (London, 1924); I.D. Thornley, 'Sanctuary in medieval London', *Journal of the British Archaeological Association*, 2nd ser., 38 (1932): 293-315; I.D. Thornley, 'The sanctuary register of Beverley', *EHR* 34 (1919): 393-7; Kesselring, *Mercy and Authority*, pp. 45-6.

[43] Raine (ed.), *Sanctuarium Dunelmense*, vol. 5; *Letters and Papers, Foreign and Domestic, Henry VIII* vol. 1, no. 848.

[44] The main chartered sanctuaries were Beverley and Durham in the north and Westminster, St. Martin's le Grand and Beaulieu in the south. However, Cox demonstrates that several other churches received such charters. These comprised: York, Southwell, the Priory of Hexham, the Collegiate Church of Ripon, the priories of Tynemouth, Wetherhal, Armathwaite, and the church of Norham. All Cistercian abbeys also claimed the right of permanent sanctuary, through papal sanction. In addition, the abbeys of Battle, Colchester, Ramsey, Croyland, Glastonbury, Bury St. Edmunds, the Liberty of Cuxham, the church of Abbots Kerswell, the priory of Leominster and the cathedral church of Lincoln all had claims to chartered sanctuaries. Cox also notes that William the Conqueror conferred on the abbot of Battle Abbey the right to pardon any condemned criminal in any part of his realm. The Battle Abbey Chronicle records one instance of an abbot claiming this privilege outside his own jurisdiction - in 1364 Abbot Robert de Bello apparently met a condemned felon on his way to the gallows in the king's Marshalsea, and pardoned him. Interestingly, the chronicle notes that the king and other magnates took much offence at the act, yet upon plea he had his charter confirmed. Cox, *Sanctuaries and Sanctuary Seekers*, p. 197.

Henry II and Archbishop Becket.[45] From this time onward the common law had acknowledged that clerks must be handed over at some stage of the trial to the ecclesiastical courts. Originally the benefit provided the means for clerics to evade the penalties of the secular law. Clerics claimed the privilege at the onset of a trial and were handed over to a church official to undergo a trial under canon law. Since this generally involved a period of confinement in the bishop's prison and forfeiture of goods, the privilege did not allow a complete evasion of punishment. By the mid-fourteenth century, however, a procedure seems to have been established whereby offenders were usually tried first in the king's courts, and if found guilty, their goods would be seized into the king's hands until sentence had been passed by an ecclesiastical tribunal. The second half of the fourteenth century also saw the ascendancy of the reading test as proof of clerical status. Inevitably, literate laymen began to claim successfully, and their ability to do so was acknowledged in a statute of 1489. It could be claimed only once for homicide, rape or robbery and offenders were to be branded M or T on their first conviction, which was sometimes followed by a term in prison. Further restrictions were added in the early sixteenth century, before an act of 1576 gave lay authorities complete control.[46]

It would be misleading, however, to assume that until this time, medieval royal government had been reluctantly conceding authority over mitigation of the law to judges, trial juries and local communities, or to the church. Scholars of the early modern judicial system have tended to regard traditional methods of circumventing the law as signs of the powerlessness of medieval central government to assert its authority. Historians such as Krista Kesselring and P. McCune contrasted the situation in the late Middle Ages with the Tudor initiatives to curtail the various forms of mitigation, and to centralise those powers which continued to exist in the hands of royal government.[47] To

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[45] J.G. Bellamy, 'Benefit of Clergy in the Fifteenth and Sixteenth Centuries', in J.G. Bellamy (ed.), *Criminal Law and Society in late medieval and Tudor England* (Gloucester, 1984), pp. 115-72. A.J. Duggan (ed.), *The Correspondence of Thomas Becket, Archbishop of Canterbury, 1162-1170* (Oxford, 2000); F. Barlow, *Thomas Becket* (London, 1986); D. Knowles, *Thomas Becket* (London, 1970); N. Pain, *The King and Becket* (London, 1964); G.W. Greenaway, *The Life and Death of Thomas Becket, Chancellor of England and Archbishop of Canterbury* (London, 1961); R. Winston, *Thomas Becket* (London, 1967); R. Speaight, *Thomas Becket* (London, 1949); W.H. Hutton, *Thomas Becket, Archbishop of Canterbury* (Cambridge, 1926); S. Morris, *The Life and Martyrdom of Saint Thomas Becket, Archbishop of Canterbury* (London, 1885).

[46] Restrictions were imposed in 1497, 1512, 1533 and 1536. See Kesselring, 'To Pardon and to Punish', p. 70, n. 84.

[47] Kesselring, *Mercy and Authority*, pp. 1-21; McCune, *Ideology of Mercy*, pp. 1-9. Kesselring asserts that, despite the increased severity of the law, mercy did remain an essential complement to justice.

continue to see the church and the holders of the great palatinates of Durham and Chester bestowing mercy as a prerogative power, they argue, was an infringement on the royal power which Henry VII and his successors would not tolerate. However, it would be a mistake to assume that later medieval monarchs were powerless to rein in these privileges, or allowed them to be exercised with no guiding influence.

The right to exercise privileges of mercy should be seen rather as a power ultimately held by the king, but devolved to certain of his subjects after careful negotiation between the crown and the representatives of the clergy and the commonalty. Edward III's increasingly frequent requests for parliamentary sanction of direct taxation gave the Commons the opportunity to secure redress of grievances and grants of grace from the crown. On several occasions, the Commons sought a grant of royal mercy, often in the form of a general pardon. The same was true of the clergy, who often met a proposed subsidy with a list of *gravamina*, usually including a request for royal protection of church privileges, including sanctuary and benefit of clergy.[48] The clergy, and subsequently the Commons, learned the wisdom of timing their petitions to coincide with meetings of parliament where both finance and politics might favour their acceptance. Consent to grants of taxation contingent on agreements to protect clerical privileges of mercy followed a similar pattern to grants of amnesties and general pardons. In 1311 and 1341 the prelates took advantage of political crises, in 1327 they looked to capitalise on the change of regime, while in 1377 and 1399 they sought to mark a royal coronation with a gift of mercy. Rather than attack the privileges of the church, Edward III and his government sought to ensure the co-operation of his prelates by establishing a working relationship based on a *quid-pro-quo* arrangement. In time it adopted the same arrangement with the parliamentary Commons. In both cases, an important element of the concessions they sought from the crown were guarantees over grants of mercy, whether in the form of a direct grant of royal grace, or a promise that the church could continue to exercise its own privileges concerning mercy.

The existence of ecclesiastical prerogatives to grant mercy therefore influenced and interacted with the royal judicial system. The church, of course, also had its own form of pardon in the shape of indulgences which granted forgiveness of temporal

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[48] W.R. Jones, 'Bishops, Politics, and the Two Laws: The *Gravamina* of the English Clergy 1287-1399', *Speculum* 41 (1966): 209-45; Ormrod, *Edward III*, pp. 122-36.

penalty for sin.[49] The first texts to discuss the origins and use of these dispensations were produced by the theologians and canonists of the mid-thirteenth century. Treatises by commentators such as Peter Cantor and William of Auxerre argued that penitents could seek forgiveness for the penalties which they had incurred through sin, and that indulgences could reduce time spent in purgatory.[50] Crucially, though, the recipient must be in a state of grace for the indulgence to have any validity. Indulgences were also required to prescribe a good work to be carried out by the recipient as penance for their sins, unless the indulgence specified that the desire to perform a good work was adequate. These dispensations could only be granted by episcopal authority or a specially appointed agent. It is interesting to note that legal tracts such as *Bracton* and *Fleta* were also attempting to make comparable stipulations with regard to royal pardons in the mid-thirteenth century.[51] The abuse of indulgences and the profits accrued from their sale also attracted much of the same type of hostile commentary directed at royal pardons, discussed below in Chapter Four.[52] While the scope of this thesis does not permit a thorough examination of these religious pardons, it is important to note that the processes and use of the king's pardon was closely aligned with

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[49] The extensive scholarship on the subject includes several works of use in the study of royal pardons. See in particular: H.C. Lea, *A History of Auricular Confession and Indulgences in the Latin Church* (New York, 1968), 3: 1-293; N. Paulus, *Indulgences as a Social Factor in the Middle Ages* (New York, 1922); A.J. Minnis and P. Biller (eds.), *Handling Sin: Confession in the Middle Ages* (Woodbridge, 1998); D. Wood, *Clement VI: The Pontificate and Ideas of an Avignon Pope* (Cambridge, 2003); R.N. Swanson, *Religion and Devotion in Europe, c. 1215-c.1515* (Cambridge, 1995), pp. 217-25; E. Duffy, *The Stripping of the Altars: Traditional Religion in England c.1400-c.1580* (London, 1992), pp. 287-98; R.W. Shaffern, 'Learned Discussions of Indulgences for the Dead in the Middle Ages', *Church History* 61(1992): 367-81. The most recent work on the subject includes: R.N. Swanson, 'Indulgences at Norwich cathedral priory in the later middle ages: popular piety in the balance sheet', *Historical Research* 76 (2003):18-29; R.N. Swanson, 'Indulgences for prayers for the dead in the diocese of Lincoln in the early fourteenth century', *Journal of Ecclesiastical History* 52 (2001): 197-219; R.M.T. Hill, 'Fund-raising in a fourteenth-century province', in D. Wood (ed.), *Life and thought in the Northern Church, c.1100-c.1700: essays in honour of Claire Cross*, Studies in Church History, Subsidia 12 (Woodbridge, 1999), pp. 31-6; P.N.R. Zutshi, 'Collective indulgences from Rome and Avignon in English Collections', in M.J. Franklin and C. Harper-Bill (eds.), *Medieval ecclesiastical studies in honour of Dorothy M. Owen*, Studies in the history of medieval religion 7 (Woodbridge, 1995), pp. 281-97.

[50] Peter Cantor, *Summa de sacramentis et animae consilis*, 11, 110 in *Analecta mediaevalia Namurcensia* (Louvain, 1957-67), 7: 190-5; William of Auxerre, *Summa aurea omnia* (Paris, 1980-85), 4: 349-60. See Shaffern, 'Learned Discussions of Indulgences', p. 368, n. 4, for further references.

[51] See below, Chapter Two, pp. 29-31.

[52] For an account of the perversion of the system of indulgences by professional pardoners, see A.L. Kellogg and L.A. Haselmayer, 'Chaucer's Satire of the Pardoner', *PMLA* 66 (1951): 251-77; L.W. Patterson, 'Chaucerian confession: penitential literature and the Pardoner', *Medievalia et Humanistica*, NS, 7 (1976): 153-73; D. Pearsall, 'Chaucer's Pardoner: Death of a Salesman,' *Chaucer Review* 17 (1983): 358-64. See also: N. Vincent, 'Some pardoners' tales: the earliest English indulgences', *TRHS*, 6th ser., 12 (2002): 23-58; W.E. Lunt, *Financial relations of the Papacy with England, 1327-1534*, Studies in Anglo-Papal relations during the Middle Ages 2 (Cambridge, Massachusetts, 1962). For discussion of the criticism levelled at royal pardons, see below, Chapter Four.

ecclesiastical and sacramental structures. The use of religious language and allusion in public pronouncements by the king on the subject of pardon certainly bears this out, and is discussed in more detail in Chapter Three of this thesis.[53]

The royal pardon was one of several methods used to circumvent the law; some were used by the crown, others by the bench, juries, and other administrators of the law. Such measures spanned a whole spectrum of mitigation, from outright pardon of capital crime, to ensuring that a lesser sanction was imposed than the one called for by the law. The purpose of this thesis is to present a comprehensive examination of the use of the royal pardon in the legal and political spheres, and to elucidate medieval perceptions of the prerogative, in order to contribute to our understanding of the fourteenth-century discourse of mercy.

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[53] See below, Chapter Three, pp. 83-90.

Chapter Two

The Forms and Procedures of Pardoning

I. Introduction

The Variety of Pardons

By the beginning of the fourteenth century the production of a royal pardon was a familiar method of claiming immunity from common law procedures.[1] Suspects who had a charter of pardon in hand by the time of their arraignment before the justices were not required to answer formal charges, whilst those who secured one subsequently could seek acquittal, or even remission of a conviction.[2] Similarly those in danger of infringing the feudal and proprietary rights of the crown, by purchasing lands without royal license, for example, could purchase a pardon and thus circumvent cumbersome legal procedures. For anyone who stood in need of such a letter, one form of pardon was theoretically available to all of the king's subjects at any time.[3] This was the 'individual pardon', so-called because the wording of the charter covered only the specific offence with which one person stood accused. Every supplicant for an individual pardon had to submit a petition, and each case was judged according to the particular circumstances which attended it. In routine cases the royal justices themselves could set the procedure of pardoning in motion, by exercising their power to recommend mercy.[4] The criteria on which cases were judged remained largely consistent and most routine requests appear

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[1] The other widely known methods for avoiding a common law trial were to claim benefit of clergy, to abjure the realm, or, if indicted as an accessory, to establish that the principal had either died before conviction or had been acquitted. See: Neville, 'Common Knowledge of the Common Law', pp. 465-67. See above, Chapter One, pp. 13-16.

[2] Contemporary texts refer to 'charters' of pardon, although the term was being used in a generic sense to cover all official government documents. Pardons were actually issued from chancery as letters patent. See H.C. Maxwell-Lyte, *Historical notes on the use of the Great Seal of England* (London, 1926), p. 332; B. Wilkinson, *The Chancery under Edward III* (Manchester, 1929), pp. 59-64; A.L. Brown, 'Authorisation of Letters under the Great Seal', *BIHR* 39 (1964): 125-55. The ability to obtain pardon before arraignment was somewhat controversial, and was finally outlawed in the Tudor period. See J. Bellamy, *The Criminal Trial in Later Medieval England* (Stroud, 1998), pp. 137-38; Hurnard, *Homicide*, pp. 31-67.

[3] It was normally accepted that fines would be charged for individual dispensations of grace in letters patent, but poverty did not, theoretically, exclude subjects from access to a pardon as the fee could be remitted. On such occasions the engrossments on the chancery rolls note that they were given 'for God', as an act of charity. See, for example, *CPR, 1327-1330*, p. 308; *CPR, 1343-1345*, p. 571. For further discussion see Wilkinson, *Chancery*, p. 60; J.C. Davies, 'Common Law Writs and Returns, Richard I to Richard II', *BIHR* 26 (1953): 140-41; J.H. Baker, *An Introduction to English Legal History* (London, 1990), pp. 63-110; Musson and Ormrod, *Evolution*, pp. 14-15.

[4] Theoretically, the king himself could also take the initiative in pardoning individual cases, although it would be rare for him to intervene in a particular case, without it having first been brought to his attention by the defendant or by the justices.

to have been approved as a matter of course, on the authority of the chancellor, who was empowered to act in the king's name.[5] Alternatively, the process could be initiated by the defendant who sought official endorsement for their petition, often through the recommendation of a patron. Accordingly, the issue of individual pardons continued steadily throughout the century.[6] To this straightforward picture, however, the occasional bestowal of different classes of pardon to groups within society, rather than to particular individuals, adds a greater degree of complexity.[7]

The other main form of pardon was the 'general pardon', made available for the first time in the reign of Edward III. The wording of this type of charter was formulated to give comprehensive immunity from prosecution for offences against the crown, although treason, murder and rape of women were excluded in most cases. The generalised nature of their terms also meant that they could be purchased as a safeguard against indictment for a past offence. These charters were still addressed to the individual, but were made available, for a limited period of time, to any of the king's subjects who wished to purchase one, rather then being issued on a case-by-case basis.[8] Importantly, it was the king, rather than his justices or an individual defendant, who was seen to take the initiative in granting these general pardons.

Bridging the gap between the individual and the general pardon, there was another class of 'group pardon', which is less easily defined. It is perhaps best described as a forerunner of the general pardon, available to specific groups within society, for a defined range of offences, but not imbued with the same comprehensive scope and availability as the general pardon. The group pardon existed in three main forms: the political amnesty, the military pardon, and the remission of judicial and feudal dues. All three were made available to a particular section of society for a limited period of time, and were issued by proclamation at the initiative of the monarch.

The first of these forms, the political amnesty, had the oldest provenance. It had long been used to grant mercy to members of an opposition faction in the aftermath of some act of defiance against the crown. By the fourteenth century the amnesty had

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[5] See below, pp. 25-28 for further discussion.

[6] See Appendix 1.

[7] See Appendix 3.

[8] The standard fee for a general pardon, including the 2*s*. payable to chancery, stood at 18*s*. 4*d*. Payment was made after the engrossment, usually in the Hanaper but sometimes in the Wardrobe. However, if the defendant could not afford the fees, or had given the king good service, the fee for the seal might be waived. It was usual for the sums accepted to vary widely, according to the recipient's ability to pay. Maxwell-Lyte, *The Great Seal*, p. 332; Wilkinson, *Chancery*, pp. 59-64; Brown, 'Great Seal', pp. 136-55.

already become an established method of reconciling political elites and their followers to the regime, being issued most famously in 1215 as the penultimate clause of Magna Carta and in the 1266 Dictum of Kenilworth.[9] Over the course of the fourteenth century recipients were to include the Ordainers and their supporters in 1313, Edward III's allies in the 1327 seizure of power and the followers of the Lords Appellant in the wake of the so-called Merciless Parliament of 1388.[10] Many other such amnesties were made available and accordingly long lists of recipients, such as those drawn up in 1327, were recorded in the patent rolls.[11]

The second form of group pardon, the conditional pardon granted in return for military service, was deployed for the first time in 1294. Edward I, recognising the need to bolster the ranks of his infantry, issued a proclamation inviting persons charged with felony, whether detained in prison or at large, to volunteer for paid service in the army bound for Gascony.[12] Although the protracted warfare of the fourteenth century meant that these pardons could be issued at almost any time, they in fact tended to be used in preparation for only a few specific campaigns.[13] At such times indicted men could obtain a conditional pardon in return for service in the company of military leaders such as the Black Prince or the Earl of Lancaster. These pardons were conditional on completion of military service, and usually had to be 'proved' in court before being validated.[14]

The final category of group pardons were the remissions of judicial and feudal dues which began to be issued in the latter half of Edward II's reign in response to

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[9] See Appendix 3.

[10] Magna Carta, clause 62. J.C. Holt, *Magna Carta* (London, 1965), p. 337; *SR*, vol. 1, pp. 13, 169, 252; *SR*, vol. 2, pp. 47-8; *Knighton's Chronicle*, pp. 504-05; *Westminster Chronicle*, pp. 296-306; *Adam Usk*, pp. 9-10.

[11] The names of all recipients are listed in the patent rolls under the letter patent declaring the political amnesty. This suggests either that chancery was keeping a memorandum of the pardons issued under the amnesty, and then writing them up in fair copy, or that the names were already recorded on a single petition, and that this was then submitted to chancery for warranty. The clearest example can be seen in 1327, when the king in parliament issued a comprehensive pardon, covering the period 24 September 1326 to 1 February 1327 (from Edward III's arrival into the realm until his coronation), to those who had supported his seizure of power. Accordingly, 945 names were submitted and granted pardon, *CPR, 1327-1330*, pp. 43-57, 115-23. A further 234 were given pardon on condition that they joined the forthcoming expedition against the Scots, *CPR, 1327-1330*, pp. 110-13, 161-63. 175 of those who had held Caerphilly castle against the king and queen were also pardoned, *CPR, 1327-1330*, pp. 13, 37-39.

[12] *Rôles gascons*, nos. 3032, 3033, and *passim* (12 June); C 67/26, 27, 28A; F.M. Powicke, *The Thirteenth Century, 1216-1307* (Oxford, 1962), p. 648; Hurnard, *Homicide*, p. 248.

[13] See Appendix 4. These pardons and their perceived relation to deterioration in law and order are discussed further below, Chapter Four, pp. 119-33.

[14] See Appendix 4. For further discussion of 'proving' a pardon, see below, pp. 45, 61-62.

requests made by the parliamentary Commons. The judicial penalties with which they were concerned comprised the king's right to seize the chattels of escaped felons, and to impose fines for such escapes, rights laid down in the articles of the eyre.[15] The feudal dues were aids which the crown was entitled to levy as part of the prerogative power, in order to fund the knighting of the king's son or the marriage of his daughter, for example. A regular sequence of these pardons began to be issued in the 1320s and continued into the 1360s. When available, such remissions usually pardoned all the outstanding judicial and feudal dues owed by a community in return for payment of a set fee, and many communities seem to have preferred this option.[16]

Regardless of the circumstances under which a royal pardon was issued, it must be remembered that it only provided indemnity from prosecution at the king's suit. After an individual had received a letter of pardon they were obliged to have it 'proved' in court, at which time it was declared that any appellant wishing to bring a suit against the recipient of pardon should come forward. Only after the pardon had been proved in this way would final peace be proclaimed. It was therefore a contract made specifically between the crown and one of its subjects, offering mercy to those seeking readmission into the king's peace. Clearly then, these pardons played an influential role in shaping relations between the king and his subjects. The influence of pardoning on relations between the king and the political community has recently been recognised in the work of E. Powell in particular, and is discussed in more detail in the next chapter of this thesis. However, before exploring these wider political implications, it is important to realise that the very procedures developed to enable a subject to seek pardon operated at the individual level to provide a point of contact between the supplicant and the royal government. Nevertheless, such processes continue to be neglected in the work of historians and legal theorists. The present chapter therefore seeks to shed light on the apparatus of pardoning, and the trends in working practice that can be discerned over the course of the fourteenth century.

Accordingly, the following analysis draws on the evidence of three broadly defined bodies of material: government legislation, legal treatises and polemical texts,

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[15] For discussion of the articles of the eyre, see D. Crook, *Records of the General Eyre* (London,1982); D. Crook, 'The Later Eyres', *EHR* 97 (1982): 241-68; R.B. Pugh, *Itinerant Justices in English History* (Exeter, 1967); A.H. Hershey, 'The Earliest Bill in Eyre: 1259', *Historical Research* 71 (1998): 228-32; H. Chew and M. Weinbaum (eds.), 'The London Eyre of 1244', *London Record Society* 6 (1970): 5-9.

[16] See Appendix 3. Each one of these pardons covered all the inhabitants of the named town or city. Accordingly, their issue did not significantly increase the overall number of pardons granted in the particular year (see Appendix 1). Such pardons are discussed further below, Chapter Three, pp. 75-82.

which together give some insight into both official prescription and wider public perception and use of the pardon. On a number of occasions over the course of the century governments attempted to legislate on the procedure of pardoning in order to clarify the process and provide appropriate safeguards against any abuse of the system. Guidelines were also laid down in the treatises of legal theorists such as Bracton, who explored in some detail the regulations governing pardoning in cases of excusable homicide.[17] These prescriptive texts give some indication of the way in which the system was intended to operate. It is the day-to-day records of the government's administrative departments and royal courts, however, which reveal the extent to which official prescription matched working practice. The rolls of parliament and the ordinances and statutes promulgated by the royal administration also give valuable insights into the involvement of the parliamentary representatives in the legislative process, and into their continuing dialogue with the crown on the issue of public order, insights which will be discussed in the following two chapters.[18] It is the bearing such texts had on the distribution and use of royal pardons with which the present chapter is concerned. Some aspects of the system of pardoning are also mentioned in the politically aware vernacular literature of the period, in scenes such as the Trial of Wrong in *Piers Plowman* or the forgiveness of the criminals in the *Tale of Melibee*.[19] The belief, expressed throughout this thesis, that such texts convey and generate social realities, has obviously been the subject of much debate. While it is clear that these texts were portraying scenes of pardon for literary and dramatic purposes, it is surely evident that they help to highlight areas of the pardoning process which were most

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[17] *SR*, vol. 1, pp. 49, 164, 257, 268, 275, 286, 330, 386; vol. 2, pp. 68, 86, 144; Bracton, *De Legibus*, f. 120.

[18] On occasion the surviving parliamentary schedules make this explicit. The statutes responded to complaints from the parliamentary Commons that justice was being perverted by the indiscriminate granting of pardons. The parlous state of royal justice was emphasised on such occasions, perhaps to the extent that the Commons exaggerated the state of affairs in order to secure remedial legislation: Ormrod and Musson, *Evolution*, pp. 163-66.

[19] B-text, passus IV, ll. 1-195 [all references to the B-text are to: William Langland, *The Vision of Piers Plowman*, ed. A.V.C. Schmidt (London, 1995), unless otherwise stated]; *Melibee*, ll. 1773-5 [all references to the *Tale of Melibee* are to Geoffrey Chaucer, *The Riverside Chaucer*, ed. L.D. Benson, 3rd edn (Oxford, 1987), unless otherwise stated].

controversial, or at least the most well-known to their audience.[20] The subsequent analysis therefore seeks to use the evidence given by these three types of discourse in its investigation of the processes involved in procuring and using individual, general, and group pardons. The chapter is divided into two main sections, the first of which examines the processes involved in obtaining and using an individual pardon, while the second focuses on the parallel procedures for general and group pardons. These sections are then brought together in a final analysis of the trends of pardoning which can be discerned across the fourteenth century.

II. Individual Pardons

Procuring a Pardon: Recommendation of the Justices

A royal pardon, as already mentioned, remitted the king's suit in any particular case, and so could only be used in actions brought on behalf of the crown. These included treason, felony and offences against the king's feudal and prerogative rights.[21] Most cases of trespass and civil actions were brought by the plaintiff, but might be taken up by the crown if the king had a vested interest in the case. If this occurred the king's pardon was also applicable. Since the power to pardon was part of the royal prerogative, and therefore a matter of grace, no single procedure for obtaining a pardon was ever exclusively enforced. However, it is not true to say that there was no provision at law for recognising individuals who deserved pardon. The mitigating circumstances surrounding a particular case could be brought to the attention of the justices by the

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[20] For a thorough survey of the historiography, see: G. Spiegel, 'History, Historicism and the Social logic of the Text in the Middle Ages', *Speculum* 65 (1990): 59-86. Spiegel argues that texts represent situated uses of language. Such sites are essentially local in origin and therefore possess a determinate social logic of much greater density and particularity than can be extracted from totalising constructs like 'language' and 'society'. The advantage to this approach is, as Spiegel argues, that it permits us to examine language with the tools of the social historian, to see it within a regional context of human relations, systems of communication and networks of power. Spiegel argues that, fundamentally: 'the meaning of the text, while it may be viewed as an instance of the larger social discourses that govern it, is not ultimately reducible to an articulation of a pre-existing system of linguistic codes or *langue* in the Saussurean sense. All texts occupy determinate social spaces, both as products of the social world of authors and as textual agents at work in that world, with which they entertain often complex and contestatory relations. In that sense, texts both mirror *and* generate social realities, are constituted by *and* constitute the social and discursive formations which they may sustain, resist, contest or seek to transform, depending on the case in hand.' Spiegel, 'History, Historicism', p. 77. For further discussion of the audience for such texts, see below, Chapter Five, pp. 150, 159. The criticism that certain of these texts level at the use of royal pardons forms part of their wider polemic concerning the corrupting influences of money and patronage on justice. This argument is discussed in more detail below, Chapter Four, *passim.* The portrayal of royal documents in medieval texts is discussed in: W.M. Ormrod, 'Robin Hood and Public Record: The Authority of Writing and the Medieval Outlaw Tradition', in a Festschrift for Stephen Knight, ed. H. Fulton *et al.*, forthcoming in 2005.

[21] Felony encompassing homicide, rape, robbery, larceny, arson and breach of prison while under arrest for felony.

defendant, who would plead not guilty, and then hope to persuade the jury that the act was not felonious. Alternatively, the jury of presentment might refer to the mitigating circumstances of the case or the trial jury might recognise such factors in their verdict. Finally, it was also possible for the details of the case to be mentioned in the coroner's report and then brought to the attention of the court.[22] If the presiding royal justices were persuaded of the need for mercy, they could then recommend pardon. By the fourteenth century a procedure appears to have been established in routine cases, whereby the royal justices presiding over the case would recommend mercy and would then forward their decision to the chancellor, who was empowered to act in the king's name, and who would approve a pardon as a matter of course, on payment of the requisite fee.[23] A 1329 Year Book statement describes this procedure:

> Nota que quant home est acquite devant justices errants de mort de homine soy defendendo le pl. est tiel que il aura breve de la chiefe justice deins quil breve serra continu tout le rec de sa acquite al chauncellor le quil luy fra sa chartre de pardon sans parler al roy per cours de ley.[24]

A year book entry of 1330 also noted that Chief Justice Scrope had in one case ordered the prisoner to remove the record into the Chancery, where the Chancellor made him a charter of pardon without speaking to the king:

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[22] See Hurnard, *Homicide*, p. 44.

[23] See above, n. 3. Some pardons drawn up in chancery were never handed over, presumably either because the fee was not paid, or, in the case of military service pardons, because the intended recipient had since died in the king's wars. Fifty letters patent of pardon remain in C 266. See also *Year Books of the Reign of King Edward the Third*, p. 514.

[24] 'Note that when a man is acquitted before the justices errant for the death of a man in self-defence, the process is such, that he shall have the writ of the Chief Justice, within which writ shall be contained the record of his acquittal to the Chancellor, who shall make him his writ of pardon without speaking to the king by course of law.' Sir Anthony Fitzherbert, *La graunde abridgement collect par le iudge tresreuerend Monsieur Anthony Fitzherbert* (London, 1565), 'Corone et plees del corone,' f. 257v (361).

> Scrope et justices commaund le prisoner de faier venir le record en le chauncellor et le chanceler ferrait a luy un charter en tiel cas sans parler al roy.[25]

Alternatively, the justices in eyre or gaol delivery would remand the prisoner in custody in order to let him sue for pardon, with the implication that they recommended mercy, but without taking on the task of sending a report to chancery themselves.[26] The chancellor would then issue a writ of *certiorari* to the justices who would send him the record of the trial and their recommendation for mercy, and he would authorise the drafting of the charter.[27]

Therefore it seems that the chancellor had, by this period, assumed primary responsibility for authorising the issue of royal pardons. While certain cases would still be forwarded for royal authorisation, before being sent to chancery under a warrant of the privy seal, the majority were processed by the chancellor under the executive authority of his office.[28] The central role of the chancellor in the pardoning process has gone largely unnoticed in the work of historians, yet it would seem that this aspect of his power is of crucial importance to our understanding of the role and function of the medieval chancery, and of the procedure of petitioning. While much work has been done on the development of the court of chancery in the fifteenth century, and of its equitable procedures, scholars have failed to note that by 1300 the chancellor was

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[25] 'Scrope, C.J., and the other justices ordered the prisoner to remove the record into the Chancery; and the Chancellor made him a charter in such a case without speaking to the king.' Fitzherbert, *La graunde abridgement*, 'Corone et plees del corone,' f. 256 (297). Cf. The Commons' petition to the king and the latter's reply in 1309. *RP*, vol. 1, p. 444 (b). The power was exercised by the king or his chancellor alone, except in great franchises of Durham, Chester, Lancaster. R.L. Storey, *The End of the House of Lancaster* (London, 1966), p. 210.

[26] See, for example, JUST 3/74, vol. 2, m. 11d; Hurnard, *Homicide*, p. 46.

[27] See, for example, JUST 1/676, m. 2; the pardon is recorded in *CPR, 1301-7*, p. 421. See also C 47/22/6-7.

[28] This process is described in the 1278 Statute of Gloucester. It stated that if, after trial, it was concluded that the act had indeed been committed in self-defence or by misfortune, the justices were to submit a report to the king, who, if in agreement, would then grant pardon: *SR*, vol. 1, p. 49. Writs of the privy seal warranting the issue of pardons can be found in C 81. See, for example: C 81/579/12649; C 81/570/11739; C 81/571/11819; C 81/581/12839; C 81/570/11745; C 81/573/12038; C 81/579/12693. Hurnard suggests that on occasion the king would approve bail rather than pardon, although this might still be obtained later. She concludes that on the whole the king may be supposed to have recognised a moral obligation to accept judicial recommendations to mercy, only rarely asserting his discretion in an attempt to define culpability more strictly. Hurnard, *Homicide*, pp. 50-51.

routinely processing appeals for royal grace, in the form of petitions for pardon.[29] The same procedure was described in a statute of 1390, and continued to be used throughout the later middle ages.[30] The process was therefore designed so that an individual pardon would be issued only after the defendant had 'put himself on the country' and the verdict had recorded that there were sufficient mitigating circumstances to warrant mercy.[31] The definition of what constituted truly mitigating circumstances, however, was the subject of considerable debate.

Justification: Self-defence or Mischance

The process of pardoning was intended as a safeguard against wrongful conviction in cases where mitigating circumstances truly existed. Such circumstances were to be established during the trial by the presiding justices, who would then recommend mercy. Strictly speaking, a pardon for felony could only be justified on grounds of diminished responsibility for the act, either through mischance or self-defence. However, an exact definition of mitigating circumstances, particularly those attending homicide cases, had not been categorically established. Throughout the century it continued to be the subject of discussion among legal theorists, and a focus of

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[29] For discussion of the court of chancery, see: T.S. Haskett, 'The Curteys women in Chancery: the legacy of Henry and Rye Browne', in C.M. Rousseau and J.T. Rosenthal (eds.), *Women, marriage, and family in medieval Christendom: essays in memory of Michael M. Sheehan, C.S.B.*, Studies in medieval culture 37 (Kalamazoo, 1998), pp. 349-98; T.S. Haskett, 'Forgery, law, and conscience in late-medieval England', in J. Hamesse (ed.), *Roma, magistra mundi Itineraria culturae medievalis, Mélanges offerts au Père L.E. Boyle à l'occasion de son 75e anniversaire,* vol. 1, Textes et études du moyen âge 1 (Louvain-la-Neuve, 1998), pp. 369-89; T.S. Haskett, 'The juridical role of the English chancery in late-medieval law and literacy', in K. Fianu, D.J. Guth (eds.), *Écrit et pouvoir dans les chancelleries médiévales: espace français, espace anglais* (Louvain-la-Neuve, 1997), pp. 313-32; T.S. Haskett, 'The medieval English court of chancery', *Law and History Review* 14 (1996): 245-313; T.S. Haskett, 'Country Lawyers?: The composers of English chancery bills', in P. Birks (ed.), *The Life of the Law: Proceedings of the tenth British legal history conference* (London, 1993), pp. 9-23; T.S. Haskett, 'The Presentation of Cases in Medieval Chancery Bills', in W.M. Gordon (ed.), *Legal History in the Making: Proceedings of the ninth British legal history conference* (London, 1991), pp. 11-28. For work on private petitions to parliament, see: G. Dodd, 'The Hidden Presence: Parliament and the Private Petition in the Fourteenth Century', in A. Musson (ed.), *Expectations of the Law in the Middle Ages* (Stroud, 2001), pp. 135-49.

[30] It stipulated that 'no charter of pardon . . . pass the Chancery without warrant of the privy seal, but in case where the chancellor may grant it of his office, without speaking thereof to the king', *SR*, vol. 2, p. 69. See below p. 44, for discussion of the statute. See also Storey, *House of Lancaster*, p. 210, for discussion of the procedure in the reign of Henry VI.

[31] For one example, see: KB 27/465, m. 12.d. On 8 May 1377 the king ordered John de Cavendish and Thomas de Ingelby to make inquisition into the death of Thomas Chappe of Snetesham, Norfolk, as it was alleged by Margaret his wife that he had been killed by Thomas Panton, John Panton, Ralph Panton and Thomas Heygreve. The pardon of John Panton was enrolled on 17 October 1377 on the advice of the two justices that the act had been committed in self-defence: *CPR, 1377-1381*, p. 28.

government legislation.[32] In 1278 the Statute of Gloucester had identified self-defence or misfortune in homicide cases as justifying pardon, but also referred to any other manner of killing committed 'without felony'.[33] This third category lacked further definition, and seemed to suggest some uncertainty as to how widely the concept of excusable homicide could be applied. Throughout the fourteenth century statutes were promulgated stating that the granting of pardons would be restricted to cases in which the king could give it according to his oath. This reference to the king's coronation oath concerned his obligation to recognise mitigating circumstances, and to pardon those involved accordingly.[34] The well-known Ordinances issued in October 1311 stated that no pardon would be granted unless in a case where the king could give grace according to his oath, by process of law and custom of the realm. Similarly, the 1328 Statute of Northampton stipulated that pardon would only be granted where the king 'may do it by his oath, that is to say, where a man slayeth another in his own defence, or by misfortune'. Again in April 1340 the king issued a promise not to pardon felony if it was inconsistent with his oath.[35]

The repetition of this formula in several statutes suggests that inconsistencies of interpretation were thought to persist, to the detriment of the king's peace. Similarly, legal theorists such as Bracton had struggled to fit the concept into English law. Bracton distinguished between justifiable homicide which was not felonious and did not even require pardon on the one hand, and homicide which was not felonious but did require pardoning on the other. The former included slaying by infants and the insane, while the latter applied to killing in self-defence or by mischance. Since pardon was part of the royal prerogative, however, it was difficult to apply a precise classification. The king was supposedly guided by principles of equity which followed natural law, as laid

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[32] Hurnard discusses the situation surrounding excusable homicide as it existed before 1307: Hurnard, *Homicide*, pp. 68-170.

[33] *SR*, vol. 1, p. 49.

[34] Musson states that these were vague assertions designed to placate concerns rather than commit to restrictions of the royal prerogative. While at times this seems to have been the chief motivation, the Statute of Northampton links the coronation oath to mitigating circumstances: '...such charter [of pardon] shall not be granted but only where the king may do it by his oath, that is to say, where a man slayeth another in his own defence, or by misfortune'. *SR*, vol. 1, p. 257; A. Musson, 'Second "English Justinian" or Pragmatic Opportunist? A Re-Examination of the Legal Legislation of Edward III's Reign', in J. Bothwell (ed.), *The Reign of Edward III* (York, 2001), n. 83.

[35] *SR*, vol. 1, pp. 164, 257, 286. A statute of 3 February 1331 confirms the Statute of Northampton in all points, but says that the statute stipulated that pardons could only be granted in parliament, although there is not, in fact, any such clause in the original statute, *SR*, vol. 1, p. 264.

down in the works of Justinian and the canonists.[36] However such concepts did not merge easily with the common law of the English legal system. Civil law absolved the perpetrator from guilt in most cases of homicide by accident or in self-defence, whereas canon law set a very high standard of penance for divine forgiveness.

Bracton however, drew extensively on Raymond of Peñafort's study of canon law in *Summa de Poenitentia,* and on the works of Justinian.[37] Following these texts he categorised homicide as either spiritual or corporal. He then subdivided the latter into verbal, ordering a slaying, and factual. Factual homicide may have been committed justly, of necessity, by chance or wilfully. It was just when ordered by a judge after due process of law. Defendants who claimed to have killed of necessity were guilty if they were in some way to blame for such circumstances having arisen; if the situation were truly unavoidable then they would be forgiven. Homicide by chance depended on whether the perpetrator had been engaged on lawful business, and if he had been taking due care. Finally wilful homicide was defined as premeditated killing, committed in certain knowledge and anger. It was a felony committed against the king's peace.[38] Bracton also dealt with special cases such as striking a pregnant woman so that she miscarried, which he deemed homicide, and killing through involvement in a brawl, which was also homicide, even if the participant had not struck the fatal blow. Killing in jousting and in duels was also homicide. Killing in self-defence had to be proportionate to the danger. In transcribing these stipulations, Bracton left out the requirement for penance included by Raymond of Peñafort. Instead, the reader could perhaps assume that in these cases there was a need for the king's pardon. In a later passage he mentioned slaying in self-defence as an example of slaying out of necessity, which should therefore be pardoned, and went on to insist that pardon should be granted without question for slaying in mischance and in self-defence.[39] His analysis thus provided a limited definition, rather than a categorical formula.

However, some types of homicide were sometimes thought by the justices not even to require pardon and the boundary between justifiable homicide, which did not

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[36] Hurnard, *Homicide*, p. 68. See below, Chapter Five, for further discussion.

[37] Bracton, *De Legibus*, ff. 120, 136b, 155; St. Raymond of Peñafort, *Summa de Poenitentia* (Farnborough, 1967), 2: 1; See F. Schulz, 'Bracton and Raymond de Peñafort', *Law Quarterly Review* 61 (1945): 286-92; Hurnard, *Homicide*, pp. 68-170; H.G. Richardson, 'Tancred, Raymond, and Bracton', *EHR* 59 (1944): 376-84.

[38] Mirroring the common law phrasing: 'murders done in await, assault or malice prepense' (see the statute of 1390: *SR*, vol. 2, p. 69).

[39] Bracton, *De Legibus*, f. 132b.

require pardon and excusable homicide, which did, could be blurred.[40] In practice, accidental death could be claimed as long as it could be established that there was no malice aforethought. It was not usually thought necessary to establish the absence of negligence which Bracton had stipulated. In cases of self-defence, the justices generally required a statement from the jurors that the killing had not been felonious or committed with malice aforethought and that the killer could not have escaped with his life. It was preferable for the jury to show that it had not been premeditated, that the defendant had not started the fight, for example, or that weapons had not been used. It was often asserted that the victim had been the aggressor, and that the defendant had taken every possible evasive action.[41] Alternatively, a case could be presented as mischance by contending that the assailant caused not only the attack but also the accident itself. To claim self-defence it was necessary, as Bracton prescribed, to establish that no more force than necessary had been used to save one's life. However, in other cases practice was sometimes more lenient than Bracton's stipulations. If a man was killed in a brawl, only those who had mortally wounded him were adjudged guilty, others were only guilty of breach of the peace. The ability to define procedure was further hampered by those who sought pardon before trial, as the crown was likely to grant a charter in such cases, rather than state that it was not necessary at all.

Alternative Justification

In addition to cases of slaying in self-defence or by mischance, alternative justification sometimes rendered the act excusable. The killing of fugitives resisting arrest, for example, while theoretically lawful, was often in practice excused with a pardon. Flaws in the legal process such as a malicious accusation, or biased evidence were again often taken as justifiable grounds for pardon. Justices were expected to recommend mercy when they believed a person had been wrongly convicted by the jury. Defendants on occasion also challenged the validity of the indictment.[42] Alternatively, if the offence

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[40] It is likely that more pardons were granted for mitigating circumstances than appears in the enrolments. When pardons were enrolled, they did not always specify the reason for clemency. For example, a pardon was enrolled in 1237 for the death of a man, and subsequent outlawry. However the pardon was produced at the eyre by the hundred bailiff, where it was recorded as granted for abjuration, not outlawry, and according to the jurors the offence had been committed by mischance, *CPR, 1232-1247*, p. 194.

[41] The victim was sometimes said to have been impaled on his own knife when the defendant resisted the attack: *CPR, 1367-1370*, p. 254.

[42] S.M. Phillipps (ed.), *State trials: or, A collection of the most interesting trials, prior to the revolution of 1688* (London, 1826), 1: 1298-9, 1301-5; R.C. Palmer 'The Origins of the Legal Profession in England', *Irish Jurist*, new series 11 (1976): 126, 130-31.

was a contravention of the royal prerogative, the defendant could receive pardon on payment of a fine. If, for example, they had acquired land held in-chief of the king without his consent, they could pay a fine, which was often set at the amount the original licence would have cost.

On occasion the justification for pardon was of a less strictly judicial nature, but instead seemed to stem from the king's moral obligation to protect his subjects. It seems, therefore, that while in practice cases deserving of pardon were routinely recommended for mercy, no clear definition of pardonable crime prevailed. This clearly led some individuals who had been unjustly indicted to fear whether the trial justices would recognise the mitigating circumstances of their case. For them there was only one other way to circumvent the legal process, and that was to find a patron willing to present a petition direct to the crown.

Procuring a Pardon: Petitions for Grace

While a recommendation for mercy from the royal justices could only be obtained after a trial had been held, the individual could seek the king's grace on their own initiative. Indeed, if they sought pardon in this way soon after their indictment, they might possibly have a pardon in hand by the time of their arraignment, and thus avoid trial altogether. Such manoeuvres in the period between being taken into custody and arraignment are not often recorded in judicial records, although in 1302 it was successfully argued that when a man was accused of felony he sought to purchase a pardon, and that this was commonplace.[43]

Seeking a pardon through this direct means of appeal to the king was somewhat controversial, in that it allowed individuals to bypass the law courts altogether, and to exploit networks of influence and patronage to secure pardon.[44] Why, then, did this method of appeal survive into the fourteenth century and beyond? To begin to answer this question, it is necessary to examine the extant petitions for pardon which were presented to the crown, usually in the forum of parliament or a council meeting. These records allow us to examine why, in certain cases, the individual felt that they deserved pardon, and why, in turn, the crown granted them an audience.

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[43] *Year Books of the Reign of King Edward the Third*, p. 504; Bellamy, *Criminal Trial*, p. 140.

[44] For further discussion of this criticism, see below, Chapter Four, *passim*. Not all medieval commentators were entirely critical of the pardon as a means of accessing the king's grace. See below, Chapter Five, *passim*.

To identify those pardons which resulted from personal petitions to the monarch is not entirely straightforward. As stated above, the main record we have for English pardons of this period are the entries made onto the patent roll whenever a royal letter of pardon was issued from chancery. These entries record the terms of the letter of pardon as it was written up by the clerks of chancery. The salient facts of the pardon are recorded: the name of the recipient, the offence which is to be pardoned, and, on occasion, a reason for the pardon, most commonly self-defence or mischance, is also noted. What they do not reveal, however, is the way the original petition was worded, or if, indeed, it was ever actually presented in written form at all. Evidence of the ways in which supplications for mercy were constructed is therefore comparatively rare. Clearly, many medieval petitions would have been made orally, and can therefore only be traced through the chancery records of the issue of the letter patent of pardon. There is certainly no comparative central archive of detailed petitions for pardon to the French collection of 'letters of remission', used to great effect in the work of Claude Gauvard and Natalie Zemon Davis.[45] However, it is not true to say, as some historians have done, that *no* examples of English petitions survive.[46] A significant number of petitions can in fact be found among the records of chancery, and in the ancient petitions that were brought together into the artificial class of 'special collections' by nineteenth century historians.[47] Such petitions for pardon thus constitute an important source for the study of supplications for grace.

These petitions are a valuable window onto medieval notions of pardon and mercy. We can, at a basic level, observe statistical patterns relating to the social class

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[45] See above, Chapter One, p. 10, n. 27. Gauvard, "*De grace especiall*"; Davis, *Fiction in the Archives.* A major collection of *lettres de remission* is in the Tresor des Chartres (Paris, Archives Nationales, AN, series JJ), a register of royal letters issued by chancery officers from 1300-1568. JJ is by no means a complete record - supplicants chose to have their letters of remission copied here at an extra cost. See also M. Francois, 'Note sur les lettres de remission transcrites dans les registres du tresor des charters', *Bibliotheque de l'Ecole des Chartres* 103 (1942): 317-24; H. Michaud, *La Grande Chancellerie et les ecritures royals au seizieme siecle (1515-1589)* (Paris, 1967), pp. 359-68. Letters of remission can also be found scattered throughout the criminal registers of the Parlement of Paris (AN, X 2a), as they were ratified by that court for persons in their jurisdiction. English petitions from the early modern period and beyond can be found in SP 36, 37 and 44, after 1782 in HO 47. For further discussion see: J.M. Beattie, *Crime and the Courts in England, 1660-1800* (Princeton, 1986); P. King, 'Decision Makers and Decision-Making in the English Criminal Law, 1750-1800', *Historical Journal* 27 (1984): 25-58; D. Hay, 'Property, Authority and the Criminal Law', in D. Hay, P. Linebaugh, J. Rule, E.P. Thompson and C. Winslow (eds.), *Albion's Fatal Tree: Crime and Society in Eighteenth Century England* (London, 1975).

[46] Kesselring, 'To Pardon and to Punish', p. 10.

[47] C 1, C 47, C 49, C 81, SC 8. The 'special collections' contain petitions, both originals and duplicates, with some enrolments, which have been 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. See Appendix 6.

and gender of the petitioners, the types of offence being pardoned, the claims of mitigating circumstances and the actions taken by the crown. Moreover, we can also examine the way petitioners present themselves, or at least their stories, in the petitions. Finally, we can ask how these same records can shed light on constructions of pardon and mercy outside these particular documents, and on notions of access to the king's grace.

One common answer to the question of why this informal procedure for seeking pardon prevailed, is to suggest, as Naomi Hurnard does, that it represented a cynical abuse of the royal prerogative power for financial gain. For Hurnard a corrupt system of patronage operated in which those with personal access to the king could exploit their privileged position and obtain pardons for those who could afford to pay.[48] At the other extreme, however, this procedure might be portrayed as an opportunity to access the equitable justice of the king's court of parliament. In this light, the recent work of Timothy Haskett and Cordelia Beattie on the court of chancery argues that procedures for accessing judgements based on equity rather than on common law principles, were in fact more likely to be favoured by the under-dog: the powerless victim who could not find redress at common law.[49] Can these conclusions be said to be true of those who petitioned the king for pardon?

Complaints of victimisation were indeed a feature of several petitions for pardon. Like the classic equity cases identified by Haskett and Beattie, the petitioners often presented themselves as victims of a powerful faction, who exerted influence over the local law courts, to the extent that the petitioner is prevented from receiving a fair trial. For instance, in the petition of Robert Martin of Yeovilton, presented to the crown in 1338, the supplicant sought a pardon, because, through the corruption of local office holders, he and his men had been maliciously indicted.[50] Martin claimed that his wife, Margaret, had been ravished by one John de Croucheston. The offender had been arrested by the king's officer, Thomas Galeberd, and was then indicted of felony and outlawed by 'many writs of the king'. Galeberd was ordered to move the accused to Winchester to stand trial, but instead of doing so, he allowed him to go free. Moreover, Galeberd then conspired with the sub-sheriff and the receiver of Wiltshire to have Martin himself indicted. As a result, at the time of the petition Martin and his men were

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[48] Hurnard, *Homicide*, p. 35.

[49] See above, n. 29, for references to work on chancery.

[50] SC 8/60/2979A. See Appendix 6.

in danger of being outlawed. In similar cases, the petitioners portrayed themselves as the victims of malicious indictments, again implying corruption in the local law courts. In one example from 1331, the petitioner, Richard de Beverle, stated that he had been maliciously indicted for involvement in the plot to abduct the abbot of Bury St. Edmunds.[51] The episode he alluded to concerned the abduction of Abbot Draughton of Bury St. Edmunds, following the 'great revolt' of 1327. In October 1328, the notorious outlaw gang of Thomas Thornham came to the town and joined the leaders of the insurgency. A group of them managed to kidnap the Abbot and smuggle him to London, where they moved him from house to house. He was later taken to Dover and from there to Brabant. By 1329 the Archbishop of Canterbury had excommunicated Draughton's abductors and King Edward had appointed four justices to investigate the kidnapping.[52] Richard de Beverle's petition stated that he owned a hostelry in London, and at the time of the enquiry he had been maliciously indicted of involvement in the abduction and was subsequently outlawed. The king, in this case, recognised that Beverle's accusers were concocting the case against him for their own benefit, and so granted him a pardon.[53]

Another interesting sub-set of these petitions concerning victimisation were those in which individuals attempted to pre-empt a claim for pardon from someone who had wronged them to ensure they did not receive the king's mercy. In one petition of the late 1330s, Isabel de Cleterne claims that she was abducted from her manor by Adam de Culwen and others and held at Aykhurst castle until she was rescued by the power and aid of Sir Anthony de Lucy.[54] Isabel, on hearing that the malefactors, by their proctors, were seeking charters of pardon, requested that for 'the honour of women' this peace be denied them. In 1308 Margery de Treverbin entered a similar claim. According to her petition, one Thomas de Gevely had, with two friends, broken into her lodgings in London. He had then raped her daughter and robbed her of her possessions. Margery had brought a case against him, and had succeeded in having him

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[51] SC 8/33/1635.

[52] Abbot de Draughton remained in captivity in Brabant until he was discovered in April 1329. Draughton returned to Bury St. Edmunds late in 1329 and remained as abbot until his death in 1334. The fate of the kidnappers de Berton and Barbour is unknown, but there has been a suggestion that de Berton was caught and died in Bury St. Edmunds gaol. See: D.M. Smith and V.C.M. London (eds.), *The Heads of Religious Houses: England and Wales* (Cambridge, 2001), 2: 27. For letters concerning his abduction, dated to 31 October 1328, see: C.R. Elrington (ed.), *The registers of Roger Martival, bishop of Salisbury, 1315-30*, Canterbury and York Society 58 (1972), 2: 579-81.

[53] Letters of pardon were issued on 6 November 1331: *CPR, 1330-4*, p. 216.

[54] SC 8/39/1937.

attached to come before the marshals, but because he appeared in the company of Henry de Beaumount no-one dared to accuse him, and he was freed.[55] In these cases, the petitioners were of relatively high social standing. However, in several extant petitions there are references to the humble status of the supplicant. In 1325, for example, William Crok pleaded for pardon of a false inquisition that had been passed against him - he claimed that the case had dragged on for 17 years and as a result his wife and children were reduced to begging and he himself was threatened with imprisonment.[56]

It would seem, then, that at least some of the petitions for pardon are what we might term 'classic equity cases', in which the victims of a powerful local individual seeks the impartial justice of the king that they could not find in the local courts. However, it would be wrong to over-emphasise these cases, or to claim that the extant petitions for pardon mirror the kinds of cases that were later to be presented to the court of chancery. The largest percentage of petitions for pardon concern arrears on debts owed to the crown, usually for rents payable on crown lands.[57] A significant proportion are concerned with the purchase or inheritance of lands without royal license - in such cases the petitioners seek pardon and restitution of their lands, which had been seized by the crown. The early years of Edward III's reign, in particular, saw a concentration of petitions concerning the Despenser lands. Petitioners in such cases are overwhelmingly of gentle or noble status. It is perhaps true to say, then, that the status of the petitioner could be a positive influence in bringing the case to the attention of the monarch, particularly if the petition was brought to parliament. Certainly, the pressure on parliamentary time and the prestige of the forum were combining to make parliament a place where increasingly only the elite could seek redress of grievances. However, there *were* some exceptions, and these were often petitions for pardon.

Returning to the question of why the procedure survived, it seems that it cannot entirely be explained away as a cynical abuse of the prerogative power by those of high social standing. Allowing petitioners to apply directly to the king for his grace provided a way of recognising mitigating circumstances of a type that would not be admissible in the common law court. Some of these cases seem to have deserved pardon. In 1290, for example, John de Garlton was pardoned part of a fine because of his infirmity and in recognition of his long services to the crown, while in 1302 Alice Chapele was

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[55] SC 8/76/3756. See Appendix 6.

[56] SC 8/41/2026.

[57] Appendix 6.

pardoned for stealing corn on the grounds that the deed had been committed out of poverty, and in order to support a famished infant.[58] Flaws in the legal process such as malicious accusation, or biased evidence, were also justifiable grounds for pardon.

Above all, petitions for grace appealed to the moral obligation of the monarch to protect his subjects and provide effective justice. Christian notions of forgiveness were also sometimes expressed: one murderer obtained his pardon at the instance of several magnates who were moved by his penitence.[59] The monarch occasionally granted pardons because of a religious festival, and there are several examples of pardons given in recognition of Good Friday.[60] In exceptional cases criminals who survived the attempt to execute them were also pardoned, on the basis that their survival constituted a miracle. In cases which appealed to the king's conscience and moral duty, the contrition of the supplicant was a key factor. The defendant might even admit his guilt, but claim to be truly contrite and beg forgiveness. This was clearly an appeal for the king to recognise the canon law dictates of penance and forgiveness, according to which a king or judge should respond with mercy to humility and repentance in the malefactor.[61] Such a stance is echoed in the conclusion to Chaucer's *Tale of Melibee*. When Melibee's enemies admit their error and ask for forgiveness he concludes that:

> He is well worthy to have pardoun and foryifnesse of his sinne, tha excuseth nat his synne/ but knowelecheth it and repenteth hym, axinge indulgence./ For Senec seith, 'Ther is the remissioun and foryifnesse, where as the confessioun is' for confessioun is neighbour to innocence (ll. 1773-5).

If the criminal was ashamed of his sin and acknowledged it, he would be worthy of remission. However he might, in some instances, be required to perform some act of penance in return. Edward I issued a pardon to William de Dun in 1285 for harbouring his son while he was a fugitive from the law. William was adjudged to prison for refusing to put himself on the country, but the king pardoned him on condition that he

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[58] *RP*, vol. 1, pp. 50, 154.

[59] *CPR, 1334-8*, p. 150.

[60] *CPR, 1385-9*, pp. 134, 136, 137, 145, 159, 140, 151, 164, 191, 194, 288, 291, 297-298, 304, 309, 313, 332, 337, 346, 426-427, 429, 430, 435, 437, 441, 443, 452, 455, 457, 459, 461, 521; *CPR, 1388-1392*, pp. 26-27, 29, 31-32, 36, 37-39, 41-42, 74, 170, 245, 391-392, 394, 398, 404.

[61] See below, Chapter Five, pp. 167-73. Discussed in the context of normative conduct for princes.

went to Holy Land and remained there until given special license to return.[62] Admitting to wrongdoing and appealing to the king's discretionary powers was not, however, guaranteed success, and the extant pardons show that it was infrequently attempted.

The authors of these petitions, then, needed to convince the crown of the extenuating circumstances surrounding their case, or of their sincere contrition, in order to elicit a favourable response. The petitions allow us an insight into the way the protagonists wanted to present themselves or alternately how they were represented by their adversaries. The main point - that people regularly drew upon established stereotypes - is unsurprising. Female petitioners, for example, are often presented as victims of force and intimidation, as Natalie Zemon Davis notes from her examination of the French letters of remission.[63] Interestingly, however, they may also be constructed as strong willed where their course of action may be deemed virtuous. Lettice Kiriell, for example, presented a petition to the king in order to deny Sir John de Cornwaille any pardon for his 'detestable wickedness' towards her. Her petition stated that Cornwaille had entered her manor in the habit of a friar and stripped her servants of their clothes and then allowed into the castle forty armed men who held her in torment for four hours until she paid him. He had since returned on a number of occasions for the last four years, and had assaulted her. Finally, he came to the castle to reduce it with armed men and scaling ladders and pursued Lettice into a river where she remained in fear for four hours until she was 'as good as dead'. Believing she was dead, Cornwaille took her horses and other goods and chattels worth £1000. Despite the fear and intimidation he exerted over her, she had initiated various suits against him, and now petitioned the king to prevent Cornwaille from receiving pardon.[64] The petition repeats several times the extent of Lettice's despair and the severity of Cornwaille's attacks on her. But the very existence of the petition itself also makes clear that Lettice was sufficiently assertive to go to the lengths of petitioning the king in order to see that her assailant was not pardoned.

In claims of homicide committed in self-defence, the petitions were again formulated so as to provide details necessary for a pardon to be granted. The supplicant

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[62] *CPR, 1281-92*, p. 194. In 1286 a man who had been placed in exigent after an accusation of trespass had been levelled against him was also pardoned on condition that he travelled to the Holy Land. *CPR, 1281-92*, p. 247. In another instance, a man outlawed for felony and trespass was pardoned when it was found that he had been abroad on pilgrimage at the time of his summons to court: *CPR, 1350-1354*, p. 1.

[63] Davis, *Fiction in the Archives*, p. 79.

[64] SC 8/55/2713.

needed to prove that the attack on them had been unprovoked, and that they were genuinely in fear of their lives. They also needed to suggest that they had taken every possible opportunity to escape, rather than to slay their assailant. The type of weapon used was also often important. One common definition borrowed from Justinian asserted that the type of weapon used gave some guidance as to the intent of the assailant: 'If the aggressor drew a sword and struck him with it, there is no doubt of his having done this with the intention of killing him. Where, however, during a quarrel, he struck him with a spike, or a brass vessel used in a bath, although the article employed was of metal, still the attack was not made with the intention of killing him'.[65] Such principles are discernible in the petition of Hugh Kynson of Boxworth, for example, who sought pardon in 1320 for killing Richard Musters in self-defence. Hugh had been travelling by horseback on the highway from the market at Cambridge when he was attacked by Musters with a drawn sword and pursued to a ditch. He claimed that he could not have escaped with his life, and that defending himself against his assailant was the only possible course of action.[66] The standardised construction of some of these pardons clearly demonstrates that the framers of the petitions had some understanding of the grounds on which pardon would be granted, even if no formal criteria had actually ever been set down. Extant evidence would suggest, then, that in several cases the procedure provided a means of access to pardon for those who, despite deserving one, could not get such a letter through formal legal channels. In other cases, however, it is apparent that the petitions for pardon could be a means for those of high social standing to air their grievances and seek redress in the prestigious forum of parliament.

One factor common to all supplicants for the king's grace was that they were reliant on a patron being prepared to act on their behalf, as an agent who could either attempt to persuade someone with access to the king to forward the case in private audience, or petition parliament. Some requests appear to have been made to the king orally, usually by a patron who was either a member of the royal household, or a nobleman or churchman with access to the king. However a written petition, as Hurnard notes, was the best way of ensuring accuracy in the wording of the charter.[67]

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[65] Hurnard, *Homicide*, p. 75; Davis, *Fiction in the Archives*, p. 36.

[66] SC 8/55/2742.

[67] Hurnard notes that a petition authenticated by privy seal might be sent to chancery as warrant for the charter; see SC 8/53/2612: Hurnard, *Homicide*, p. 35, n. 2.

Intercession

The role of the intercessor in this process was widely recognised, and by 1353 legislation had been formulated to stipulate that in a pardon of felony the name of the person making the appeal should be recorded in the letter. If the suggestion was later found to be untrue the pardon would be disallowed. The justices before whom such letters were proffered, were required to inquire into the suggestion, and into any pardons that might have previously been granted. If they found them untrue, they were to disallow them.[68] Again in 1404 a statute mentioned those who, when arraigned, became approvers so that the resulting delay would give them time to find a patron. It also stipulated that the name of anyone who had helped to procure the pardon should be recorded in the letter. If the recipient then reoffended the person who had secured their pardon was to be fined £100.[69]

The role of the intercessor was therefore a somewhat controversial, but widely recognised, part of the process. Indeed, it was a role that was often referred to in literary treatments of the pardoning process. While the importance of intercession and good counsel was often reiterated in advice literature of the period, certain texts were more specific in their treatment of pardoning.[70] In Chaucer's *Tale of Melibee* it is Melibee himself who grants pardon and it is in his court that the hearing is held, but the description mirrors the procedures for securing royal pardon. Melibee's enemies speak to his wife, Dame Prudence, admitting their error to her, and asking for forgiveness. She promises to act on their behalf, and persuades Melibee to bring his enemies 'into his peace', using the same language of mercy and grace that can be identified in royal pardons of the period.[71] By far the majority of fourteenth century petitions for pardon

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[68] *SR*, vol. 1, p. 330.

[69] *SR*, vol. 2, p. 144.

[70] Strohm, *Hochon's Arrow*, pp. 95-119; L.L. Honeycutt, 'Intercession and the high-medieval queen: The Esther topos', in J. Carpenter and S. McLean (eds.), *Power of the Weak: Studies on Medieval Women* (Urbana, Ill., 1995), pp. 126-46; J.C. Parsons, 'The queen's intercession in thirteenth-century England', in Carpenter and McLean (eds.), *Power of the Weak*, pp. 147-77; J.C. Parsons, 'The intercessionary patronage of Queens Margaret and Isabella of France', in M. Prestwich, R.H. Britnell and R. Frame (eds.), *Thirteenth Century England VI* (Woodbridge, 1997), pp. 145-56; C.P. Collette, 'Joan of Kent and noble women's roles in Chaucer's world', *Chaucer Review* 33 (1999): 350-62; W.M. Ormrod, 'In bed with Joan of Kent: The king's mother and the Peasants' Revolt', in J. Wogan-Browne, R. Voaden, A. Diamond, A.M. Hutchison, C.M. Meale, L. Johnson (eds.), *Medieval Women: Texts and Contexts in Late Medieval Britain. Essays for Felicity Riddy* (Turnhout, 2000), pp. 277-92. See below, Chapter Five, p. 162.

[71] *Melibee*, ll. 1773-5. D. Wallace, *Chaucerian Polity, Absolutist Lineages and Associational Forms in England and Italy* (Stanford, 1997), pp. 215-16; D. Pearsall, *The Canterbury Tales* (London, 1985), pp. 285-88; J. Dillon, *Geoffrey Chaucer* (London, 1993), pp. 57-59.

put directly to the king were proffered either by a member of the royal family, or by a trusted nobleman or churchman.[72] Importantly the *Tale of Melibee* is not critical of Prudence's role: indeed it emphasises the need for an intercessor who can present the circumstances of the case and the need for mercy to the judge or king. This view was not universal. In *Piers Plowman* Lady Meed, at the behest of Wisdom and Wit[ty] (as Wrong's counsel) tries openly to protect Wrong.[73] Her attempts are only thwarted by the king, who enforces justice through his own authority.[74] Despite Langland's scepticism regarding the role of influential patrons, however, it is interesting that his criticism is centred on the corruptible processes of the common law, as represented by Wisdom and Wit[ty] who seem to be lawyers, and that his solution to this is the use of the king's prerogative right to bypass the judicial system.[75]

Royal Intervention after Conviction

In certain other exceptional circumstances, it had become custom for the king or his justices to intervene after conviction, and allow the prisoner a reprieve, or at least a temporary stay of execution. Once convicted the individual could not have their case moved by appeal to a superior court, nor could the jury be attainted as in a private action. They could still theoretically present a pardon or continue to petition for one, but examples of anyone actually doing so at this late stage are limited as there was rarely a long delay between the verdict being passed and the death sentence being carried out. However, in exceptional circumstances a postponement would be ordered by the justices. If the convict was a pregnant woman, for example, execution would not be carried out until after the birth of the child. In such cases the mother might be pardoned altogether after the birth. Sixteen such cases can be identified between the period 1307-1399, ten of which involved charges of theft or burglary, with some implication that the

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[72] See Appendix 5.

[73] B-text, passus IV, ll. 76-7.

[74] The king listens to the voice of natural reason and rejects false counsel. William Langland, *Piers Plowman, by William Langland, An Edition of the C-text*, ed. D. Pearsall (London, 1978), passus IV, ll. 131-32, 136-67. (All references to the C-text are to William Langland, *Piers Plowman*, ed. Pearsall, unless otherwise stated). In addition to Lady Meed, the lawyers Wysdom and Wyt try to intercede and use maintenance to sway the proceedings in their favour. C-text, IV, ll. 71-73, 87-89.

[75] B-text, passus IV, ll. 27-41, 188-95; Baldwin, *Government*, pp. 45-50.

crime had been committed out of poverty.[76] There are also rare examples of pardon being granted in cases where the execution had been attempted, but the felon had survived, either because the rope had given way, or because they had been cut down too soon after hanging and had revived on the way for burial.[77] One extreme example of this occurred in 1264, when Juetta de Balsham, previously convicted of receiving thieves, was hanged 'from the ninth hour of Monday until sunrise of the Tuesday following'. Despite this she revived after being cut down and on 16 August she was given a pardon as a result of 'imperfect hanging'.[78] Interestingly this pardon was recorded in the Luffield priory register of writs, suggesting that although it was a writ of grace, it was thought sufficiently generic to be included.[79]

There are also somewhat obscure allusions to a provision whereby the presence of the monarch at a scene of execution could be enough to save the condemned. William Langland makes reference to this in *Pier's Plowman* when he states that if the king were nearby, and saw a criminal due to suffer death or the sentence of death, the law required him to grant a reprieve if he merely looked at the condemned man: 'And if the kyng of that kyngdom come in that tyme/There the feloun thole sholde deeth or oother juwise/ Lawe wolde he yeve hym lif, and he loked on hym.'[80] Langland uses this reference as a secular analogy to the Harrowing of Hell, at which time, he asserts, Christ will look upon the damned and show them mercy if any circumstance mitigates

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[76] Two cases can be identified in the reign of Edward II, in which a pregnant woman was convicted at gaol delivery, but their cases were postponed and later pardoned, *CPR, 1307-1313*, p. 349; *CPR, 1313-1317*, p. 20; Edward III: *CPR, 1327-1330*, pp. 357, 372; *CPR, 1350-1354*, pp. 366, 535; *CPR, 1354-1358*, p. 100; *CPR, 1367-1370*, pp. 274, 285. Richard II: *CPR, 1377-1381*, p. 86; *CPR, 1381-85*, pp. 243, 302; *CPR, 1392-96*, pp. 8, 28; *CPR, 1396-1399*, pp. 5, 515. Of these 16 cases, 10 involved charges of theft or burglary. A pardon of 1302 granted in parliament had recorded that a woman had stolen corn as an act of poverty, to support a famished infant: *RP*, vol. 1, p. 154.

[77] Six men were pardoned in this way in Edward I's reign. In one case the rope was said to have broken, and the convict then fled the realm: *CPR, 1272-1281*, p. 327. In two others the felon was found to be alive when taken down from the gallows: *CPR, 1272-1281*, p. 396; *CPR, 1281-1292*, p. 155. Three others were recorded as having survived hanging: *CPR, 1281-1292*, pp. 113, 155; *CPR, 1292-1301*, p. 147. Two such pardons were granted in the reign of Edward III. In one case the convict revived after hanging, and was subsequently found to be innocent: *CPR, 1348-50*, p. 96. In the other, the felon revived, and was then pardoned by the king who was in the area at the time: *CPR, 1364-1367*, pp. 60-61.

[78] *CPR, 1258-1266*, p. 342.

[79] E. Haas and G.D.G. Hall (eds.), *Early Registers of Writs*, Selden Society 87 (London, 1970), p. 101. The register is a small part of a volume written for use of the Benedictine priory of Luffield, on the borders of Buckinghamshire and Northamptonshire, in late thirteenth century. Cambridge University Library, MS. Ee., vol. 1, ff. 194a-211a. The pardon was perhaps included because Juetta de Balsham resided locally, or because her case was heard by the court of the priory.

[80] B-text, passus XVIII, ll. 380-84; C-text, passus XX, ll. 421-25.

the gravity of their sins.[81] His suggestion that this was a custom practised by medieval kings seems to be substantiated by two contemporary cases. The first occurred in November 1363 when Walter Poynant of Hambledon had been convicted of robbing a merchant and was hanged at Leicester, but revived in the cart on the way for burial in the churchyard of St. James.[82] He was taken to the church and, according to the chronicle of Henry Knighton, the clergy at Leicester carefully guarded him, lest he should be seized and hanged again. Knighton then asserts that King Edward III, who happened to have been at the place where the execution was attempted, granted Walter a pardon at Leicester Abbey with the words 'Deus tibi dedit vitam, et nos dabimus tibi cartam.'[83] In the second case, recorded on the king's bench rolls, William Walshman was caught in possession of a stolen silver pendant, and was appealed by Richard Durville for the felony on 13 February 1397. William was found guilty and sentenced to death. The execution was about to take place when the king, happening to pass by, ordered him to delay the execution and keep William in safe custody:

> dominus rex superveniens per viam precepit prefato Ricardo locum tenenti predicti marescalli, oretenus quod expectaret de execucione predicta facienda et quod ipsum Willelmum salvo custodiret.[84]

William later received a charter of pardon, dated 18 April, and presented it at king's bench on 4 June.[85]

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[81] B-text, passus XVIII, ll. 387-388. See Chapter Five for further discussion of the parallels Langland draws between earthly and divine justice in this passage.

[82] Skeat asserts that this case 'can hardly be other than the very one of which William [Langland] was thinking.' W.W. Skeat, *The Vision of Piers Plowman by William Langland*, EETS, OS 67 part IV, section I (1877): 423-4. Pearsall endorses this proposition in his notes on the C-text; *Piers Plowman*, ed. D. Pearsall, p. 338. However, Alford says that Skeat claims too much in linking this specific incident with the passage in *Piers Plowman*. As Alford asserts, the principle was well-established; J.A. Alford, *Piers Plowman, A Glossary of Legal Diction* (Cambridge, 1988), p. 67.

[83] 'God gave you life, and we shall give you a charter'. *Knighton's Chronicle*, p. 189-90. Knighton says that Edward pardoned Walter 'and gave him a charter'. This refers to the letters of protection the king authorised immediately, by an oral warranty (dated 10 November 1363); *CPR, 1361-4*, p. 422. His pardon was subsequently enrolled on 15 January 1365, covering indictments against him dating back to 1352; *CPR, 1364-7*, pp. 60-61.

[84] *SCCKB* 7, p. 90-91. Alford refers to this case; Alford, *Glossary*, p. 67.

[85] *CPR, 1396-99*, p. 146. Hurnard also points to another example from the reign of Henry III. In 1226, when the king was only just coming of age, and was perhaps eager to use his prerogative of mercy, John de Herlisun was convicted at the Tower for the death of Lambert de Legis. The king granted him life and limb at the prayer of the women of the city, and he became a Hospitallier. Hurnard, *Homicide*, p. 43.

Attempts at Regulation

Despite the variation in procedure and justification, some efforts were made to regulate the system and safeguard it from abuse. One method was to require the defendant to find mainpernors willing to stand guarantor to their future good conduct. A statute promulgated in 1336 stipulated that any person who had been pardoned should find sureties, or their charters would be void. They were to come before the sheriffs and coroners of the county where the act had been committed, between 1 April and 29 August and give the names of their mainpernors. The mainprises were then to be sealed and returned to chancery by 12 September. Any recipients in the future would have three months to present such mainprise to the coroner and sheriff, and a further three weeks to send it to chancery.[86] Whether or not this decree was uniformly enforced, it at least became a recognised part of the process. In the *Piers Plowman* mainprise is offered during the Trial of Wrong and Meed attempts to stand surety for him; in *Melibee* the criminals take friends with them to court to stand as guarantors.[87]

The statute of 1390 attempted to introduce severe penalties for those who did not follow procedure. It stipulated that the crime should be recorded in the charter of pardon. If this information was missing an inquest should be held in the locality of the crime. The name of the suitor for pardon was also to be endorsed on the bill by the Chamberlain, upon pain of one thousand marks or by the Under-Chamberlain, on pain of five hundred marks. No one else was authorised to endorse the charters, and if they did so the fine was one thousand marks. The bill was then to be verified by the Keeper of the Privy Seal, without whose warrant it would not pass. Finally fines were set for those who helped a felon to wrongfully obtain a pardon. An archbishop or duke was to pay one thousand marks; an abbot, prior, baron or baronet would pay five hundred marks, and a clerk, bachelor, or other of less estate, 'of whatsoever condition that he be', was to pay two hundred marks and be imprisoned for one year. In 1393 it was confirmed that the crime should be specified in the letter of pardon but, unsurprisingly given the unrealistic level of the fines, the rest of the 1390 charter was repealed.[88] A further statute in 1404 addressed the problem of pardons granted to approvers. After

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[86] *SR*, vol. 1, p. 275. See Bails on Special Pardons C 237, which record sureties for those pardoned. Some are single membranes relating to the finding of sureties in chancery; others are writs to the sheriff and coroner ordering them to see that such sureties were found in the county court, with their return either endorsed or more usually, attached. See Appendix 5 - the statistics given here are clearly influenced by the 1336 statute.

[87] C-text, passus IV, ll. 84-86; 90-93.

[88] *SR*, vol. 2, p. 86.

they had secured pardons, they were said to become more notorious felons than they were before. It was therefore ordained that any person who helped an approver to secure a pardon would have their name recorded in the charter. If the approver then became a felon again, the intercessor was to be fined £100.[89]

The justices presiding over a particular case might think it desirable for a jury to confirm the grounds on which the pardon had been granted, or to check the circumstances against the records of earlier inquiries, such as the coroner's rolls.[90] If they found something suspicious about the charter it was possible for them to postpone the proclamation and in the meantime consult the king. The justices of gaol delivery at Northampton referred William Frere's case to the king when he produced two pardons, one given in 1303, for the death of John son of Henry del Brok of Medeburne and for robberies, the other given in 1307 for the death of John de Meldeburn and William son of John de Stoke. The king's solution was to grant a third pardon.[91] The vital proviso in all pardons, however, was the need to have it proved in court, and for the accused to stand trial if any appellant came forward.

Proving a Pardon

After receiving a pardon, it was important, especially for the outlaw, to have the charter proclaimed in court, since most pardons were conditional on 'standing to right' in court to give appellants the opportunity to come forward. The sheriff would usually proclaim them in the county court with an invitation to anyone now wishing to prosecute, to come forward. Royal justices were required to make sure everything had been done correctly, and to proclaim that peace had been given, usually at a session of oyer and terminer or gaol delivery.[92] Peace could also be given in king's bench. Finally, because the pardon did not always provide for release of a felon from prison, he would sometimes have to pay his own prison charges before being released.

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[89] *SR*, vol. 2, p. 144.

[90] J.I. 1/58, m. 20; J.I. 1/804, m. 76d.

[91] C 47/124/1/1; *CPR, 1301-7*, pp. 171, 527; *CPR, 1307-13*, pp. 155-56.

[92] Proclamation was also required when a king pardoned a prisoner before trial. See J.I. 1/204, m. 50d. Early registers of writs contain these instructions to the sheriff, suggesting that the procedure was normal. See, for example, BL, MS Harlean, 4351, f. 48; MS Harlean, 1608, f. 62.

III. Group Pardons and General Pardons

The individual pardons considered so far were obtained by the exercise of the king's grace in each separate case. The supplicant therefore relied on a royal justice or an influential patron to recommend their petition for pardon to the monarch. In contrast, group pardons (political amnesties, military service pardons, and remissions of judicial and feudal dues) and general pardons, were crucially different in that the initiative was taken by the crown, usually with the advice of parliament, rather than the individual. The pardon was therefore issued in the form of a royal ordinance or statute, which informed the wider community of the range of offences that were to be pardoned, and the procedure they were to follow in order to obtain their own copy. These grants of mercy often had an immediate and important purpose for the recipients. More than this, however, they demonstrate that the practical use of the royal pardon and the conceptual ideas of mercy which surrounded it occupied a central role in medieval political culture.[93]

Formulation and Availability: Political Amnesties

The issue of a formal amnesty had long been recognised as one of the necessary steps towards political reconciliation in the aftermath of an act of defiance against the crown. However, these amnesties had developed a far more formalised place in the process of reconciliation by the end of the fourteenth century, than had previously been the case. In 1215 the inclusion of an amnesty as the penultimate clause of Magna Carta had been merely a legal safeguard, subordinate to the renewal of feudal homage as the symbol of reconciliation.[94] However, the formal issue of the amnesty came to assume an increasingly prominent place in the act of reconciliation, and a shift in terminology towards a more legally precise definition emphasised the readmission of the individual into the protection of the common law, rather than into a private feudal bond.

Despite this evolution, discussed at greater length in the following chapter, all political amnesties issued by the crown continued to include two main clauses. The first pardoned the perpetrators of all offences committed during the period of dispute. The amnesties of Magna Carta and the 1266 Dictum of Kenilworth both referred to these offences in general terms, encompassing any wrong or offence related to the dispute.[95]

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[93] For further discussion see below, Chapter Three.

[94] Magna Carta, clause 62: Holt, *Magna Carta*, p. 337.

[95] *SR*, vol. 1, p. 13.

The amnesty Edward I issued to his marshal and constable in 1297 mentioned, more precisely, their failure to come to the king at his commandment, and their formation of alliances and assemblies of armed men.[96] This phrasing made vague allusion to the treason committed by the earls. Reference to treason became more specific in the terms of the 1313 amnesty extended to Thomas of Lancaster and his adherents. It referred to the crimes of bearing arms against the peace of the king, entering into confederacies, forcing entry into towns or castles, or besieging them, and taking prisoners.[97] However, political amnesties were always specific to crimes committed as a result of the particular disturbance. They were not in any sense a blanket amnesty for all criminal offences allegedly committed during the period. The wording of the 1327 amnesty made this clear, stating categorically that the king intended it to cover only the offences stipulated, and not any other unrelated acts of trespass or felony.[98] The second main clause of any amnesty pardoned the recipient of all rancour that the king had conceived against the offenders, providing security against any possibility of retribution by the monarch or by his heirs in the future. In 1266 the king relinquished any future right to take vengeance on the offenders, except for those excluded from the ordinance. Similarly in 1297 Edward I released the earls from 'all manner of rancour and indignation which we had conceived against them', and from punishment at his own hands or those of his heirs.[99]

The steps taken to formulate such a pardon were rarely recorded in any detail, although the display which accompanied the granting of the amnesty was sometimes worthy of mention by the chroniclers. In 1313, however, the negotiations surrounding the form of the amnesty granted to the Ordainers were noted in the report of two papal nuncios sent to England to mediate in the dispute. Cardinals Arnaud Novelli and Arnald de Auxio reported to Clement V that the earls were concerned about the precise phrasing of the amnesty.[100] This revolved around the legal force of the Ordinances that Edward had reluctantly assented to in the parliament of August 1311. If the Ordainers

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[96] *SR*, vol. 1, p. 124.

[97] *SR*, vol. 1, p. 169, 21-26; *Foedera*, vol. 2, pp. 230-31. See Appendix 3.

[98] *SR*, vol. 1, p. 252. Similarly, the pardon of Henry of Lancaster's 1328 rebellion covered offences committed by Henry and his followers, with certain named exceptions, and the amnesty of 1388 pardoned the Appellants all acts committed against appellees: *RP*, vol. 2, pp. 3-6; *Knighton's Chronicle*, p. 451; *CPR, 1327-30*, pp. 472, 484, 547; *RP*, vol. 2, p. 52; *SR*, vol. 2, pp. 47-8.

[99] Magna Carta, clause 62: Holt, *Magna Carta*, p. 337; *SR*, vol. 1, p. 13; *SR*, vol. 1, p. 124.

[100] E.A. Roberts, 'Edward II, the Ordainers and Piers Gaveston's Jewels and Horses, 1312-1313', *Camden Miscellany* 15 (1929), p. 16.

accepted the amnesty, they would in effect be admitting that the Ordinances were not valid, and that they had therefore acted outside the law in murdering the king's favourite, Piers Gaveston:

> Quarta ratio, quia si Rex precipiat quod nullus molestet decetero aliquem ad suitam suam vel alterius cuiuscunque pro captione et morte P. de Gaveston', stando in istis terminis, ergo per audientes notabitur quod dominus P. erat homo sub lege. Et sic supponetur et conclude poterit contra eos quod sint homicide, quam maculam seu infamiam modis omnibus volunt euitare, tanquam illi qui licite ey iuste fecerunt de dicto P. quod fecerunt tanquam de inimico Regis et regni et, ut premittitur, exulato.[101]

On 14 October 1313 the recalcitrant lords finally consented to make a public apology at Westminster Hall. Walsingham recorded that a final agreement was made at the parliament in London, and the barons agreed to ask pardon of the king.[102] In return, the king received them into his grace. The scene was described by the chronicler of the *Vita Edwardi Secundi*, who mentioned not only the physical display of reconciliation, but also the affirmation of the pardon in a written document under the great seal.[103] Possession of the letter of pardon was becoming an increasingly important guarantee of future protection for the recipients. The physical display of remorse and forgiveness, and particularly the kiss of peace, had been a feature of chronicle accounts of Llywelyn ap Gruffydd's reconciliation with Edward I almost forty years previously.[104] Yet while the author of the *Vita Edwardi Secundi* still dwelt on the dramatic and ceremonial

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[101] 'The fourth reason, that if the king orders that no-one henceforth harass anyone, at his suit or that of any other person, for the capture and death of P. de Gaveston, expressed in those terms, therefore it will be noted by the hearers that lord P. was a man under law. And thus it will be supposed and can be concluded against them that they are homicides, which stain or infamy they wish to avoid by all means, as people who lawfully and justly did what they did to the said P., as to an enemy of the king and of the realm and, as has been said before, an exile.' Roberts, 'Piers Gaveston's Jewels and Horses', p. 16.

[102] Thomas Walsingham, *Historia Anglicana,* ed. H.T. Riley, Rolls Series 28 (1863-4), 1: 136.

[103] 'At the appointed time, the earls approached the king and saluted him, as was proper, on bended knee. Receiving them graciously he at once raised them, and kissed them one by one, wholly absolving them of every crime of which they were accused, and granting what they reasonably sought or should seek hereafter, and all these things he confirmed by an oath, and granted in writing under the great seal. The better to signalise the treaty, the king invited the earls to dinner . . . for it had become a custom in England to clinch a peace with public banquets.' N. Denholm-Young (ed.), *Vita Edwardi Secundi* (London, 1957), pp. 43-44.

[104] *Knighton's Chronicle*, p. 272; *Chronicle of Bury St. Edmunds*, p. 64.

events, the charter of pardon was certainly being given a more prominent role by the later account. Two days after the Ordainers had apologised, pardons were issued to some 500 lesser offenders, a high proportion of whom were Lancastrian dependants.[105]

As the crown, usually with the advice of parliament, took the initiative in issuing these political amnesties, most were given statutory form and proclaimed in each county in order to inform the inhabitants of their availability. However, the exact procedure for obtaining pardon under its terms was not clearly defined. Magna Carta and the 1297 amnesty referred only to letters patent being made available to the leading perpetrators. The Dictum of Kenilworth suggests that one stage of the procedure involved supplicants presenting themselves before a royal officer authorised to receive them back into the king's peace, which they were to do within forty days of the issue of the ordinance.[106] Whether all those who were received then pursued their claim by purchasing their own copy of the pardon from chancery is unclear. The names of those pardoned were certainly recorded in the patent rolls, but they were entered under a copy of the relevant letter patent in long lists, rather than in separate entries with their own date and note of warranty.[107] It may be that this list of names was one drawn up by government at the time the grant was made, to make known the individuals who could receive a charter if they sought one. Alternatively, the lists could perhaps have been those compiled by the officers charged with receiving supplicants back into the king's peace, and then submitted to chancery. However, if the supplicants wished to obtain their own copy of the pardon, they would still need to collect it from chancery. The lists could therefore have been compiled by chancery as a record of all those who actually applied for a charter. If this was the case then the chancery clerks were presumably keeping a memorandum of pardons granted under a particular amnesty, and then writing it up in fair copy.

Formulation and Availability: Military Pardons

The scope of military service pardons was subject to some variation. The first such pardon, issued by Edward I in 1294, invited all those charged with felony, whether

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[105] *Foedera*, vol. 2, pp. 230-33; *CPR, 1313-1317*, pp. 21-26.

[106] The exact procedure here is uncertain, the statute merely alludes to 'all persons received to the peace by those that had commission thereunto . . .' (*SR*, vol. 1, p. 17). Those most likely to have been commissioned were probably the chief justices of the king's bench and common pleas.

[107] For example, almost five hundred names were recorded under the pardon of 1313 to those who killed Piers Gaveston. *CPR, 1313-1317*, pp. 21-26; *Foedera*, vol. 2, pp. 230-31.

detained in prison or at large, to volunteer for paid service in Gascony.[108] The standard letter patent of pardon issued under this grant was copied into the pardon roll, and dated 11 November 1294. This referred to all indictments or appeals by approvers of homicides, robberies, and other crimes and diverse transgressions against the king's peace, as well as offences of the forest.[109] The grant of December 1298 was also wide-ranging, covering all trespasses, and all classes of felony.[110] In contrast the grant made in 1360 was given only for homicide indictments.[111]

Military service pardons were theoretically available as individual pardons, to any supplicant who could successfully petition the monarch, on condition that they were able to serve in his army. However, by far the majority were in practice granted under proclamations issued by the king as a method of recruitment for a specific campaign. Interestingly, Edward I's proclamation of 1294 was recorded in the Gascon rolls, rather than the main patent rolls, and the names of recipients were listed in the separate series of pardon rolls. The only other example of this use of a separate record occurred when Edward III issued a military pardon from Vannes in 1342, for his campaign in Brittany.[112]

The king's letters patent let it be known that such pardons were available to anyone who sought them, without the need to submit an individual petition, as long as recipients were fit to give military service. As with political amnesties, it seems that officers were appointed to receive men into the king's peace. The letter patent issued in 1294 stipulated that the recipient should come into the presence of the king himself, or into the presence of Roger Brabazon and William de Bereford, justices assigned by him, or to coroners appointed by the king. Recipients had to find sureties to their good behaviour before these officials, and were then go beyond seas in the king's service, and

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[108] See above, n. 12.

[109] C 67/26 mm. 4, 6, 7-8.

[110] *CPR, 1292-1301*, p. 293.

[111] *CPR, 1358-1361*, pp. 375-402.

[112] C 67/26 lists 320 pardons given in return for military service in Wales, Scotland and Gascony, between 1294-1298. C 67/27 names 162 recipients of pardons in return for military service in Flanders, given between 1297-1298. C 67/28A contains a few fragments of a roll recently identified among the 'unsorted miscellanea' of The National Archives. These appear to contain approximately 26 names of recipients of a military pardon which Edward III issued from Vannes in 1342. See Appendix 2 and Appendix 4.

stay there 'during his pleasure'.[113] Similarly, the pardon recorded in the patent rolls under the date 12 December 1298, referred to a proclamation that the king had recently made at Carlisle. This stipulated that all those who came into his presence by Martinmas to ask pardon would receive one, as long as they had served in his wars before that date. The king was therefore either granting them to individuals who came before him, or appointing deputies to do the same. Lists of these men may, in some instances, have then been forwarded to chancery. Most pardons of this type certainly included the clause that they had been given at the request of a particular military leader.[114]

Formulation and Availability: Remissions of Judicial and Feudal Dues

Remissions of judicial and feudal dues began to be issued for the first time in the second half of Edward II's reign, and remained constant in their scope. The judicial penalties with which they were concerned comprised all forfeitures and amercements enrolled in the exchequer before a certain date, as well as the king's right to seize the chattels of escaped felons, and to impose communal fines for such escapes - rights enshrined in the articles of the eyre.[115] The feudal dues which were remitted covered the payment of an aid for knighting the king's son or the marriage of his daughter.[116] The parliamentary Commons had consistently opposed the imposition of such payments and the levying of ancient feudal dues was becoming increasingly anachronistic. In 1316, the first remission on this type pardoned all outstanding fines imposed before the twentieth year of the reign of Edward I.[117] A regular sequence of these pardons began to be issued in the 1320s and continued into the 1360s. When available, such remissions pardoned all

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[113] C 67/26, mm. 4, 6, 7, 8. Some of those listed on the pardon rolls also had their pardons recorded in the main patent roll. Gilbert le Glowere and Walter Bythewater were named in the pardon of 1294 on the pardon roll: C 67/26, m. 8. Their cases were also entered into the patent roll where it was recorded that Glowere had been pardoned on 12 May 1295 at the instance of Reginald de Grey for the death of Thomas de Houton: *CPR, 1292-1301*, p. 136. Bythewater was pardoned on 12 May 1295 for the death of William 'the parsons son' of Toppercroft: *CPR, 1292-1301*, p. 136. John de Tilton's pardon was also recorded on the pardon roll: C 67/26, m. 1 and in the patent roll. The latter entry recorded that he was granted pardon on 21 December 1298, for commanding John son of Simon de Skeftington, William de Tilton, Ralph de Retford, Roger Spark, Adam Bote and Adam Page to kill Simon de Skeftington. He found surety before the king to go on his service. However, his infirmity compelled him to stay in England, and he sent John de Neuton, admitted at the instance of Reginald de Grey, to go in his place.

[114] *CPR, 1358-1361*, pp. 375-402.

[115] For instance the remission issued in August 1316 applied to all such debts incurred before November 1291. *CPR, 1313-1317*, p. 532.

[116] *SR*, vol. 1, pp. 281-82. The rights to judicial penalties were laid down in the articles of the eyre.

[117] *CPR, 1313-1317*, p. 532.

the outstanding judicial and feudal dues owed by a community in return for payment of a set fee, and many seem to have preferred this option.[118]

Remissions of this type were granted in parliament at the request of the Commons. A distinct *quid pro quo* arrangement appears to have emerged in 1320s, whereby the crown attempted to draw on its fiscal reserves by collecting outstanding debts, while the parliamentary Commons successfully petitioned for a remission, and granted taxation in return. Since their legality was not in question, the withdrawal of these demands could be secured only by paying for release through grants of taxation or by concerted political opposition, but these remissions were not permanent concessions of the royal prerogative and their grant was still an act of grace. Alternatively, particular towns or cities could apply for such a pardon, in return for payment of a set fee. In agreeing to this change the communities were clearly not exchanging like for like. The importance of securing a remission of these dues lay in the associations they had with intrusive central government in the eyes of the Commons. Direct taxes, in contrast, were imposed after consultation with parliament, and while they clearly stipulated what each region should pay, the collection was left to local officials who were often the same men who served as parliamentary representatives. Pardons for judicial and feudal dues were issued as statutes, and letters patent were also sometimes recorded in the rolls.[119] As these pardons covered an entire community, individual inhabitants were not obliged to seek personal charters.[120]

Formulation and Availability: General Pardons

The steps taken by the government to formulate the final type of 'group pardon', the general pardon, were recorded on the parliament rolls and can therefore be more precisely defined. The tradition of political amnesties and financial remissions on which the general pardon was built still permeated the manner of its formulation in parliament. The role which the Commons had come to assume as petitioners for pardon can be identified behind almost all the general pardons of the period, and an implicit link to their consent to taxation was often made. However, this process should not be portrayed

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[118] See Appendix 3. Each one of these pardons covered all the inhabitants of the named town or city. Accordingly, their issue did not significantly increase the overall number of pardons granted in the particular year (See Appendix 1). Such pardons are discussed further below, Chapter Three, pp. 75-82.

[119] See Appendix 3.

[120] Harriss, *Public Finance*, pp. 345-46.

as one in which an antagonistic parliamentary Commons or the limits of the judicial system were forcing from the crown a concession of pardon it was unwilling to make. The expansive terms of the pardon indicated that the king was bestowing mercy on his subjects, rather than simply replying to a common petition concerned with the articles of the eyre. Centrally, the crown had an obligation to reconcile the expanding political community to its authority, an aspect of the general pardon which will be examined in more detail in the following chapter.

The initiative in the process was taken by the royal representatives, who indicated that the king might be willing to issue a general pardon, if the Commons demonstrated themselves to be worthy recipients. In 1377 this suggestion was made in Bishop Houghton's opening sermon to parliament, while in 1381 the point was conveyed by the treasurer, Sir Hugh Segrave, in his rehearsal of the reasons for summoning parliament.[121] Presented with such an offer, the Commons would submit a petition requesting a general pardon with little delay.[122] However, the crown did not then immediately rubber-stamp the schedule they had drawn up. In 1377, the general pardon which emerged was more than just a redrafted set of Commons' petitions. Most requests were amended, and the parliament roll clearly records that the schedule was taken to the king at Sheen for royal approval.[123]

Moreover, in granting their request, it was implicitly suggested that the representatives should offer the crown a similar gesture of goodwill. Accordingly, the Commons assented to the imposition of a poll tax shortly afterwards. The same formula was followed in 1381, although on this occasion the crown actually refused to grant the general pardon until the Commons acceded to a wool subsidy.[124] In 1398 the terms of the pardon made no attempt to conceal its use of intimidation to force the Commons to concede a subsidy. The pardon, it stipulated, would be void and annulled if parliament made any 'let or disturbance contrary to the grant of the said subsidy of wools'.[125]

The scope of the general pardon was, as its name implies, comprehensive. The definition of the term general pardon has led to some difference of opinion among legal

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[121] For Houghton's speech, see: *RP*, vol. 2, pp. 361-62; for Segrave's speech, see: *RP*, vol. 3, p. 99. See below, Chapter Three, pp. 82-103.

[122] *RP*, vol. 2, pp. 364-65; *RP*, vol. 3, pp. 103-04 (31-34); R.B. Dobson, *Peasants' Revolt of 1381*, 2nd edn (London, 1983), pp. 331-33.

[123] *RP*, vol. 2, p. 364 (22).

[124] *RP*, vol. 3, p. 104.

[125] C 67/30, m. 3.

theorists, centred around the number of offences a truly *general* pardon encompassed.[126] However, it was the general pardon of 1377 which was the first to cover 'all manner of felonies' as well as all trespass and offences against the royal prerogative, although it excluded treason, murder, rape of women and common thefts from its terms. The 1377 general pardon was also the first to be recorded in a separate roll to the main patent roll series.[127] This seems to have set a precedent, as every subsequent general pardon was allocated its own roll.[128] Future general pardons continued to exclude treason, murder, rape of women and common thefts and to encompass all other felony, trespass, contempt, evasion or abuse of the law committed before a certain date, together with any resulting sentences of outlawry, confiscation or fine.[129] In addition, the recipient was still excused offences against the king's feudal, statutory and administrative rights, such as marrying the widow of a tenant-in-chief or buying and selling land without his license, or failure to pay debts to the crown. Some additional clauses addressed more specific offences, such as the provisions concerning breaches of the statutes of provisors, which could only be of benefit to the clergy.[130]

The grant of a general pardon was signalled to the public by royal proclamation, and enshrined in statutory form. A provision included in almost all general pardons stipulated that anyone who wished to purchase one could, within a limited term, come to chancery to obtain a copy made out in their name upon payment of the requisite fee of 18*s*. 4*d*. On occasions when this requirement to obtain a personal copy of a general pardon was removed, the concession seems to have been a significant one, intended to demonstrate the accessibility of the particular grant. This occurred for the first time in the Peasants' Revolt pardon of 1382, and was clearly a response to a petition put forward by the parliamentary Commons, which asserted that large numbers of the

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[126] J. Bellamy dates the introduction of the general pardon to the late fourteenth century, although he suggests that the 1327 political amnesty also has a claim. A.L. Brown places its arrival in the mid-fourteenth century, but does not specify a particular pardon. Bellamy, *Criminal Trial*, p. 144, n. 51; A.L. Brown, *The Governance of Late Medieval England 1272-1461* (London, 1989), pp. 137-39.

[127] C 67/28B; *SR*, vol. 1, pp. 396-98; *RP*, vol. 2, p. 364 (24, II-VI).

[128] C 67/29 onwards (Rolls C 67/26/27/28A all contain pardons for military service). See below, p. 55, for further discussion of the diplomatic of these rolls.

[129] Bellamy asserts that sixteenth century general pardons contained longer lists of exceptions. That of 1529 exempted murder, robbery, burglary, felonious theft of over 20*s*. value, arson of houses, rape and escape of felons from custody. Piracy was then added in the 1540s, witchcraft in 1566. Bellamy, *Criminal Trial*, p. 145.

[130] See below, pp. 61-3, for discussion of the practical application of these pardons.

king's subjects could not afford to purchase a charter, and were therefore forced to remain outside the king's peace.[131] The same gesture was again made by Henry V in his general pardon of 1416.[132]

The diplomatic of the pardon rolls gives further indication of the way in which such general pardons were made available. As far as the general pardons of 1377 and 1381 were concerned, the respective pardon rolls indicate that two distinct forms of the pardon were made available. The first concerned those actually involved in the recent political upheavals of the Good Parliament in 1376 and the Peasants' Revolt in 1381, and the second was aimed at the rest of the community at large who had not been directly involved. The roll for 1377 establishes that the 'great form', as it was called, was a copy of the entire pardon (later recorded in the statute and published at the end of parliament), while the shorter form was made up of those parts which pardoned suits of peace and certain felonies.[133] The 'great form' was purchased by 438 people, including John Pecche and Richard Lyons, merchants impeached in the Good Parliament. Other recipients included the bishop of Lincoln, two lords, and at least fifty-four knights. Several towns also sought charters, including Northampton, Beverley, Kingston-upon-Hull, Huntingdon and Winchester. Copies of the shorter form were purchased by 2001 individuals. These were sought by the general populace, rather than those members of the polity who had been directly involved in the events of the Good Parliament.[134] The first of the shorter charters was issued on 6 March, four days after parliament had ended, and the first of the great form on 23 March, to John de Meaux. The issue of both forms was bought to a premature halt on 21 June by the death of the king. This was three days before the intended final date of issue and had been preceded by a last minute rush of purchases. In the first parliament of Richard II's reign, convened on 13 October

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[131] *RP*, vol. 3, p. 139; *SR*, vol. 2, p. 30. See below, Chapter Three, pp. 90-103, for discussion of the political significance of this action.

[132] *SR*, vol. 2, pp. 199-200; *RP*, vol. 4, p. 96.

[133] C 67/28B. Enrolments under the great form are given on mm. 11-13 (The title 'de magna forma' is used at the top of m. 11). The only place in which the 'great form' differs from the statute is on the clause concerning the exclusion of William Wickham. This clause is present in the parliament rolls and in the statute, but is missing from the letter patent copied into the pardon rolls. Enrolments under the shorter form are listed on mm. 1-10.

[134] A.J. Verduyn suggests that the great form would probably have been more expensive. A.J. Verduyn, 'The Attitude of the Parliamentary Commons to Law and Order Under Edward III' (DPhil. thesis, University of Oxford, 1991), p. 185.

1377, the general pardon was confirmed and expanded.[135] It had clearly been a valuable concession to the Commons, and one greeted with enthusiasm.

In 1381 and 1382 two different forms of pardon were also on offer and again served different purposes.[136] The first were pardons given to anyone indicted of treason or felony committed during the insurrection and the second were general pardons, given to those who had remained loyal to the king, for all offences committed before 14 December 1381.[137] Initially, in the period prior to the November parliament, individual pardons were issued to the rebels, as no general terms had yet been drawn up.[138] Of these pardons 115 were recorded on the first three membranes of the pardon roll. They were granted in the area encompassing Hertfordshire, Cambridgeshire and Kent, in which the first judicial sessions were held.[139] In St. Albans, Chief Justice Tresillian had ordered the execution of fifteen people including two of the leading rebels, while another eighty or so were imprisoned. Yet several letters of pardon entered on the king's bench rolls were granted to those indicted in Hertfordshire before the end of October, and included such prominent insurgents as Richard Wallingford, who was pardoned as early as 28 October.[140] The first three membranes of the pardon roll supply a further forty-five names of inhabitants of Hertfordshire who were issued early pardons. Despite

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[135] Verduyn asserts that references to the use of these charters after they had been issued are sparse, and cites only one reference in the close rolls: *CCR, 1374-77*, p. 503. Verduyn, 'Attitude', p. 186, n. 170. However, the use of such pardons in subsequent court cases can be traced, see below, pp. 61-62.

[136] A.J. Prescott asserts that one of the drawbacks of the roll is the inclusion of both pardons to the rebels and to those who had refused to join the rising, claiming that it is impossible to distinguish between them. However, this does not seem to be borne out by the format of the roll. A.J. Prescott, 'Judicial Records of the Rising of 1381' (PhD thesis, University of London, 1984), p. 350.

[137] Another group could perhaps be classified as those pardons which, according to the date they are given on the roll, were issued after the deadline of 2 June, set in the 1381 ordinance. However, this is confused by the fact that these pardons are listed under letters patent which take the form prescribed in 1381. This raises the question of whether the deadline was in practice extended, or whether these 'late' general pardons were issued under the authority of the statute of pardon issued on 24 October 1382.

[138] Parliament was originally called (by writs of 16 July) for 16 September, but was postponed until the beginning of November. It was then adjourned on 13 December to meet again between 27 January and 25 February 1382, Dobson, *Peasants' Revolt*, p. 325.

[139] C 67/29, mm. 39, 40, 41. Three early pardons are also recorded on the main patent rolls, all warranted 'by the king and for payment to the hanaper': Paul Salesbury: C 66/311, m. 31, *CPR, 1381-85*, pp. 30-31; Thomas de Wycresley: *CPR, 1381-85*, p. 43; John Putefer, *CPR, 1381-85*, p. 47. Payments for these pardons varied considerably, most were between 20-30*s*., but some were as much as £20. They were to be void if the recipient was involved in the murders of Simon Sudbury, Robert Hales or John Cavendish. Prescott's analysis of these early pardons in king's bench suggests they were largely given to those indicted of serious misdeeds. Prescott, 'Judicial Records', pp. 350-51.

[140] During November, a number of insurgents from Kent and Cambridgeshire were also granted pardons. See, for example, KB 27/482 *rex*, m. 47; KB 27/483 *rex*, m. 27d; KB 27/486 *rex*, m. 15; E 153/530, mm. 9-17. For Wallingford's pardon, see C 67/29, m. 41; KB 27/482 *rex*, m. 26d.

this inconsistency, the very issue of pardons at the time of these early judicial sessions indicates that they were a recognised part of the judicial system, rather than a feature of a newly instigated policy of moderation.[141]

The terms drawn up by the Commons and presented in parliament on 13 December included three different forms. The first was a general amnesty accorded to all those who had punished the rebels without observing due legal process, and was specifically granted to the lords and noblemen without the need to purchase their own charter. None were therefore recorded on the pardon roll. The second were to be issued to those specifically indicted of wrongdoing during the revolt. The third then granted an amnesty for those who had refused to join the rebels, intended as a reward for their loyalty to the king. This pardon covered all felonies except treason, murder and rape committed before 13 December 1381 as well as trespass and misprison at the king's suit. Those wishing to take advantage of the amnesty were ordered to purchase letters of pardon before 2 June 1382.[142]

The letters patent copied onto the pardon roll reflect this distinction.[143] After the early pardons had been recorded on the first three membranes of the roll, the diplomatic then indicates the change in procedure to accompany the parliamentary issue. The list of names was divided into counties, and inhabitants of the same towns were grouped together in a manner which suggests either that chancery was keeping a memorandum of the pardons grouped under geographical location, and then writing them up in fair copy, or that the names were already recorded in lists drawn up at the county level.[144] The first three letters patent, which head membranes 38, 29 and 26, all refer to the same form of pardon. This section, however, appears to end at membrane 24 as the terms of the letter patent of this membrane are considerably different. This impression is also reinforced by the dates, which run chronologically from December 1381 on membrane

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[141] These pardons also serve to blur the division that has often been starkly drawn between an early repressive campaign led by prominent individuals such as Bishop Despenser and Chief Justice Tresilian and the itinerant royal household, and a later, more moderate policy initiated by the Commons. They account for approximately seventeen percent of all rebel pardons recorded on the roll (662 in total), yet were issued before the Commons had been given the chance to express their desire for moderation and reform in parliament.

[142] *RP*, vol. 3, pp. 103-04 (31-34); Dobson, *Peasants' Revolt*, pp. 331-33.

[143] Contrary to Prescott's assertion that the second and third of the categories defined in parliament cannot be separated on the roll.

[144] If the latter suggestion were accurate, then the sheriff or parliamentary representative would be the most likely figure to pass on this information.

38, to May 1382 on membrane 25, but then at membrane 24 go back to December 1381 and start the chronological sequence again.

The wording of all three letters patent in the first section seems to conform to the phrasing used to define the form of grace issued specifically to the rebels. These letters patent pardon the individual all felonies and treasons committed during the insurrection, defined both in the letters and on the parliament roll, as lasting from 1 May until 1 November. They also repeat the terms recorded on the parliament roll in specifically excluding those who killed Simon Sudbury, Robert Hales and John Cavendish. The 547 names in this first section derive from 25 different regions, mostly situated in areas associated with the revolt. In contrast, the letter which heads membrane 24 seems to initiate a second, discrete section, which lists the names of those granted pardons under the third grace issued in parliament, to 'the good and loyal commons'.[145] These letters echo the general terms of the third grace on the parliament roll. The recipient is pardoned, in general terms, all felonies and all fines incurred before 14 December, with the provision that the recipient should appear in court if they were appealed.[146] In contrast to the first section, this second group contains 2294 names from 39 different regions, including areas little affected by the revolt.[147]

Concerned with the strain put on the judicial system, the government used the pardon as a means of reducing the backlog of cases and prosecuting the most serious criminals, while removing the threat of false accusations for the rest of society. Accordingly the scope of the general pardon was widened in a series of steps taken throughout 1382.[148] Eventually, in the parliament of October 1382, it was decreed that, apart from the townsfolk of Bury St. Edmunds, only those who had previously been

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[145] The distinction is also observed in the letters recorded on the main patent roll. A similar distinction is made on the 1398 rolls, between pardons given to those involved in the Appellant conspiracy and general pardons. C.M. Barron, 'The Tyranny of Richard II', *BIHR* 41 (1968): 7-9; A. Goodman, *The Loyal Conspiracy: The Lords Appellant under Richard II* (London, 1971), pp. 36-41.

[146] C 67/29, m. 6; *RP*, vol. 3, p. 119 (106) gives the recommended text of the pardon, amended to include those detained in prison for felony on 13 December. This form was adopted largely unaltered.

[147] The last 6 membranes of this section date from May 1383-January 1398. The ordinance, however, stipulated that all pardons should be obtained before 2 June 1382. Despite this, these pardons are headed by letters patent in the form which the ordinance prescribes. If they were not granted under the terms of 1381, then 588 names need to be removed from the second section. However, this lesser number would merely confirm the smaller numbers of general pardons granted, relative to 1377 and 1398. There are also 13 general pardons recorded on the main patent roll which were issued after 2 June 1382: *CPR, 1381-85*, pp. 179, 182, 213, 206, 211, 212, 236, 242, 272.

[148] It was extended to the inhabitants of those towns which had previously been excluded, with the exception of Bury St. Edmunds, and it was also conceded that those who had been appealed by approvers could receive pardons. *RP*, vol. 3, pp. 118-19.

specifically named in parliament would continue to be excluded from the amnesty.[149] It was further pointed out by the Commons that a great number of the people who were indicted for treason were unable to purchase charters, and had effectively been excluded from the pardon. The king consequently stipulated that it should no longer be necessary to procure letters of pardon to benefit from the amnesty.[150] In May 1383 it was conceded that only those named in parliament were to remain outside the amnesty, and it was stipulated that any further private suits had to be brought before 7 July 1383.[151] New judicial proceedings were initiated against those individuals who had been excluded from the pardon in line with the Commons' request.[152] About fifty of those excluded from the general pardon appeared in king's bench between 1383 and 1398, but almost all were acquitted or produced special letters of pardon.[153] Fourteen were recorded on the main patent roll, of which eleven were subsequently presented in king's

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[149] *RP*, vol. 3, p. 147. No further pardons to rebels are recorded on the supplementary roll after the 2 June deadline, but there are several on the main patent rolls: Thomas Bordefeld (13 July 1382), *CPR, 1381-1385*, p. 158; John Mylot (16 July 1382), p. 159; Thomas de Middelton (20 October 1382), p. 173.

[150] *RP*, vol. 3, p. 139. Ambiguity exists over the price of the 1381 pardon: Musson and Ormrod, *Evolution*, p. 82, n. 32. The price stood at 16*s*. 4*d*., as the 2*s*. payable to the chancellor was waived in this instance: *CPR, 1381-85*, p. 105. The hanaper records for this period are incomplete: E 101/213/7. If the daily rate of a building worker is estimated at 4*d*. then the price of the pardon would represent 7 weeks' wages, see: C. Dyer, *Standards of Living in the Late Middle Ages: Social Change in England c.1200-1520* (Cambridge, 1989), p. 215. If each pardon cost the recipient 16*s*. 4*d*., then a sum of approximately £2320 3*s*. must have been received. Brown suggests that in 1433 chancery would have expected total profits of £2,000. Brown, *Governance*, p. 65.

[151] *RP*, vol. 3, pp. 279-81; *SR*, vol. 2, pp. 30-31. Instead of the charters of pardon, letters close were made available after the concession of 1382. These, it seems, could be obtained without payment and had the same effect as earlier charters of pardon, KB 27/487 *rex*, m. 19d; KB 27/488 *rex*, mm. 8, 19; KB 27/489 *rex*, mm. 18, 21, 24d; KB 27/490 *rex*, mm. 21, 21d; KB 27/493 *rex*, m. 4; KB 27/494 *rex*, m. 14.

[152] The government sent these names to the king's bench and the justices issued orders for their arrest: KB 27/487 *rex*, mm. 5, 6, 11, 11d; KB 27/488 *rex*, m. 4; *RP*, vol. 3, p. 111. There are several examples of orders to the justices in a particular county 'not to trouble' named inhabitants because of the king's agreement to pardon 'all his lieges, of whatever estate or condition.' *CCR, 1381-85*, pp. 165, 185-86, 258, 259, 267, 277, 372. Nine pardons on the patent roll were issued after the 24 October amnesty to rebels who had not actually been exempted. Three seem to have been renewals of pardons sealed at another time: *CPR, 1381-85*, pp. 203, 215, 399. Two are exemplifications of the 24 October amnesty, suggesting that court proceedings had been initiated against them before this date: *CPR, 1381-85*, p. 224.

[153] Prescott, 'Judicial Records', p. 355. John Awedyn was pardoned on 16 March 1383, KB 27/488 *rex*, m. 23; *CPR, 1381-85*, pp. 238-39; Thomas Sampson on 14 January, *CPR, 1381-85*, p. 226. Almost all were granted at the request of an intermediary.

bench, suggesting that the majority of pardons were formally processed in the courts.[154] They were not made available until some time after the revolt and some rebels waited eight or nine years before they were pardoned, suggesting that the crown was cautious about issuing pardons of this sort.

Justification

The parliamentary Commons tended to justify their requests for general pardon with reference to the suffering of the common people. In 1377 this suffering and the new demands for taxation, as well as the need to mark the completion of the king's jubilee year, were all mentioned. However, the resulting general pardon made no reference to the tax, and its issue was explained in terms of wars, plague and famine, as well as the jubilee.[155] This change of emphasis suggests the council saw the general pardon as a reward for political concessions from the Commons and not for the tax, although they were perhaps too astute to state this explicitly. In the December 1381 parliament, the Commons' schedule suggested that the general pardon should be issued as a reward to those 'good and loyal commons' who had refused to join the rebels, even when faced with threats of violence. It was also intended to encourage those who acted well to continue to do so in future, and it was this aspect that was emphasised again in the 1382 statute.[156]

Attempts at Regulation

It must be emphasised that royal pardons only ever covered prosecutions on behalf of the king. The recipient of a letter of pardon had to appear with it in court in order to allow anyone to initiate a private prosecution against him. The court also verified that the holder of the pardon was indeed the person named in the indictments. Finally, all those with charges against them had to give security for good behaviour before

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[154] Thomas Sampson, *CPR, 1381-1385*, p. 226; John Awedyn, p. 238 (KB 27/488 *rex,* m. 23); Thomas Engilby, p. 270 (KB 27/503 *rex,* m. 12); John de Spayne, p. 272 (KB 27/501 *rex,* m. 1d); William de Benyngton, p. 297; John Ellesworth, p.377 (KB 27/501 *rex,* m. 15d); Thomas atte Raven, p. 409 (KB 27/490 *rex,* m. 20); Richard Redyng, *CPR, 1385-1389*, p. 25 (KB 27/512 *rex,* m. 22d); Henry Nasse, p. 75 (KB 27/513 *rex,* m.7); Robert Wesebrom, *CPR, 1388-92*, p. 186 (KB 27/523 *rex*, m. 19d); William Pypere, p. 290 (KB 27/535 *rex*, m. 10d); Thomas Wyllot, p. 457 (KB 27/522 *rex*, m. 13); William Pykas, *CPR, 1392-96*, p. 362 (KB 7/531 *rex,* m. 14d); Robert Priour, *CPR, 1396-1399*, p. 109 (not on the list of the excluded). Prescott identified a further 17 at king's bench. Prescott, 'Judicial Records', p. 355.

[155] *SR*, vol. 1, p. 396-97.

[156] *RP*, vol. 3, pp. 103-04 (31-34); *SR*, vol. 2, p. 29.

chancery supplied them with letters of pardon.[157] In the aftermath of the Peasants' Revolt many cases concerning the rising were adjourned into king's bench in order to rubber stamp pardons in this way. This is apparent where a *certiorari* or *terminari* was issued after letters of pardon had already been granted. Some of the most prominent rebels who appeared in king's bench came in order to have their pardons processed. The imposition of these safeguards begins to indicate that there was something more to pardoning than historians assume when they assert that it merely represented the failure of the judicial system.[158] Indeed, the implementation of this procedure suggests that the recipient of a pardon to an extent *bought into* the judicial system, and was given a vested interest in upholding the working of the court. Rather than setting the recipient outside the law, the process drew them into a dependence on it.

Proving a Pardon

Given that the recipient of a charter of pardon was required to prove it in court before final peace could be proclaimed, a surprisingly low number of general pardons can actually be traced in the records of the king's bench. In 1377 only fifteen instances can be identified, although in total 2439 pardons were issued.[159] This might in part be explained by the death of Edward III in June of 1377, although the minority government of Richard II was quick to issue a confirmation of the pardon. It might also have been partly the result of the political significance of the pardon: for those elites involved in the dissent during the Good Parliament, it was politically astute to purchase a pardon, and thus be seen to support the rapprochement, and the numbers who sought the 'great form' of the charter testifies to this. These people were hardly likely to recognise the need to prove their pardon in a court of law. However, even when these factors are taken into account the number of pardons proved in court still seems surprisingly low.

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[157] *SR*, vol. 1, pp. 257-61. Bellamy suggests that it was also common for the justices of the peace to be ordered to hold an inquisition to ascertain the reputation of the recipient: Bellamy, *Crime and Public Order*, p. 194.

[158] Bellamy, *Crime and Public Order*, p. 194. Kimball concludes from examining the numbers of pardons presented in Shropshire that the judiciary was failing to punish serious crime: Kimball, *Shropshire Peace Roll*, p. 45. Storey argues that 'the general pardon was to some extent an admission of the failure of the legal system to bring accused people to trial.' For him the grant amounted to the administration confessing its weakness: Storey, *House of Lancaster*, pp. 215-16. However, Powell argues that pardons, at least those issued by Henry V, were not intended to punish crime but to reconcile the disaffected to the crown: Powell, 'Restoration', pp. 67-68.

[159] KB 27/465, *rex*, mm. 3, 7d, 10; KB 27/466, *rex*, mm. 1, 1d, 11d, 13d, 18d, 19, 19d; KB 27/467 *rex*, mm. 9, 10d; KB 27/468, *rex*, m. 16d; KB 27/ 469, *rex*, m. 23d; KB 27/548, *rex*, m. 16d.

For the Peasants' Revolt general pardon Prescott found a total of forty cases out of a possible 2910 in which such a charter was presented.[160] After the general pardon of 1398, 134 can be identified on the rolls from the 4196 issued.[161] Finally, Storey identified 172 for the 1466 general pardon, giving the highest proportion of pardons, at 5% of the total 3319 pardons.[162] Given these low figures, it seems that a high number of general pardons were being purchased as a precaution, and were never actually presented in court. It is also possible, of course, that the mere act of obtaining a pardon was enough to prompt an out of court settlement in some instances. Importantly, it must be remembered that these pardons were granted retrospectively, for any crimes committed before a certain date. Those arrested on charges of felony long before the same date would presumably already have been convicted and executed, unless their case had still not been heard. Alternatively they could have been convicted, but reprieved and remanded back to gaol because the justices considered the verdict unjustified or the evidence too weak to support conviction. However the largest number of people indicted with felony at some prior date, who would have survived to seek a general pardon, would have been those who had fled justice and become outlaws. This group of people had the most to gain from the issue of a general pardon, and in offering them pardon, the government could bring them back into the parameters of the common law.

As a general pardon covered so many categories of offence, it is obvious that not all those who purchased a copy would have been doing so in relation to criminal charges. Some letters of general pardon were purchased to avoid charges under the penalties of the eyre, for the escape of prisoners from gaol, for example.[163] Charters were obtained by prelates, temporal peers, religious and civic corporations, groups of

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[160] KB 27/482, *rex*, m.11d; KB 27/483, *rex*, mm. 19, 25, 15d, 8d; KB 27/484, *rex*, mm. 1, 2, 6, 14, 18, 22, 23, 20d, 1d; KB 27/485, *rex*, mm. 5, 27, 33, 34, 28d, 23d, 21d; KB 27/486, *rex*, m. 27; KB 27/487, *rex*, m. 19d; KB, 27/488, *rex*, mm. 8, 19; KB 27/489, *rex*, mm. 2, 18, 21, 24d; KB 27/490, *rex*, mm. 21, 21d; KB 27/493, *rex*, m. 4; KB 27/494, *rex*, m. 14; KB 27/531, *rex*, m. 20d; *CPR 1381-5*, pp. 95, 119, 159, 203.

[161] KB 27/547, *rex*, mm. 16, 16d, 17, 17d, 19d (two), 21, 21d, 22d, 23 (two), 24, 24d, 25 (two), 26, 26d; KB 27/ 548, *rex*, mm. 1, 1d, 2, 2d, 3 (four), 4, 5d (two), 6d (two), 7, 7d, 8d (two), 10, 10d, 11d, 12 (two), 13, 13d, 14d (two), 15, 17 (two), 17d, 18, 20 (two); KB 27/549, *rex*, mm. 1, 3 (two), 3d (two), 4 (two), 4d, 5, 5d, 6 (two), 6d, 7 (two), 7d (two), 8, 8d (two), 9 (two), 9d (two), 10 (two), 10d (two), 11, 12 (two), 14 (two), 14d (two), 15, 20d, 21, 22 (two), 22d (two); KB 27/ 550, *rex*, mm. 1 (two), 1d, 2d (two), 4, 4d, 5d, 8d, 9, 9d, 13 (two), 13d (two), 14, 14d, 16, 16d (four), 18d, 20, 20d (two), 21, 26 (two), 27, 30, 30d; KB 27/551, *rex*, mm. 1d, 2, 4 (two), 7, 8, 11, 15, 18.

[162] KB 27/740-7, *rex* sections.

[163] Storey asserts that the Abbot Wheathamstead purchased a general pardon for his abbey of St. Albans in 1452 'for greater security', and in 1458 to avoid the legal consequences of thieves escaping from his gaol. Storey, *House of Lancaster*, p. 213.

trustees and executors, for whom the clauses relating to crime were of least interest. Their aim was to avoid inconvenience and financial loss should royal officers investigate their business transactions. Thus a group of trustees covered themselves by buying a pardon, and then produced it when exchequer officials confiscated land which they had granted without the king's license.[164] When a general pardon was available, it was quicker and much cheaper to obtain one than to apply for a licence to buy or sell land, submit to an official enquiry into its value, and pay a fine relative to this valuation, as well as fees for royal warrants and letters patent. Hundreds of recipients of these pardons, however, were of comparatively humble status, and few of them were likely to be involved with dealings in land held of the crown. For them the purchase of letters from chancery would have been an unaccustomed procedure, and a financial burden that would not be undertaken lightly. These people were most likely to have been interested in the clauses related to crimes which they may have committed or of which, perhaps more importantly, they feared they may be falsely indicted.

Pardoning therefore represented something more than the limits of the judicial system. Indeed, the strategic issue of a general pardon allowed the recipient to demonstrate their support for the regime, and to acquire a vested interest in upholding the working of the legal system. Rather than setting them outside the law, the process drew them into a relationship of dependence with it. Behind the authorisation of these procedures, however, were extensive negotiations between the government and the parliamentary representatives. It is this interaction of government with the polity, and, through the pardon, with the rest of society, which will be addressed in the following chapter.

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[164] E 404/57, no. 144.

Chapter Three

The Political Significance of Pardoning

I. Introduction

Pardoning and Politics

By the outset of the fourteenth century the issuing of royal pardons had become a familiar process to members of the political community. The decision to bestow the king's mercy on an individual or particular group was often taken on the advice of parliament, and, in certain cases, the act carried with it clear political significance. Throughout the century, the subject of pardoning repeatedly found its way onto the parliamentary agenda in a variety of contexts. Clearly, not all of the pardons discussed in parliament had a wider political significance. Standard legal cases from the lower courts were on occasion revoked into parliament, although the individuals involved were not necessarily members of the polity, or contesting matters of national importance. In 1290, for example, John de Garlton was pardoned a moiety of a fine because of his infirmity and in recognition of his long services to the crown; while in 1302 Alice de la Chapele was pardoned for stealing corn on the grounds that the deed had been committed from poverty, and to support a famished infant.[1] The presence of such cases on the parliamentary agenda demonstrated the judicial nature of these assemblies, and reinforced the status of parliament as the highest court of appeal.[2] Such pardons were often issued as a matter of course, the king simply endorsing a petition presented on behalf of the supplicant, whether it was put before him in parliament or in private audience, or simply forwarded by his royal justices. However, the wider import of such cases was usually limited, and as the status of parliament evolved, the pressing business of the realm inevitably and increasingly sidelined them from the political agenda.[3] Conversely, not all politically significant pardons were put forward to

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[1] *RP*, vol. 1, pp. 50, 154.

[2] J.G. Edwards, '"Justice" in Early English Parliaments', in E.B. Fryde and E. Millar (eds.), *Historical Studies of the English Parliament* (Cambridge, 1970), 1: 280-97; R.G. Davies and J.H. Denton (eds.), *The English Parliament in the Middle Ages* (Manchester, 1981), pp. 34-87.

[3] Of the 17 references to pardons in parliament rolls of Edward I's reign, 12 involved standard legal cases: pardons for fines, outlawry, concealing treasure troves, homicide and theft. *RP*, vol. 1, pp. 48, 50, 58, 63, 64-65, 135, 154, 192, 194, 199. The rolls for the reign of Edward II contain 14 references to pardons, with only 2 involving standard appeals: pardon of a misprison and redress for overlooking a pardon *RP*, vol. 1, pp. 276, 346. By Edward III's reign none of the 39 references were referrals from the lower courts, and only 4 appear among the 44 cases in Richard's reign: contravention of the statute of mortmain, pardon of an indictment, a charter of pardon concealed and a pardon for treasure trove concealed. *RP*, vol. 3, pp. 51, 178, 227, 307.

parliament for consideration, although by at least the middle of the century most grants of mercy were being discussed by the Lords and shire representatives.[4]

One such group of politically significant pardons were those issued in response to acts of defiance committed by opponents of the king. Such pardons were usually issued at the initiative of the king in parliament, and often concerned members of the political elite co-ordinating an opposition faction or instigating an act of rebellion.[5] The circumstances surrounding the issue of these 'political amnesties' are discussed in detail in the first section of this chapter, but what must be reinforced is that they had, by at least the 1320s, come to play a more central part in the process of political reconciliation than ever before. As the previous chapter demonstrated, this represented something of an evolution away from the traditional process of reconciliation defined in feudal terms and centred on a re-enactment of homage and fealty.[6] The reconciliation embodied in Magna Carta, for example, placed little emphasis on the document itself and the chroniclers of Coggeshall, Dunstable and Barnwell all agreed that the essential features of the peace were formal and verbal, while the charter was simply confirmatory.[7] However, the political amnesties of the first half of the fourteenth century, discussed in section I of this chapter, increasingly drew on common law concepts and evolved to occupy a prominent place in the act of reconciliation. Their role was then in turn assumed by the general pardon in the second half of the century.

While pardoning came to be adopted as a method of political reconciliation, in the latter half of Edward II's reign a second category of pardons emerged in a primarily financial context to remit judicial and feudal dues, discussed in section II of this

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[4] It must be remembered that before 1339 the parliament rolls are of limited use as an index of political debate and so several of the politically important pardons issued by Edward I and Edward II, such as the pardon of the recalcitrant earls in 1297, or the revocation of the pardon granted to the pursuers of the Despensers in 1322, do not appear in the record. See: W.M. Ormrod, 'Agenda for Legislation, 1322-c. 1340', *EHR* 105 (1990), p. 3.

[5] There were certain pardons issued to prominent individuals that were of a more routine nature, and these should perhaps be classed in a sub-category of their own. For instance a case of entry on a manor without the king's licence was discussed in parliament in 1302, and involved the Bishop of Bath and Wells: *RP*, vol. 1, p. 156. In 1315 the executors of the late major of London obtained a writ of pardon: *RP*, vol. 1, p. 326. In 1384 the earl of Northumberland was pardoned for neglect of the castle of Berwick: Walsingham, *Historia Anglicana*, vol. 2, p. 118.

[6] W.L. Warren, *King John* (New York, 1961), pp. 252-56; Holt, *Magna Carta*, pp. 163-66. See above, Chapter Two, pp. 46-51.

[7] Ralph of Coggeshall, *Radulphi Abbatis de Coggeshal Opera quae supersunt curante Alf. Jhno. Dunkin, nunc primum edita* (Noviomago, 1856), p. 172; H.R. Luard (ed.), *Annales Monastici* (London, 1864-1869), 3: 43. Holt stresses that the peace 'was reinforced not by bonds of parchment, but by the solemnity of an oath . . .' although he still views the document as an important legal record, Holt, *Magna Carta*, pp. 166, 168.

chapter. The parliamentary Commons had begun to consistently oppose the imposition of such payments and the levying of ancient feudal dues was becoming increasingly anachronistic. In 1316, the first remission of this type pardoned all outstanding fines imposed before the twentieth year of the reign of Edward I.[8] However, while the crown issued remissions of these dues, they were given of the king's grace and his authority to enforce them remained unquestioned.[9] This type of financial remission was to become another important element of the general pardons which were issued for the first time in the later fourteenth century.[10] Importantly, the negotiation of these remissions in parliament also serves to demonstrate a fundamental point about the nature of relations between the crown and the political community by the middle decades of the fourteenth century. While the royal government consistently granted these remissions when presented with a petition from the parliamentary Commons, they did so on each occasion as an act of grace, an act, therefore, that could similarly be revoked by the authority of the crown alone. In an important sense, then, the crown was refusing to concede to any new infringements of the royal prerogative power.

Indeed, in the second half of the century, the promotion of political reconciliation and the remission of judicial and feudal dues became important elements of the third category of pardon to emerge, namely the general pardon, discussed in the final section of this chapter.[11] This type of pardon represented a further development in the process of political reconciliation, which had evolved to meet the demands of a wider political community. The use of the general pardon acknowledged the changes in the composition of the polity - reconciliation now had to be public and inclusive - and accessible to a wider cross section of the population than the exclusive contract of feudal homage had allowed. The general pardon also became a less obviously reactive measure, on occasion issued, at least ostensibly, to mark an important public event such

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[8] *CPR, 1313-17*, p. 532.

[9] For the differing views put forward in the historiography by G.L. Harriss and R.W. Kaeuper, see below, section II, pp. 75-82.

[10] A further subcategory of pardons were those issued on return for military service and discussed in parliament in the context of a perceived deterioration in the standards of law and order. Legislation was repeatedly formulated to restrict the terms under which they could be issued. However, this discussion was responding to pardons already granted, rather than generating their formulation, and will therefore be discussed in the next chapter.

[11] The use of the general pardon did not make the political amnesty or the remission of judicial and feudal dues entirely redundant, and they were still used later in the century, the former most notably in response to the Appellants crisis in 1388, the latter in 1380 and 1416. See Appendix 3.

as the royal jubilee in 1377 or Henry VI's coming of age in 1437.[12] The evolution of these pardons demonstrates the flexibility of the apparatus surrounding the bestowal of mercy and the ease with which it could be adapted to particular demands. The general pardon in particular was not just reactive, but could be used to emphasise the generosity and mercy of the monarch. Its scope could be widened to incorporate a greater cross-section of the population when the need arose, but on other occasions a fee could be used to emphasise the relatively exclusive nature of the contract between the king and the polity.[13] The exclusion of particular individuals from its terms could also serve to publicise the names of those who remained outside the king's peace. Finally, as the conciliatory policy adopted by Henry V demonstrated, general pardons could be combined with remedial legislation in a co-ordinated and constructive policy of reconciliation.

I. Political Amnesties

Throughout the fourteenth century the issue of an amnesty was becoming an increasingly important part of the act of political reconciliation. While there was no absolute shift away from the idea of reconciliation through feudal homage, there does seem to have been a change in emphasis away from the idea that the offender was being restored into the feudal relationship with his lord, and towards the idea that he was being readmitted into the king's peace. There were, of course further nuances in the message which the grant of an amnesty could convey. In the aftermath of a rebellion on the scale of the Barons' Wars in the 1260s, the issue of a political amnesty could be used to rebuild the authority of the king. This was an authority based on a working relationship with the political community, and so a public act of reconciliation placated both parties and allowed them to collaborate in the running of government. The crown could also use the grant of an amnesty to remind a recalcitrant vassal like the Welsh prince Llywelyn ap Gruffydd, of their place, or emphasise the guilt of the recipient in cases where the blame was disputed. Importantly, an opposition faction such as the Lords Appellants in 1387 could also, in theory, indemnify themselves against future reprisal. Central to such pardons, however, was the obligation the crown owed to its

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[12] See Appendix 3.

[13] Powell, *Kingship, Law and Society*, pp. 229-46; Powell, 'Restoration', pp. 53-74. Powell's approach is endorsed by Musson and Ormrod, *Evolution*, p. 82.

subjects to reconcile them to its authority and to allow them to share in the benefits of its grace.

The evolution and expansion of the common law since the twelfth century meant that by the 1300s the concept of the 'king's peace' was more powerful and evocative than ever before, and the increasing use of a judicial vocabulary in acts of political reconciliation testifies to this.[14] In 1215 peace had been restored by a renewal of feudal homage on the part of the baronial opposition. Such a ceremony served as a gesture of reconciliation, as John formally received the barons back into a private feudal bond with the crown. The amnesty contained in the penultimate clause of Magna Carta seems to have been less central to the process. By 1266, however, the Dictum of Kenilworth played a more prominent role in reconciling the barons to the crown than the Great Charter had in 1215. Its terms also envisaged the rebels being publicly received back into the 'king's peace'. It stated that the king would pardon all those who had 'committed any wrong or offence against him or his royal crown' who would 'come into his peace' within forty days, by presenting themselves before a royal officer authorised to receive them.[15] As an official legal document the statute had to be carefully worded, but the crown was also sensitive to the fact that it was intended for widespread public consumption. The phrasing was constructed in such a way as to make it clear that the king's peace was a specific state into which the offenders would only be readmitted if they took appropriate steps. Their guilt was emphasised, but while their rebellion had placed them outside the king's peace the onus for future action lay with them: unless they sought reconciliation they could not benefit from a bestowal of royal mercy. This emphasis was intentional - in other statutes of the period the king would actively 'take' the defendant 'into his grace, if it please him.'[16] This language therefore promoted the attempt that was being made to rebuild the authority of the crown after the actions of the barons had shaken its very foundations. It did so in terms which laid stress

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[14] See below, pp. 70-2. A. Musson provides a detailed discussion of the growth in legal consciousness between 1215 and 1381; Musson, *Medieval Law in Context.*

[15] The exact procedure here is uncertain: the statute merely alludes to 'all persons received to the peace by those that had commission thereunto', *SR*, vol. 1, p. 17. Those most likely to have been commissioned were probably the chief justices of the king's bench and common pleas.

[16] 'face le Rei sa grace si lui plest.' *SR*, vol. 1, p. 49.

on the act of readmission into the protection of the common law rather than back into a private feudal bond.[17]

The act of reconciliation between Edward I and Llywelyn ap Gruffydd in 1277 again involved both a renewal of fealty by Llwelyn, in order to assuage his defiance of Edward's lordship, and the grant of a pardon to forgive his act of treason against the crown. Chronicle accounts of the reconciliation centred on the physical display of remorse and forgiveness. According to the Bury St. Edmunds chronicler, Llywelyn 'submitted unconditionally his life, limbs, wordly honours and everything else to the will and judgement of the king', who 'gave Llywelyn the kiss of peace and brought him to London to negotiate the terms of the peace and its confirmation.'[18] Knighton, writing at the end of the fourteenth century, suggests that the pardon was presented in a ceremony in which Llwelyn prostrated himself at the king's feet and submitted to Edward's authority. The word Knighton uses here is 'pardonavit', but it must be remembered that the chronicler was writing sometime between 1378 and 1396, and seems to be using the precise and legalistic terminology of the later fourteenth century.[19] On this occasion Edward's victory had given him a dominant position and the public display of reconciliation therefore reinforced his status as the ultimate arbitrator and fount of royal justice.

Central to these thirteenth-century amnesties was the protection they afforded the recipient from the king taking any revenge in the future. In 1215 the Magna Carta amnesty remitted and pardoned any ill-will, grudge and rancour that had arisen between the parties since the time of the quarrel and the Dictum of Kenilworth promised that the king would not take vengeance on the offenders or punish them for past wrongs or offences.[20] The amnesty Edward I issued to his marshal and constable in 1297 again

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[17] The shift in emphasis from suzereignty to sovereignty has been discussed by: B. Guenee, *States and Rulers in Later Medieval Europe* (Oxford, 985); A. Hastings, *The Construction of Nationhood: Ethnicity, Religion and Nationalism* (Cambridge, 1997); C. Allmand, *The Hundred Years War; England and France at War c. 1300-1450* (Cambridge, 1988), pp. 136-50; J. Le Patourel, *Feudal Empires* (London, 1984).

[18] *Knighton's Chronicle*, p. 272; *Bury St. Edmunds*, p. 64.

[19] While the chronicle accounts might be expected to dwell on the dramatic and ceremonial events, rather than the legal aspect of granting a pardon, they were, in 1313 and in 1382, giving a more prominent role to the charter of pardon itself. Phrases such as 'remisimus et condonavimus' or 'remisimus et perdonavimus' were used occasionally in the thirteenth and early fourteenth century, most notably in the amnesty of Magna Carta, but less specific terms such as the 'king's peace' seem to have been favoured.

[20] Clause 62. 'Et omnes malas voluntates, indignaciones, et rancores, ortos inter nos et homines nostros, clericos et laicos, a tempore discordie, plene omnibus remisimus et condonavimus.'. Holt, *Magna Carta*, p. 337. Dictum: Ita quod nullo modo nullaque causa vel occasione, propter hujusmodi preteritas injurias vel offensas, in eosdem nullam exercet ulcionem; aut ipsius penam vite, membri, carceris, vel exilii, aut pecunie inferat, vel vindicatum', *SR*, vol. 1, p. 13.

released the earls and their followers from 'all manner of rancour and indignation which we [Edward] had conceived against them'. This amnesty perhaps owed its promulgation less to a genuine desire for reconciliation than to Edward's need to pacify domestic opposition in order to pursue his planned expeditions abroad.[21] However, the anxiety of the earls to obtain these protections is indicated by the presence of a clause of pardon in the document *De Tallagio non concedendo*, which takes its title from the opening words of the charter, and is assumed to contain the demands made of the government by the barons in the parliament of 30 September 1297.[22] Even if they were putting pressure on the king to grant the amnesty, the authors still recognised the importance of such an act, and the king's authority to bestow it. The need for a similar safeguard still seems to have been paramount in the minds of the Lords Appellant after their wholesale attack on the minority government of Richard II in 1388. At the so-called 'Merciless Parliament' of 3 February 1388, Richard II had been persuaded to issue the Lords with a pardon for 'all acts done against the appellees'. These acts more specifically comprised the execution of a number of royal 'favourites', men like Robert de Vere and Michael de la Pole, as well as several other chamber knights and lesser royal officials, who were blamed for the failings of the minority administration.[23] On this occasion Richard's role was reduced to a formality and his youth and the evil counsel which had led him astray were emphasised.[24] However, in most cases, the pardon seems to have been a personal contract, protecting the recipient from the vengeance of the king himself.

Indeed, the issue of an amnesty increasingly came to be expected in the aftermath of an act of insubordination or even rebellion, and a necessary protection against future

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[21] *SR*, vol.1, p. 124; *Bury St. Edmunds*, p. 141. See M. Prestwich, *Documents Illustrating the Crisis of 1297-8 in England*, Camden Society, 4th series 24 (1980); J.G. Edwards, "'Confirmatio Cartarum" and the baronial grievances in 1297', *EHR* 58 (1943): 147-71; H. Rothwell, The Confirmation of the Charters, 1297', *EHR* 60 (1945): 16-35; R. W. Kaeuper, 'Royal Finances and the Crisis of 1297', in W.C. Jordan, B. McNab and T.F. Ruiz (eds.), *Order and Innovation in the Middle Ages: Essays in Honour of J.R. Strayer* (Princeton, 1976), pp. 103-10.

[22] *SR*, vol. 1, p. 125. At the parliament which opened on 8 July 1297, the king received the Archbishop of Canterbury into his grace. Walsingham, *Historia Anglicana*, vol.1, p. 66.

[23] Robert de Vere, Michael de la Pole, Robert Tresilian and Nicholas Brembre, all close associates of the king, were executed. Simon Burley, John Beauchamp, John Salisury and James Berners, all Richard's chamber knights, were also executed, as were two royal officials - John Blake and Thomas Usk. Alexander Neville, Archbishop of York and Thomas Rushook, Bishop of Chichester, the king's confessor, were sentenced to the loss of their temporalities. Finally, six judges were exiled to Ireland. *RP*, vol. 3, pp. 240-43; *Westminster Chronicle*, pp. 314-32; *Knighton's Chronicle*, pp. 442-50.

[24] *SR*, vol. 2, pp. 47-48; *Knighton's Chronicle*, pp. 504-05; *Westminster Chronicle*, pp. 296-306; *Adam Usk*, pp. 9-10.

retribution for the individual or faction responsible.[25] In certain situations such grants also served to emphasise the guilt of the recipient, while at the same time reconciling them with government. The amnesty granted to the Ordainers on 16 October 1313, for example, sought to suggest that while their execution of the king's favourite, Piers Gaveston, had been illegal, the king's pardon would absolve them and remove the threat of due punishment under the law. The terms of this amnesty were legally precise. Rather than alluding to the 'king's peace' they made it clear that no one was to be appealed for the death of Piers Gaveston, nor to be brought to judgement by the crown, "nor by any other [person] at our suit, nor at the suit of any other whomsoever, in our court nor elsewhere'.[26] Its precise legal phrasing was certainly prompted by the complex negotiations involved in the case, but it does perhaps signal an evolution in the form of the amnesty, towards a document which drew on the vocabulary and concepts of the common law. In this particular case, as M. McKisack points out, there had been some uncertainty over the legal position of those who killed Gaveston, and so it was of particular importance for Edward to lay the blame squarely at the feet of the Ordainers.[27] If the Ordinances were still in force, Gaveston was an outlaw and could therefore be executed without legal process. While Edward had reluctantly agreed to the Ordinances in the parliament of August 1311, however, he maintained that on 18 January 1312 the exile of Gaveston had been proclaimed contrary to the law of the kingdom.[28] Lancaster and Warwick, the leading Ordainers, recognised that by accepting the king's offer of pardon they would in effect be admitting they had been acting outside the law in murdering Gaveston. Two papal nuncios had been sent to England to mediate in the dispute, and reported to Pope Clement V that the earls were reluctant to

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[25] The first pardons issued in the aftermath of the Peasants' Revolt could be termed political amnesties, issued to prominent individuals, including some of the leading insurgents. While they had not yet been sanctioned in parliament, the assumption was clearly that it was only a matter of time before they would be, and that it was perfectly acceptable to issue them in the meantime. The issue of these pardons in the early judicial sessions held by Chief Justice Tresilian suggests that it was assumed they would form part of the judicial response to the revolt. There is one recorded instance in which such a pardon was revoked; that granted to the pursuers of the Despensers was later annulled by Edward II in 1322. *SR*, vol. 1, pp. 181, 185 and 188. See G.L. Haskins, 'A Chronicle of the Civil Wars of Edward II', *Speculum* 14 (1939): 73-81.

[26] *SR*, vol. 1, p. 169.

[27] M. McKisack, *The Fourteenth Century, 1307-1399* (Oxford, 1959), pp. 27-30.

[28] See above, Chapter Two, pp. 47-8. The Ordinances are published in *RP*, vol. 1, 281-86 and *SR*, vol. 1, 157-67. The writs for the restoration of Gaveston's lands and castles are printed in *Foedera*, vol. 2, pp. 153-54.

accept pardon because of the potential for interpreting this as an admission of guilt.[29] The earls, it seems, had a keen appreciation of the legal position surrounding the case, and assumed that the implications of guilt associated with a pardon were widely appreciated. When, in October 1313, the recalcitrant lords consented to make a public apology at Westminster Hall, the issue of a pardon left no doubt about their guilt.[30] Such examples of the intended recipients resisting the bestowal of a pardon are rare, but it is clear that under these circumstances the settlement represented a substantial victory for the king and signalled that he had emerged from the struggle with no new constraints upon his royal prerogative.

Indeed, in a constitutional sense, the issue of a political amnesty was also useful in legitimising the king's own actions. If the issue of a pardon indicated the guilt of the recipient, then a political amnesty for those following the orders of the king declared that the monarch had condoned some wrongdoing. In declaring his guilt, however, the king could then justify his actions and bring himself back within the bounds of the common law. This was clearly essential if he was to bestow grace on others in the future. The clearest example of this was the pardon Edward III issued to himself, to his mother, and to their supporters, for the actions they had taken in the 1327 usurpation of the throne. In this case the statute issued on 7 March 1327 attempted to indemnify those acting on behalf of the new administration against any future accusations of misconduct. No one, it stated, would be 'impeached, molested nor grieved', for the actions taken against Edward II in the winter of 1326-1327.[31] Again the terms of the amnesty were comprehensive and legally precise. The element of wrongdoing which its issue implied would only be an issue to those who were not behind the premature accession of Edward III, the heir to the throne. For the majority of the populace the young king's accession heralded a brighter future, free of the unpopular policies of his father, and few would therefore be scrutinising the implications of the pardon too closely.

Indeed, the use of these pardons by the regency in the aftermath of Edward II's deposition perhaps signalled an attempt to win the support of the political community

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[29] Roberts, 'Piers Gaveston's Jewels and Horses', p. 16.

[30] Walsingham recorded that a final agreement was made at the parliament in London, and the barons agreed to ask pardon of the king. In return the king received them into his 'grace and firm peace' according to the form of the articles. Walsingham, *Historia Anglicana*, vol. 1, p. 136. Two days after their apology pardons were issued to some 500 lesser offenders, a high proportion of whom were Lancastrian dependants, in terms which contained no reference to the Ordinances. Their names are printed in *Foedera*, vol. 2, p. 230-1. N. Fryde contends that the magnates demanded pardon from Edward; N. Fryde, *The Tyranny and Fall of Edward II* (Cambridge, 1979), p. 23.

[31] *SR*, vol. 1, p. 252.

through a combination of acts of reconciliation and far reaching legislation.[32] The posthumous pardon of Thomas of Lancaster, the restoration of the Lancastrian inheritance and the pardon of Henry of Lancaster after his stand in the Salisbury parliament of October 1328 indicated a certain desire to establish the authority of the regime over justice and, after the Lancastrian revolt, to revive respect for the administration.[33] These attempts were undermined, however, by the arbitrary treatment of prominent figures such as the Earl of Kent, executed on charges of plotting to restore his brother to the throne.[34]

After Edward III's own coup in October 1330, the same attempt to combine reconciliation with remedial legislation was more successfully implemented. Only Roger Mortimer and Simon Bereford were executed. Oliver Ingham and the bishops were pardoned, and legislation was enacted to address grievances which had long been aired in parliament, but which had failed to find redress.[35] Alone, the issue of an amnesty might promote reconciliation, but it did not often address the root causes of the dissension. While, in granting a pardon, the crown took an important initiative towards reconciliation, the measure was not necessarily a dynamic or innovative one. However, when combined with remedial legislation, the amnesty could form part of a coherent policy of reconciliation which might do more for relations between the crown and the political establishment in the long term. Just such a policy was undertaken in the fifteenth century by Henry V, at the outset of his reign and, as Edward Powell has demonstrated, it was to lay the foundations for much closer co-operation between the king and the political community.[36]

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[32] The 1327 statute dealt with some of the complaints which had been aired in parliament, without remedy, under the previous regime. *SR*, vol. 1, p. 255; Ormrod, 'Agenda for legislation', p. 11.

[33] For the posthumous pardon of Thomas of Lancaster, and restoration of the Lancastrian inheritance, see: McKisack, *Fourteenth Century*, p. 96, n. 1; Ormrod, *Edward III*, p.13, n. 3; Fryde, *Tyranny and Fall*, pp. 207-27; *The Complete Peerage,* vol. 7, p. 399; *RP*, vol. 2, pp. 3-6. A pardon for Henry of Lancaster and his followers, with certain named exceptions, was offered by the king, to all those who would surrender to him by 7 January. *Knighton's Chronicle*, p. 451, names those excepted as Henry Beaumont, William Trussell, Thomas Roscelin and Thomas Wyther. The limit for the submission passed, but soon after, Lancaster offered to surrender. He was fined, along with his most prominent followers, but these fines were later cancelled, *CPR, 1327-30*, pp. 472, 484, 547. Those excepted from the original pardon fled abroad, along with Thomas Wake. See G.A. Holmes, 'The Rebellion of the Earl of Lancaster, 1328-9', *BIHR* 28 (1955): 84-89; Fryde, *Tyranny and Fall*, pp. 222-23; *RP*, vol. 2, p. 52.

[34] Ormrod, *Edward III*, p. 15, and n.11; Fryde, *Tyranny and Fall*, pp. 224-25.

[35] Ormrod, 'Agenda for Legislation', pp. 11-12.

[36] Powell, *Kingship, Law and Society,* pp. 229-46; Powell, 'Restoration', pp. 53-74.

Political amnesties were obviously issued at times of breakdowns in relations between the crown and an individual or group within the political community. Despite this, it seems more realistic to view them as attempts to reconcile the disaffected and ensure continued co-operation in the running of government, than to portray them as a tool wielded by the monarch or a concession forced from the crown by an opposition faction. Their prominence in the act of reconciliation evolved over the course of the century and on several occasions the terms of the amnesty took centre stage. This evolution seems to have been accompanied by a change, best described as a shift in emphasis rather than an absolute or radical development, away from reconciliation conceived of in feudal terms and towards one defined by the parameters of the common law. Rather than restoring the feudal bond between the vassal and his lord, the amnesty brought the recipient back into the king's peace and allowed him to benefit from the protection that the law afforded. Pardoning politically important individuals their acts of defiance continued throughout later Middle Ages. But increasingly, in the aftermath of a governmental crisis, the general pardon came to the fore. Before this evolution can be considered, however, it is important to examine the political circumstances behind the remissions of feudal and judicial dues which began to be issued with increasing frequency during the first two decades of Edward III's reign, and which also eventually came to be incorporated into the general pardon.[37]

[37] See Appendix 3.

II. Remission of Judicial and Feudal Dues

The Parliamentary Commons

While political amnesties were by their very nature granted to the ruling elite, it was the parliamentary Commons who were increasingly involved with the process of pardoning as far as these remissions of judicial and feudal dues were concerned. This correlates with suggestions of a shift in the political balance during the last years of Edward II's reign towards the emergence of the Commons as a distinct and separate force in English politics. This was given most explicit expression in the emergence of the common petition submitted on behalf of the 'community of the realm'.[38] The political programme espoused by the Commons late in the 1320s, and throughout the 1330s and 1340s, formed the basis for statutory legislation designed to placate the disaffected political community. The legislation formulated in Edward III's first parliament has already been mentioned in connection with its attempt to address certain grievances which had long featured on the parliamentary agenda: the keeping of gaols, false presentments and the issue of maintenance. Another of the central concerns to have been repeatedly aired in parliament over the previous decade surrounded the collection of the judicial and feudal dues owed the crown.[39] The judicial penalties comprised the king's right to seize the chattels of escaped felons, and to impose communal fines for such escapes, rights laid down in the articles of the eyre.[40] The regular circuit of general eyres had ended in the first decade of the fourteenth century, but Edward II had issued other ones in 1313 and 1321, while in 1329-30 the administration under Mortimer and Isabella had again attempted to revive them.[41] Under such circumstances the communities threatened with their imminent arrival were increasingly purchasing pardons from visitations of the eyre and from its penalties. However, even after visitations of the eyre had permanently ceased, there was no lessening in the crown's

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[38] Ormrod, 'Agenda for Legislation', pp. 1-33; Harriss, *Public Finance*, pp. 118-21; M. Prestwich, 'Parliament and the Community of the Realm in Fourteenth Century England', in A. Cosgrove and J.I. McGuire (eds.), *Parliament and Community* (Belfast, 1983), pp. 5-24.

[39] *SR*, vol. 1, p. 255; *RP*, vol. 2, p. 8 (7). See common petitions from 1324: SC 8/108/5398. See also *RP*, vol. 2, pp. 9 (22), 10 (32), 11 (41), 12 (11, 22, 32, 41). Ormrod, 'Agenda for Legislation', pp. 11-13, demonstrates that the parliamentary Commons were consistently presenting their agenda to parliament in the 1320s and 1330s, and that during this time they operated largely independently of the Lords.

[40] See above, Chapter Two, pp. 51-52.

[41] Musson and Ormrod, *Evolution*, pp. 45, 82, n. 29; Crook, 'The Later Eyres', p. 265; J.R. Maddicott, 'Magna Carta and the Local Community', *P&P* 102 (1984): 25-65; W.N. Bryant, 'The Financial Dealings of Edward III with the County Communities, 1330-60', *EHR* 83 (1968): 760-71; Harriss, *Public Finance*, pp. 399-410.

concern with the profits of judicial penalties. Since their legality was unchangeable, their withdrawal could only be secured either by paying for a release through grants of taxation, or by concerted political opposition, but these remissions were not permanent concessions of the royal prerogative and their grant was an act of grace. Similarly common petitions often requested that feudal aids owed to the crown were also remitted, but while the payment of such an aid could be pardoned, it remained part of the king's prerogative powers.[42] It is important to stress that these remissions of judicial and feudal dues were of little financial significance, especially since they were often commuted into direct taxes negotiated in parliament that yielded much higher revenues.[43] In agreeing to this change the Commons were securing a remission of exactions which they associated with intrusive dictates of central government. Direct taxes, in contrast to these ancient levies, were negotiated with the shire representatives in parliament, and while they clearly stipulated what each region should pay, the collection was left to the officials of individual shires.

Political Bargaining

A regular sequence of pardoning these judicial and feudal dues began in the later 1320s and continued into the 1360s.[44] During this period a distinct pattern appears to have emerged whereby the crown attempted to draw on its fiscal reserves by collecting outstanding debts, while the parliamentary Commons successfully petitioned for a remission, and granted taxation in return. This sequence of pardoning debts, in the form of judicial fines and amercements, clearly points to the existence of political manoeuvring behind the scenes.[45] While this *quid pro quo* arrangement seems to have become an established means of operating, however, the early parliament rolls cannot

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[42] See, for example, *SR*, vol. 1, pp. 281-82.

[43] Harriss, *Public Finance*, pp. 345-6. Harriss demonstrates that the remissions were usually of little financial significance. One reason for this was that the justices of the peace often failed to trouble themselves with the burden of enquiring into escapes and chattels of felons.

[44] See Appendix 3.

[45] The connection with taxation has been discussed in the work of B.H. Putnam concerning William Shareshull's use of judicial commissions to raise money for the crown in the 1340s and 1350s, and by G.L. Harriss in his comprehensive examination of royal fiscal policy. B.H. Putnam, *The Place in History of Sir William Shareshull* (Cambridge, 1950), pp. 39, 75; Harriss, *Public Finance*; G.L. Harriss, 'The Commons' Petitions of 1340', *EHR* 78 (1963): 625-54. See also E.B. Fryde, 'Parliament and the French War, 1336-40', in T.A. Sandquist and M.R. Powicke (ed.), *Essays in medieval history presented to Bertie Wilkinson* (Toronto, Ont., 1969), pp. 250-69; J.F. Hadwin, 'The Last Royal Tallages', *EHR* 96 (1981): 344-58; J.F. Hadwin, 'The Medieval Lay Subsidies and Economic History', *Economic History Review* 36, 2nd series (1983): 200-17.

provide explicit evidence of negotiation between the Commons and the crown. The first political amnesties had been presented as a munificent bestowal of the king's grace; now the association of remissions with grants of taxation suggested an element of bargaining, but its existence remained implicit in the record. Later, with the introduction of general pardons, the crown often made the link between this concession and the need for parliamentary assent to a subsidy; most notably in Richard II's so-called 'Revenge Parliament' of 1397-8.[46] This development serves to demonstrate that a political tradition was developing before the first general pardons came to be granted in the later fourteenth century, and that the Commons were playing a prominent role in this political discourse.

In 1316 Edward II had pardoned all judicial fines and amercements imposed before the twentieth year of the reign of his father, and in 1327 the statute stated that this pardon had been allowed to lapse.[47] Indeed, concern over the issue had been sustained in the intervening years by the crown's attempts to collect these ancient debts, and even in the period shortly before the 1327 parliament there had been an attempt to exploit the crown's prerogative rights.[48] The issue had been raised in common petitions in the Lent and October parliaments of 1324, and in 1327 it was a further common petition which prompted the inclusion of a clause in the statute confirming the limits set in 1316.[49] However, by February 1330 the earlier position was being ignored and Edward III's government adopted the same expedients to generate income. By 1334 grievances over the issue were again surfacing in parliament.[50] This discontent was fostered in the coming years by Edward's attempts to generate income to pursue his claim to the French throne. In July 1338 the Walton Ordinances attempted to repeal all personal exemptions from taxation, to ban the traditional granting of estallments -

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[46] See below, pp. 103-117.

[47] 1316 pardon: *CPR, 1313-17*, p. 532. The terms of the 1327 pardon were reinforced a few months later in the clauses of the Statute of Northampton. *SR*, vol. 1, p. 255, 259. Harriss, *Public Finance*, p. 244, n. 2.

[48] M. Buck, 'Reform of the Exchequer, 1313-1326', *EHR* 98 (1983), pp, 247-8. For orders to enforce the collection of all debts due to the crown in 1327, see *Memoranda Roll, 1326-7*, pp. 252, 266; H. Hall (ed.), *The Red Book of Exchequer*, RS 99 (London, 1896), 3: 937.

[49] *RP*, vol. 2, p. 8 (7); *SR*, vol. 1, p. 255.

[50] *RPHI*, pp. 237 (18), 237-8 (19).

respites of debts owed to the crown - and to enforce the payment of past debts.[51] Although the Walton Ordinances were suspended in October of the same year, Edward soon ordered the justices to levy all fines imposed on the eyre.[52] Discontent over the issue flared among a political community already agitated by levels of taxation and accusations of misgovernment, a situation described in detail by G.L. Harriss.[53] The record of the parliament held at Westminster in October 1339 provides the earliest evidence for the emergence of what was to become a tradition of negotiation surrounding the issue, and the role of the parliamentary Commons in such discourse. After accepting the king's necessity for an aid, the Commons implicitly connected the redress of grievances they had long harboured, with their grant of supply. One of their requests concerned the collection of judicial fines, feudal aids and ancient debts levied before 1327.[54] Their offer of 30,000 sacks of wool was made 'upon certain conditions contained in indentures made thereon and sealed under the seals of the prelates and other great men; in such manner that, if the conditions were not met, they would not be required to make the aid.'[55] After further discussion, the Commons granted 2,500 sacks of wool, but stipulated that it would form part of a larger grant if the king accepted their conditions.[56] In the next session of parliament which opened two months later, the king requested a further aid, and the parliament offered a ninth of corn, wool and sheep, conditional on the acceptance of their petitions. Clauses relating to these petitions were duly enshrined in the statute of 16 April 1340, which included a pardon of all ancient debts assessed before 1337.[57] The stance which the Commons had taken on this occasion was in line with their repeated assertion that all forms of financial levy beyond the strictly customary rights of the crown should have common assent.[58] Indeed, the

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[51] Harriss, 'The Commons' Petitions', p. 632; Harriss, *Public Finance*, p. 244. Earlier in the year the council had urged on the king the fruitlessness of these fiscal expedients except as bargaining counters for a parliamentary subsidy. Stratford had returned with authority to remit debts under £10 and compound for larger sums owed, to offer a general pardon to communities for chattels of felons and fugitives and for escapes, and to release the scutage and aids, *Foedera*, vol. 2, p. 1091.

[52] Harriss, *Public Finance*, p. 245.

[53] Harriss, *Public Finance*, pp. 231-93.

[54] *RP*, vol. 2, p. 105.

[55] *RP*, vol. 2, p. 107.

[56] *RP*, vol. 2, p. 107-08.

[57] *SR*, vol. 1, pp. 281-82.

[58] Walsingham, *Historia Anglicana*, pp. 224-25.

shift from prerogative to parliamentary subsidies had begun in the reign of Edward I and indicated the desire of the Commons to pay standard taxes rather than feudal or ancient fiscal obligations. In the parliament of May 1357 similar arrangements seem to have been made. The Commons consented to a single subsidy and in return the king remitted judicial fines and amercements 'before this time fallen which be not yet judged before the justices'.[59]

This portrayal of the pattern of negotiation seems to lay stress on the 'supply and redress' method of bargaining which has occupied many constitutional historians seeking to understand the evolution of parliamentary negotiation. R.W. Kaeuper's well-known interpretation of political relations as they existed in the later fourteenth century suggests that such bargaining points to the existence of a parliamentary Commons constituted as an interest group and using their hold over taxation to wrest the political initiative from the crown.[60] In this light, the method of securing release from judicial penalties by grants of taxation might be seen to exemplify such a changing relationship, as the gentry took responsibility for local law enforcement and came to represent a more powerful and unified lobby in parliament. However, while there was clearly a *quid pro quo* aspect to negotiations for remissions of judicial and feudal dues, this does not necessarily indicate that the Commons were trying to curb the powers of the royal prerogative in order to strengthen their own hand. While the crown issued remissions of these dues, they were given of the king's grace and his authority to enforce them remained unquestioned. As G.L. Harriss asserted, the crown met the new demands of protracted warfare not by updating prerogative rights but by encouraging and cajoling the co-operation of the political community in a common enterprise.[61] It is also important to recognise that the adoption of too rigid an approach towards royal pardons neglects the wider cultural significance which they increasingly came to assume. Indeed, by the second half of Edward III's reign, remissions of judicial and feudal dues, and to a large extent the political amnesties which had preceded them, were being

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[59] No parliament roll exists for the proceedings of this session. For the pardon see: *SR*, vol. 1, p. 352; *Knighton's Chronicle*, pp. 150-51; *CFR, 1356-68*, p. 44. As Harriss comments, the pardon from future eyres may have been the more substantial concession, as the fines already collected had to be delivered by the justices to the collectors so that they could be redistributed in support of the taxpayers, and the lay subsidy rolls show that in many shires no returns were made. *CCR, 1354-60*, p. 363; Harriss, *Public Finance*, p. 345. There had also been a subsidy granted in 1352 on condition that profits of judicial fines and penalties under the Statute of Labourers would be set against it. Harriss, *Public Finance*, pp. 340-41.

[60] Kaeuper, *War, Justice and Public Order*. See also P.R. Coss, 'Bastard Feudalism Revised', *P&P* 125 (1989): 27-64; P.R. Coss, 'Bastard Feudalism Revised: Reply', *P&P* 131 (1991): 190-203.

[61] Harriss, *Public Finance,* p. 419.

subsumed into the far more comprehensive general pardon, a pardon which was to evolve into a pervasive symbol of royal justice.

The 1362 Pardon

The danger of adopting too mechanistic an approach is exemplified in the existing analysis of the 1362 pardon. Historians who have examined the legislation of the October 1362 parliament have tended to lay stress on the Statute of Purveyors for the pragmatic solution it provided to a pressing concern. In contrast they dismiss the pardon as a standard reaction to another common petition for remission from the penalties of the eyre, a measure which had been used in the past, and would be used again, but one which offered little in the way of an innovative solution. However, it is perhaps useful to consider the significance of issuing a pardon at such a time, and the symbolic connotations with which it was coming to be imbued.[62]

The pardon of 1362 was far more comprehensive in its scope than any previous example, although it was clearly borne out of the tradition of remissions of judicial and feudal dues, and these clauses still remained central to its terms. The issue of pardon was again in part prompted by a common petition in the October parliament for discharge from the articles of the eyre. The Commons had attempted to secure this pardon, and to put an end to the contentious practice of purveyance, after giving their consent to a renewal of the wool subsidy, in line with the familiar pattern of supply and redress.[63] However, this pardon also had significance beyond its purely practical application. The timing of the pardon seems to have been intended to coincide with Edward III's fiftieth birthday, which occurred on 13 November 1362. Parliament had convened a month earlier at Westminster, on 13 October, but had been preoccupied with pressing concerns. The king needed to secure the consent of parliament to an extension of the subsidy on wool exports in order to finance his military exploits, while the Commons were, for their part, eager to obtain concessions from the crown on the contentious issue of purveyance (the compulsory purchase of supplies for the royal entourage and the king's armies). However, the parliament roll gives no account of any business then being conducted between 19 October and 13 November. This suggests

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[62] Harriss, *Public Finance,* pp. 378-79, 408-09.

[63] Since the king was requesting a renewal of the wool subsidy, despite there being peace abroad, the Commons were in a relatively strong bargaining position. *SR*, vol.1, pp. 376-78; *RP*, vol. 2, p. 272. The king was asked to order the issue of charters of pardon to all shires before the end of the parliament. The pardon was later confirmed in the parliament of May 1368 and in 1372, *RP*, vol. 2, pp. 295 (11), 311 (17); *SR*, vol. 1, p. 388. Crook, 'Later Eyres', p. 268.

that considerable behind-the-scenes negotiations were taking place, as was usual procedure before the formulation of important legislation. Importantly, however, the hiatus might also indicate that the assembly was being artificially prolonged, so that its final plenary session would coincide with the birthday of the king on 13 November. This final session was therefore held on a Sunday, an unusual day for parliament to sit, and one that further supports the idea that it was deliberately timed to coincide with Edward's birthday.[64] The connection of the idea of pardoning with an important anniversary was certainly to become an explicit feature of later general pardons, although on this occasion it was left to Walsingham to state explicitly the link between the pardon and the king's personal jubilee.[65]

At this final session the petitions of the Commons were read out to the assembly, and the king announced his answers. The Commons then declared their assent to the wool subsidy. Afterwards, Edward moved to introduce the idea of celebration by bestowing new titles on three of his sons: Lionel of Antwerp was made Duke of Clarence, John of Gaunt Duke of Lancaster and Edmund of Langley Earl of Cambridge.[66] Finally, in response to a request of the Commons, Edward issued a comprehensive pardon which covered all penalties, communal and personal, arising from the articles of the eyre which had been incurred before October of that year. This effectively allowed an amnesty on all outstanding and potential charges relating to previous visitations of the shires.[67] The pardon clearly drew on the precedent set by the remissions of judicial and feudal dues that Edward had granted earlier in his reign, yet this amnesty was far more comprehensive than its predecessors, and carried with it a greater symbolic resonance. It was made clear, however, that the pardon was a generous bestowal of royal mercy, and not in any sense a concession to the Commons. The final statute left out some of the Commons' original requests, such as pardons for the alienation of land without licence, as they were seen to be too great a restriction of the king's prerogative powers.[68] As Anthony Verduyn comments, the practical value of the pardon is difficult to determine: the pardon of 1357 covered a period of eighteen years,

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[64] Ormrod, "Fifty Glorious Years".

[65] Walsingham, *Historia Anglicana*, vol. 1, p. 297. The 1362 pardon was also referred to as a precedent in the grant of 1377 which was explicitly issued in recognition of the jubilee year.

[66] *CChR, 1341-1417*, p. 174.

[67] *SR*, vol. 1, pp. 396-68; *RP*, vol. 2, p. 364 (24, II-VI). See also C 49/8/6 for a model version of a letter of pardon under the statute.

[68] See Verduyn, 'Attitude', pp. 144-45.

and so would presumably have been of greater significance than that of 1362, which covered only five years.[69] Yet this latter grant also marked a watershed moment. Firstly it acknowledged, albeit implicitly, that a royal anniversary was a moment of formal significance in the political life of the realm, and secondly it substantiated the relationship between jubilee and some form of redemption or symbolic emancipation.[70] This connection between the jubilee and a symbolic and substantive act of reconciliation was to assume an important role in the political culture of the later middle ages. The parliamentary process on this occasion also suggested that by recognising the king's authority and his need for the grant of a subsidy, the Commons could expect to benefit from a distribution of the king's grace on more comprehensive lines than anything that had gone before.

IV. General Pardons

Pardoning and Celebration: The Royal Jubilee of 1377

This new dynamic relationship between royal jubilees and acts of collective redemption was fully articulated for the first time to mark the fiftieth anniversary of Edward III's accession to the throne.[71] The king's jubilee fell on 25 January 1377, and it was certainly a propitious moment for an act of political reconciliation. Over the course of the past year the Black Prince, the heir to Edward's throne, had died, leaving the ten-year-old Prince Richard to succeed in his place. A major political crisis had also emerged in the so-called Good Parliament of 1376, and had left enduring rifts in the political community.[72] By the beginning of 1377 Edward's government, headed by John of Gaunt, clearly thought that the jubilee might be used as a means of reasserting the crown's position at the head of the political establishment and justifying the repeal of those actions taken by the Good Parliament that had encroached on the royal prerogative power. The parliament which assembled on 27 January 1377 did indeed witness the wholesale reversal and annulment of the acts passed in the Good Parliament.

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[69] See for example, the two amounts claimed by the city of York under the two pardons: SC 8/205/10240; SC 8/205/10258. Another petition requested redress for any person who suffered in contravention of the statute *RP*, vol. 2, p. 271 (24); *SR*, vol. 2, p. 374.

[70] See below, pp. 83-90.

[71] See Appendix 2.

[72] G. Holmes, *The Good Parliament* (Oxford, 1975); Ormrod, *Edward III*, pp. 42-45.

This episode has for a long time puzzled historians, who have struggled to explain such a dramatic reversal of policy. One common line of argument has been to attribute the *volte-face* to John of Gaunt's machinations in packing the Commons with his own supporters, following the line taken in the *Chronicon Angliae*, which claimed that Gaunt rigged the elections to ensure that his own supporters were returned to this assembly.[73] Others have ascribed it to the absence of some of the leaders of the earlier opposition movement or to a tacit acknowledgement from the parliamentary representatives that the king was entitled to annul any acts forced on him against his will.[74] It would seem, however, that historians have neglected to recognise the importance of the role of pardon in this assembly, and the way in which the announcement of the royal jubilee was used to represent this reversal of policy as an act of political reconciliation.

At the outset of the 1377 parliament the chancellor, Bishop Houghton of St. Davids, delivered the opening sermon.[75] The nature of his address was remarkable in its content, but also of interest because of the novel form it took: it appears to have combined the sermon, usually preached by a member of the episcopal bench, and the 'charge' to parliament, delivered by the chancellor. This was perhaps because Houghton, as a clerical chancellor, could perform both functions and establish from the outset that the crown would be taking the lead in proceedings. Also unusual was the fact that the text of the sermon was given in full on the parliament roll. Houghton opened his speech with reference to the young Prince Richard, who had recently been created Prince of Wales, and who, in the absence of his grandfather due to ill health, was presiding over the parliament as its president. Houghton represented Richard as a new messiah in whom the people of England might place their hopes for the future. Clearly, the intention was to persuade the political community that, despite his youth, the Prince would be fit to succeed to the throne.[76] Much of the sermon, however, dwelt on Edward

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[73] Thomas Walsingham, *Chronicon Angliae 1328-1388*, ed. E.M. Thompson, RS 64 (London, 1874), p. 112. Thomas Hungerford, the speaker for the commons, was a Lancastrian steward. J.S. Roskell, *Parliament and Politics in Late Medieval England* (London, 1981), 2: 15-44.

[74] S. Armitage-Smith, *John of Gaunt* (London, 1904), p. 137. The idea was discredited by prosopographical research which demonstrated that there were not more than a dozen or so Lancastrian retainers among the shire representatives. See: J.C. Wedgwood, 'John of Gaunt and the Packing of Parliament', *EHR* 45 (1930): 623-5; and H.G. Richardson, 'John of Gaunt and the Parliamentary Representation of Lancashire', *BJRL* 22 (1938): 175-222; Ormrod, *Edward III*, p. 45; S.K. Walker, *The Lancastrian Affinity 1361-1399* (Oxford, 1991), p. 239.

[75] *RP*, vol. 2, pp. 361-62 (4-12).

[76] Houghton referred to Prince Richard in two Biblical contexts: the feast of the Epiphany (6 January, also Richard's birthday), when the Magi had visited the infant Christ (item 10), and the feast of the Presentation at the Temple (2 February: Candlemas), on which occasion Simeon had announced the *Nunc dimittus* upon identifying Jesus as the Saviour of his people (items 10-11).

III himself. Despite the ill health which still kept the king from parliament, Houghton reported that the aged Edward was 'much better and almost cured'.[77] According to the *Anonimalle Chronicle* the illness, which had afflicted the king since September 1376, broke on 3 February 1377. The chronicler reports that soon after this the king was taken from the royal manor of Havering in Essex to his palace at Sheen in Surrey, and that, as the royal barge went down the Thames and past Westminster, the Lords and Commons came out of parliament to honour his presence.[78] While Houghton intended to reassure the parliament that the old king would soon be back to full health, the reality of his illness perhaps made the assembly more inclined to cooperate with the government at a time when fears of a full-scale French naval assault on the south coast of England appeared well-founded.[79] Nevertheless, the chancellor's speech dwelt on Edward's successful completion of his jubilee year. The king's recent illness, he explained, had been a symbolic purification and the accomplishment of his jubilee signalled a spiritual renewal and bestowed on the king a new state of grace:

> Issint est ores nostre dit seignur le roy resuscitez et purifiez de toute ordure de pecchie, si nul y fust, et si Dieux plest, il est, et toutdys mais serra, le vessel de grace, ou le vessel de eleccion Dieu.[80]

This alone was reason enough for celebration: 'Et issint par toutes voies est concluz par meisme l'escripture qe mesme nostre seignur le roy soit gracious et benoit de Dieu, de qoy nous touz doions faire grant joie et feste.'[81] The realm had been uniquely honoured by God because it had experienced a kind of reformation under the leadership of

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[77] *RP*, vol. 2, p. 361 (5).

[78] *Anon. Chron.*, pp. 95, 103. Corroborated by evidence summarised in *Anon. Chron.*, p. 185. For further details, see M. Bennett, 'Edward III's entail and the succession to the crown, 1376-1471', *EHR* 113 (1998): 586-90.

[79] Ormrod, *Edward III*, pp. 44-45.

[80] 'our said lord the king [is] now revived and purified from all filth of sin, if there was any, and if God pleases, he is, and always will be, the vessel of grace or the vessel of God's choosing.' *RP*, vol. 2, p. 361 (6). Taken from *Acts*, ch. 9, v. 15.

[81] 'And thus in every way it is demonstrated by the same Scripture that our same lord the king is gracious and blessed of God, for which we all should make great joy and celebration.' *RP*, vol. 2, p. 362 (6).

Edward III.[82] Importantly, Houghton then went on to suggest that the participation of the king's subjects in this state was significant:

> Mais si einsi soit qe nous ses subgitz disirons et vorrions avoir sa grace en cest an jubile, et trereconfort de luy qi issint est vessel de grace ou de eleccion Dieu, il nous covient a fyne force de nous conformer d'estre hables par bones vertuz de resceivre grace de mesme le vessel, et lesser toutes vices.[83]

The implication of the chancellor's speech, evidently understood by the representatives in parliament, was that if they demonstrated themselves to be worthy recipients, they would benefit from the king's grace.

The spiritual analogy suggested that with the completion of the jubilee the king had received God's blessing and that the realm might share in this if they abandoned sin for righteousness. The theological basis of the argument is extremely interesting, since it clearly draws on the ideas of personal emancipation and spiritual redemption embodied in the jubilees of the Roman Church. The Judaic notion of jubilee was also central to Houghton's speech. According to the psalm he was paraphrasing, the English people would see the good of Jerusalem all the days of their lives because England had now become the Holy Land itself. England was the divine inheritance, the *hereditas Dei* as Israel had been.[84] The fiftieth year would be a special year of jubilee, according to the divine commandments received by Moses on Mount Sinai, and recited in the book of *Leviticus*. Every fiftieth year, on the Day of Atonement, the people of Israel were to recognise the year as holy and proclaim liberty throughout the land for all enslaved debtors, and cancel all public and private debts. All the family estates sold to others were also to be returned to the original owners and their heirs, the land left to rest and servants freed.[85]

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[82] M. Wilks, *Wyclif: Political Ideas and Practice*, ed. A. Hudson, (Oxford, 2000), pp. 130-33. After a comparison between the king and the converted St. Paul (paras. 5 –6), the king was described as the elect of God and a vessel of grace whom every subject should obey.

[83] 'But if we, his subjects, desire and would have his grace in this jubilee year, and great comfort from him who thus is the vessel of God's grace or choosing, we must of sheer necessity undertake through good virtues to be fit to receive the grace of the same vessel, and to abandon all vices.' *RP*, vol. 2, p. 362 (7).

[84] *RP*, vol. 2, p. 362 (11); Wilks, *Wyclif*, p. 131.

[85] *Leviticus* ch. 25, v. 1-55. The Day of Atonement is the 10th day of the seventh month of the Hebrew calendar.

These biblical illusions suggest that the English crown envisaged the general pardon of 1377 as, in one sense, a secular equivalent to the papal jubilees that had recently been celebrated in Rome.[86] In 1300, Pope Boniface VIII had marked the new century with a series of celebrations designed to honour the anniversary of Christ's birth, to encourage the faithful to make the pilgrimage to Rome and seek out plenary indulgences, and to impress upon the secular rulers of Europe the prestige and power of the Holy See.[87] The church had, in the past, observed special years of jubilee with the promise of plenary indulgences, but this was the first time that the papacy had sought to celebrate a centenary anniversary of the birth of Christ with specific ceremonies held in Rome. Again, in 1350, the citizens of Rome persuaded Pope Clement VI to celebrate the jubilee on the half-century as well.[88] One motive behind their actions was to persuade the papacy to return to Italy from Avignon. However, Clement's decision was also influenced by theological considerations: the Jewish jubilee as prescribed in the Old Testament ran on a fifty year cycle. By announcing the event in 1350, the pope could provide the opportunity of plenary indulgence to those generations living in the middle years of the century, who were just recovering from, and wishing for atonement for, the scourge of the Black Death pandemic. The opportunity was seized, in spite of the potential dangers of the journey, by a significant number of English men and women, who made the pilgrimage to Rome. Many others, including the king himself, sought to take advantage of the spiritual benefits of the jubilee on offer to anyone who prepared to seek them out, and pay the requisite fee.[89] This reconciliation of the Judaic and Christian notions of jubilee as a half-century cycle seems to have established itself in English political and popular culture, to the extent that the very word 'jubilee' was soon assumed to refer to the accomplishment of fifty years.[90] In 1377, the scriptural precedent for such an act of remission and reconciliation was being translated by the English crown into the contemporary political forum.

It seems likely in the light of recent events that Houghton intended the ideas of sin and forgiveness to be translated to the forum of contemporary politics. Just as

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[86] See above, Chapter One, pp. 17-18.

[87] H.L. Kessler and J. Zacharias, *Rome 1300: On the Path of the Pilgrim* (New Haven, Conn., 2000).

[88] D. Wood, *Clement VI: The Pontificate and Ideas of an Avignon Pope* (Cambridge, 1989), pp. 90-93.

[89] J. Sumption, *Pilgrimage: An Image of Medieval Religion* (London, 1975), pp. 236-42.

[90] It was stated in the 1377 parliament that the fiftieth year of Edward III's reign, 'which is the jubilee year or the year of grace, is completed.' *RP*, vol. 2, p. 361.

Edward had addressed certain of the criticisms made in the Good Parliament, but had also purged himself and restored his dignity by setting aside the acts that had been forced on him against his will, so now the onus was on the body politic, represented by Houghton in conventional organic imagery, to reconcile itself with the crown. This reconciliation could be symbolised in the issue and acceptance of a general pardon, under which terms the polity would benefit from an amnesty on criminal cases and on judicial fines. The speech therefore sent out a clear message: it reminded the political community of its responsibility to support the effective running of government, while offering them the chance to benefit from a significant bestowal of the king's mercy. This, combined with the old king's poor health, and an apparently imminent French invasion of the south coast, seems to have engendered in the representatives a sense of obligation to support the government and repeal the acts of the Good Parliament.[91]

Presented with such an offer, the Commons submitted a petition to request a general pardon with little delay.[92] The crown granted their request in full parliament on 22 February, making explicit reference to the fiftieth anniversary of the king's accession in the text of the pardon itself.[93] The grant extended both the chronological and the thematic scope of the general pardon of 1362 to cover a wide range of offences committed up to the beginning of the fiftieth year of the reign, in January 1376.[94] Indeed, the central difference between the pardons of 1362 and 1377, and the one which suggests that the latter was the first truly 'general' pardon, was the inclusion for the first time of a clause through which the king pardoned the recipient 'the suit of his peace, for all manner of felonies.' While the terms went on to exclude treasons, murders, common thefts and rapes of women, other felonious offences such as wounding and arson were presumably forgiven. This was an extremely significant expansion of the terms of a pardon, and one which indicated that the king was bestowing mercy on his subjects,

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[91] The sermon over, Houghton then outlined the reasons for summoning parliament: the need for the defence of the realm and more general issues of domestic governance (item 12). Sir Robert Ashton, the chamberlain, then made a statement about the influence of the pope, in Houghton's place. Houghton himself could not speak on the matter since it dealt critically with the papacy: the lords and commons were to give consideration to the 'usurpations' committed by the see of Rome within the realm (item 13).

[92] *RP*, vol. 2, pp. 364-65.

[93] *SR*, vol. 1, p. 396.

[94] The general pardon also stipulated, at the request of the commons, that actions arising from the Dordrecht bonds promulgated by Walter Chiriton and his merchant company in the 1340s should be annulled. See E.B. Fryde, *Studies in Medieval Trade and Finance* (London, 1983), ch. 10. It also contained the qualification, inserted by the government, that William Wykeham, the leader of the opposition in the Good Parliament, should be specifically excluded from the protection of the pardon.

rather than simply replying to a common petition concerned with the articles of the eyre. The tradition of political amnesties and financial remissions on which the general pardon was built still permeated the manner of its formulation in parliament, and the role that the Commons had come to assume as petitioners for pardon can be clearly identified. However, this process should not be portrayed as one in which an antagonistic parliamentary Commons or the limitations of the judicial system were forcing from the crown a concession it was unwilling to make. Fundamentally, the crown had an obligation to reconcile the expanding political community to its authority. The use of the general pardon acknowledged the demands of a more inclusive polity - reconciliation now had to be public and accessible to a wider cross section of the population than ever before. The general pardon therefore represented a comprehensive act of reconciliation, but an act made on the crown's own terms.

As in 1362, the Commons responded to the grant of pardon by giving their assent to a subsidy, in the form of the first of the fourteenth-century poll taxes. But the crown still made clear that this grant was a generous and unforced gift of the prerogative. The initiative in this process had clearly been taken by the crown, through the speech of Bishop Houghton, and the general pardon which emerged was more than just a redrafted set of Commons' petitions. Most of the Commons' requests were included in the pardon but were amended, and in some cases the pardon was only extended to the fortieth year of Edward's reign instead of the fiftieth.[95] The parliament roll also clearly records that the schedule of pardon was taken to the king at Sheen in order to be given royal approval, emphasising its status as a prerogative power which could only be granted as the free act of the monarch himself:

> Et puis apres, le .xxij. jour du moys de Feverer l'an present, aucuns des prelatz et seignurs, chanceller, tresorier, gardein du privee seal et touz les justices, par comandement nostre seignur le roi alerent a Shene, ou nostre dit seignur le roi gysoit trop malades; et illoeqes, en sa presence et en presence de monsir le Lancastre et les autres illoeqes issint venuz, estoient rehercez la manere et les articles de general pardoun et grace qe mesme le roy ad fait a sa commune, par manere come cy enapres

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[95] Release of debts, fines and issues, *RP*, vol. 2, p. 364 (24); *SR*, vol. 1, pp. 396-97. In 1362, despite the requests of the Commons, the crown had similarly refused to extend the pardon to the fiftieth, rather than the fortieth year of the reign, and had refused to issue copies of the pardon free of the chancery fines. The government also rejected any attempt to associate limitations on the king's right to tax overseas trade with the grant of the general pardon.

> s'ensuit, ensemble avec aucunes autres responces faites as communes peticions par manere come elles sont en apres escrites. Et ce fait, le roy y dist q'il s'agreast bien a ycelles et ent fust assez content; et comandast qe celles responces et graces furent lendemain lues en parlement, come la manere est de faire al darrain jour de parlement, et qe fin fust fait de ce parlement. [96]

Moreover, one new section was added by the council. The king was to pardon felonies committed up to his fiftieth year, and outlawries for felonies, in all cases except for traitors, murderers, common thieves and rapists.[97] While this may have aided the rehabilitation of some of the disgraced courtiers, it also had a wider application, and represented a substantial new addition to the power of the king's pardon. It remained clear in 1377 that the issue of a general pardon was the prerogative of the crown, but it was also evident that the government was ready to expand its scope beyond even the parameters that the Commons had envisaged in order to reconcile the disaffected political community. This offer of mercy demonstrated the extent to which circumstances had changed since the last parliament, when the Commons had in fact requested a general pardon, but had been refused.[98] By using a general pardon at this time, the revocation of the acts of the Good Parliament could actually be represented as a gesture of reconciliation and the parliament as one that restored the unity of the polity. In 1377 the link between the general pardon and the need for political reconciliation after the events of the Good Parliament was implicit, and the mention of ideas of spiritual renewal and regeneration elevated the debate above pragmatic political concerns. In 1381, however, the level of disaffection demonstrated in the Peasants' Revolt clearly necessitated an unprecedented gesture of reconciliation.

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[96] 'And then, on 22 February in the present year, some of the prelates and lords, the chancellor, treasurer, keeper of the privy seal and all the justices, by the order of our lord the king, went to Sheen where our said lord the king lay very ill; and there in his presence . . . the manner and the articles of the general pardon and grace which the same king had made to his commonalty were recited . . . And when this had been done, the king said that he fully agreed with the same and was well content; and he ordered that these answers and graces be read in parliament on the morrow as it is customary to do on the last day of parliament, and that this parliament be brought to an end.' *RP*, vol. 2, p. 364, (22).

[97] *RP*, vol. 2, p. 365; *SR*, vol. 2, p. 397. Individual charters of pardon were to be sued out before 24 June.

[98] *RP*, vol. 2, p. 342 (122). See Verduyn, 'Commons', p. 183-86.

Pardoning and Revolt: The Peasants' Revolt of 1381

The preceding analysis gives some insight into why, only four years after the jubilee celebrations of 1377, Richard II's government sought to harness the concept of pardoning in the face of the crisis presented by the Peasants' Revolt. In the immediate context of the insurgency, it is legitimate to ask whether the pardons of 1381 and 1382 were merely part of a policy of expediency, forced on an unwilling government by the limits of the judicial system or the demands of an antagonistic parliamentary Commons; or whether they were even part of a conscious 'policy' at all.[99] However, when considered in the light of the precedent set by earlier general pardons, it seems plausible to suggest that the minority administration was consciously attempting to draw on established notions of political reconciliation in order to pull themselves back from the brink of crisis. As suggested above, an examination of the role of the pardon in the events of 1381-2, its passage through parliament and its implementation throughout the realm, can reveal new insight into the reaction of the government in the wake of the revolt and into the way in which it sought to interact with its subjects. Accordingly, the following analysis will look first at the significance of the pardon for those within the circles of the polity, and then at the implications of the pardons for those lower down the social order.[100] It also examines the tenor of relations between the crown and the lower echelons of society and the extent to which the pardon influenced the nature of such interaction, by bringing the resources of the royal administration within reach of the commonalty.

The Political Community

Until comparatively recently, the response of the crown in the aftermath of the revolt was a subject conspicuously absent from the historiography of the rebellion. Reference to the critical stance of the chroniclers and to the legislation passed at Cambridge in 1388 seems to have sufficed until specialised work was produced on the area for the

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[99] See Appendix 2.

[100] Terms such as the 'polity' and the 'third estate' employ a somewhat artificial distinction. References to the 'lower echelons of society' throughout this chapter more specifically refer to those who were involved in the processes of government only at the level of the hundred or vill and did not necessarily have a direct voice in parliament, while reference to the 'polity' is intended to indicate those who were perhaps members of the upper gentry or mercantile community and more directly involved in the processes of government. See G.L. Harriss, 'Introduction', in K.B. McFarlane, *England in the Fifteenth Century* (London, 1981), pp. ix-xxvii; W.M. Ormrod, *Political Life in Medieval England, 1300-1450* (Basingstoke, 1995), pp. 39-60.

first time by J.A. Tuck.[101] This served to shed new light on the different views of the ruling elite and leading members of the gentry. In so doing it drew a stark contrast between the crown's policy of repression, manifested in efforts to extort a subsidy for the French war, and the desire for moderation among the county communities, represented by the Commons' calls for reconciliation.[102] Within this framework, the decision to issue a comprehensive pardon has been implicitly characterised as one aspect of a policy of moderation forced on an unwilling government, partly by the limits of the judicial system, but essentially through the demands of an antagonistic parliamentary Commons. Given a free rein, it is assumed, the council would have continued to implement its policy of repression.[103] However, a closer examination of the nature of the pardon itself clearly reveals the need to refine this distinction between pardon and reform or repression and inertia, and to question the extent to which pardoning was solely a policy of the county representatives.

One point which must initially be established, before the assumptions within the historiography are examined in more detail, is the existence of the idea of pardoning those who had risen up in revolt before it was raised by the parliamentary Commons in the parliament of November-December 1381. Any suggestion that the idea of an amnesty was not entertained before it was presented by the Lower House must be challenged. Indeed, the rebels themselves were the first to articulate the idea of pardon, and the promise of an amnesty was adopted by the government on 13 June, as a means of encouraging the insurgents to end their occupation of the capital. The references to a general pardon by both parties demonstrates the extent to which it had assumed a recognised role in the political process since the first grants of 1362 and 1377. To an extent, then, it must be recognised that in 1381 pardoning was an established part of the judicial system, rather than, in any sense, part of a novel or coherent policy of moderation.

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[101] Brief references were made by T.F. Tout, *Chapters in the Administrative History of Medieval England* (Manchester, 1920-1933), 3: 356-84; A. Steel, *Richard II* (Cambridge, 1941); Tuck, *Richard II and the English Nobility* (London, 1973), pp. 1-57. More detailed studies were produced by J.A. Tuck, 'Nobles, Commons and the Great Revolt of 1381', in R.H. Hilton and T.H. Aston (eds.), *The English Rising of 1381* (Cambridge, 1984), pp. 194-212 and W.M. Ormrod, 'The Peasants' Revolt and the government of England', *JBS* 29 (1990): 22-30. Specific attention was also given to the area in the more general works of J.R. Maddicott, 'Law and Lordship: Royal Justices as Retainers in Thirteenth and Fourteenth Century England', *Past and Present Supplement* 4 (1978): 64-71; Prescott, 'Judicial Records'; N. Saul, *Richard II* (London, 1997), pp. 56-82; Musson and Ormrod, *Evolution*, pp. 96-101.

[102] Tuck, 'Nobles, Commons', *passim*.

[103] Ormrod, 'Government', p. 23.

A further step towards clemency was taken by the government before the opening of parliament when, on 30 August, it ordered that all further arrests and executions should cease and that all hearings should be adjourned into king's bench. This effectively removed the option of capital sentences, and clearly signalled an end to repressive measures. The decision was certainly not unrelated to the opening of parliament: the assembly had originally been summoned by writs dated 16 July, to convene two months later, but was postponed until the first week of November. There had also been some indication that the county representatives would favour pardoning the rebels. Prominent members of the gentry in Kent and Hertfordshire had offered to stand surety for the commonalty, rather than see a royal visitation of their counties. Nigel Saul suggests that this was prompted by a growing belief that the campaign of repression had been pushed too far.[104] It is possible, then, that these measures were in part designed to appeal to the representatives in parliament. In addition, all but two of the first batch of pardons to be granted were warranted by the king once he had arrived at Westminster (on or soon before 20 October), for the opening of parliament two weeks later.[105]

These moves towards moderation were also perhaps backed by the council in a meeting convened on 7 October at Berkhamstead, where plans were aired for the king to lead a campaign to France.[106] Such a proposal required considerable financial backing and few would have been blind to the financial benefits of granting a pardon. The author of the *Anonimalle Chronicle* made the point explicitly when he commented that 'everyone was to have his charter of pardon and pay the king as fee for his seal twenty

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[104] Saul, *Richard II*, pp. 78-79.

[105] Paul Salesbury's pardon (*CPR, 1381-85*, p. 30) was dated 22 July, Thomas de Wycresley's (*CPR, 1381-85*, p. 43) 10 October. Both were issued at Berkhamstead. Saul's itinerary for Richard (Saul, *Richard II*, p. 469), has him at Berkhamstead from 22-23 July and from 6-10 October, but does not then account for his movements until parliament opened on 3 November at Westminster. However, the place-dates on the letters patent recorded on the pardon roll indicate that he had reached Westminster by 20 October (C 67/29, mm. 39, 40, 41). This would suggest that warrants for all the 'early' pardons were issued from the time Richard arrived in Westminster until shortly before the schedule of pardon was submitted. It is unlikely that the warrants were given before this time as it was customary for letters patent to bear the date of the original royal warrant, Maxwell-Lyte, *Great Seal*, pp. 247-48. Brown, 'Letters under the Great Seal', pp. 125-55, notes that the warrant 'per ipsum regem' on letters of general pardon was a fiction, indicating not that a warrant had been issued for every individual, but referring instead to the original grant. See also Wilkinson, 'Chancery Writs', pp. 107-39.

[106] Summonses were sent out in September: A. Goodman, *John of Gaunt: The Exercise of Princely Power in Fourteenth Century Europe* (London, 1992), p. 89, n. 9, citing writs of summons E 403/485/14. This meeting seems to have authorised the pardon given to John Putefer on 16 October (*CPR, 1381-85*, p. 47), but must have ended in time for the king to be at Westminster on 20 October. The military campaign was designed to capitalise on the political weakness created by the death of Charles V. Tuck, 'Nobles, Commons', p. 209.

shillings, to make him [the king] rich'.[107] While it seems that the council was aware of the need to win over parliament, it can hardly be maintained that at this stage they were being forced into issuing the amnesty.

These initial measures indicate that the Commons' request for pardon was not a radical suggestion. In a rehearsal of the reasons for summoning parliament, the treasurer, Sir Hugh Segrave, attributed to the king a desire to make an ordinance which would bestow 'peace and tranquillity' upon the realm. He also informed the assembly that Richard was willing to free the villeins and pardon them if parliament authorised him to do so.[108] It would seem, then, that the Commons had reason to assume the crown would be receptive to the idea of a comprehensive amnesty.[109]

However, to suggest that the crown was open to the idea of pardon is not to challenge the notion that the Lords and Commons approached the issue with different motives in mind. As has been suggested above, the assumption that pardon must be linked with reform on the one hand, and opposed to continued repression and inertia on the other, is problematic. Whilst it seems likely that the main concern of the magnates who advised the king would have been the resumption of the war with France, and the related issue of the state of royal finances, it does not necessarily follow that they were inclined towards a policy of repression.[110] Indeed, far from freeing the lords for a foreign campaign, the continuance of repressive measures would necessitate their involvement at the head of military or judicial commissions at home. The general thesis that the Commons looked to implement administrative reforms which had long been on their political agenda, while the lords looked to war with France, should not be contradicted.[111] However, it must be recognised that the pardon was not the exclusive policy of one side or the other, because it was not in itself a measure of reform. Moreover, the portrayal of two distinct sides is itself problematic: as Nigel Saul has

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[107] Dobson, *Peasants' Revolt*, pp. 305-06. Income from the third poll tax had been 20% lower than predicted, and, as Saul comments, a main object of summoning parliament was to address the state of royal finances. Saul, *Richard II*, p. 79, n. 103 and p. 104. See also Tuck, 'Nobles, Commons', pp. 203-04.

[108] *RP*, vol. 3, p. 99.

[109] Waldegrave's speech as speaker of the Commons suggests that they regarded the issue of a pardon as the chance to reawaken the sense of obligation among the king's subjects, and to encourage officials to the conscientious performance of their duties.

[110] Ormrod, 'Government', pp. 22-23.

[111] Tuck, 'Nobles, Commons', pp. 206-12; Ormrod, 'Government', pp. 22-30; Saul, *Richard II*, p. 82; Maddicott, 'Law and Lordship', pp. 64-71; N.B. Lewis, 'Re-election to Parliament in the Reign of Richard II', *EHR* 48 (1933): 386-87.

demonstrated, a diversity of opinion existed even with the inner circle of councillors. [112] By suggesting that the government was ready to countenance the idea of pardon, it must not be assumed that it was earnestly looking to implement the fundamental reforms put forward by the Commons.[113] Indeed, the issue of a comprehensive pardon was surely the quickest way to clear the floor for the attention of foreign policy, yet it did not necessitate any overhaul of government policy.

Far from being a precursor to reform, the grant of a pardon was in fact a deeply conservative measure, allowing the situation to be defined, and a line drawn under it. Continued repression, in contrast, would equate to an admission of the unprecedented scale of the revolt, and of the need for new emergency measures. Crucially, further repression would also eventually reveal the limits of the judicial system. The language of pardon which the government adopted in parliament allowed the situation to be defined as one which could be resolved with the use of existing measures. Indeed, it must be remembered that there were three types of pardon issued in 1381. The lords and the rebels were both granted royal mercy, the latter for their rebellion and the former for acting outside the law in quelling it, but the 'good and loyal' commons also received a general pardon, and it was under this third category that by far the largest number of pardons were sued.[114] The reason it was deemed necessary to issue this last, comprehensive pardon, and to reissue it (although this time only for trespass) in October 1382, seems to be tied to the government's desire to ground their action in precedent. In adopting the machinery and language of the general pardon, the government could look back to established procedures for the solution rather than forward to fundamental administrative reform. By setting the pardons for the rebels within the context of the general pardon, the crown and the county representatives could also adopt defined roles, one as the source of royal grace and mercy, the other as the supplicant for it.

It was a discourse that had been rehearsed most recently in 1377. A comparison of the language used in the parliament rolls of 1377 and of 1381 reveals the extent of

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[112] Saul draws on Froissart's account to suggest that opinion on the council, at least in the initial aftermath of the revolt, was divided. Mayor Walworth, backed by Sir Robert Knolles and 'diverse notable and rich burgesses', favoured repressive measures, while the Earl of Salisbury and Chancellor Sudbury, advocated conciliation, Saul, *Richard II*, p. 67. B. Wilkinson argues for the existence of an inner circle of councillors led by Sudbury and Hales, who favoured reconciliation, B. Wilkinson, 'The Peasants' Revolt of 1381', *Speculum* 15 (1940): 20-4. This is supported by the existence of the relatively small group who were regularly witnessing charters in 1381 and 1382, C. Given-Wilson, 'Royal Charter Witness Lists 1327-1399', *Medieval Prosopography* 12 (1991): 35-93.

[113] The government's failure to institute administrative reform is demonstrated in Ormrod, 'Government', pp. 25-30.

[114] See Appendix 2.

the similarity. Edward III, it was reported to parliament, had the utmost compassion for the 'very great charges and losses' which his people had borne, and was therefore willing to make 'greater grace than he ever made before', so that his commons could be 'the better comforted and take heart to do better in times to come.'[115] Richard's pardon echoed such sentiments:

> nostre seignour le roi, considerant coment ses liges et subgitz de son dit roialme tutdys depuis sa coronement tanqe as dites insurreccions et levees faitz se sont bien portez et peisiblement lour governez, et lour ad trovez propices et bone voluntee devers lui en toutz ses affaires et necessities . . . al reverence de Dieux, et de sa doulce mere Seinte Marie, et al especiale requeste de noblee dame, dame Anne, file a noble Prince Charles nadgaires emperour de Rome, roigne d'Engleterre, si Dieux plest, proscheinement avenir; et auxint au fin qe mesme les subgitz eient la greindre corage a demurrer en lour foialtee et ligeance pur temps avenir, sicome ils firent devant la dite levee; de sa grace especiale ad pardonez a sa dite commune . . .[116]

The crown was, however, adopting the procedures of the general pardon for a new purpose, and in so doing it did amend some of the familiar terms. The 1381 general pardon, for example, did not contain the detailed clauses concerning land ownership and property rights of the 1377 grant. Similarly, the 1382 statute contained a general pardon for trespasses, but not for the treasons and felonies that the 1381 pardon had addressed.[117] However, the discourse recorded on the parliament roll, although intended

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[115] *RP*, vol. 2, p. 365.

[116] 'our lord the king considering that the lieges and subjects of his said realm, from the time of his coronation until the said insurrections and uprisings, had conducted themselves well, governed themselves peaceably, and shown him favour and good will in all his needs and affairs . . . out of reverence for God and His sweet mother St. Mary, and at the special request of the noble lady, the Lady Anne, daughter of the noble prince Charles, late emperor of Rome, soon, if it please God, to be queen of England; and also to the end that the same subjects should be the more strongly inclined to remain faithful and loyal in future, as they were before the said uprising; of his special grace he has pardoned the said commons', *RP*, vol. 3, p. 103.

[117] The 1382 statute seems to have addressed specifically the issues raised by the Commons concerning the fear of false indictment.

as a memoranda for government use, does not suggest that this was a measure of last resort, or that the executive was forced into issuing a general pardon against its will.

Importantly, recourse to the general pardon also allowed the government to adopt the language of bargaining. A manifestation of royal mercy, although portrayed as a munificent use of the crown's prerogative, nevertheless implicitly suggested that the county representatives should express their gratitude by offering some concession in return.[118] In 1377 the link between the Commons' agreement to raise a subsidy and the king's grant of a general pardon had been implicit.[119] By 1381 the conditional nature of the grant was explicitly emphasised. The issue of finance was raised after the king had agreed to the form that the pardons would take. It was stressed that the king had spent a great deal on the pacification of the uprising, as a result of which he was in great debt. The issue of financing the royal marriage and coronation of the queen was also raised. For these reasons, and for the defence of the realm, it was put to the Commons that the situation necessitated their consent to taxation. They nevertheless replied that they 'did not dare nor wish to grant tallage', or anything else for which the commons would be liable. When asked whether they would grant merely a prorogation of the wool subsidy, they issued a similar refusal.[120] The Commons then requested that parliament be adjourned for Christmas, and asked to see the decision reached over the graces 'so that having reported them in their counties, the commons might be the more reassured.' The crown's reply was unequivocal:

> A quoy fuist autrefoitz repliez depar le roi qe ce n'ad mye este custume de parlement devaunt ceste heure, d'avoir general pardoun, et tielle grace [de roi,] quant la commune riens ne voet au roi granter . . . A quoi la commune respondi autre foitz q'ils se vorront adviser et communer derechief de lour grant affaire del subside des leynes, et adonqes fuist dit depar le roi qe le

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[118] There are clearly parallels with the 'supply and redress' formula adopted by the Commons in implicitly linking a grant of taxation to the requests made in common petitions. See, for example, *RP*, vol. 2, p. 237 (9). Ormrod, 'Agenda for Legislation', 1-33; Davies and Denton (eds.), *The English Parliament*, pp. 34-87. However, the bargaining over the pardon in this instance is less veiled: the crown was clearly less reticent to make the connection between supply and redress when it suited its own interests.

[119] *RP*, vol. 2, pp. 364 (19), 365.

[120] *RP*, vol. 3, p. 104.

> roi s'adviseroit de sa dite grace tanqe la commune avoit fait de leur part ce qe a eux appartient.[121]

Following this thinly veiled altercation, the Commons relented and granted a subsidy on wool. The king then immediately made the declaration of grace. Only under the circumstances of 1398 was the link made more explicit.[122]

The crown, it seems, expected to issue a pardon. It was after all a central feature of the judicial system, and constraints on the king's freedom to dictate policy were imposed by the limits of the legal apparatus at his disposal. By issuing an amnesty the government could put the Commons in its debt without the inconvenience of actually implementing reform, and could then put pressure on them to fulfil the 'part which pertained to them' by agreeing to a subsidy. Clearly, the government felt itself to be in control of the situation. Its ungrudging acquiescence to the charters of pardon, and to every subsequent amendment of them suggested in later petitions, indicates that the crown had no objection to it.[123]

The issue of a pardon also contained the implicit assumption that the rebels wanted to be reconciled to the crown, and that the crown, while it could take further repressive measures if it so chose, was generously exercising its prerogative of mercy. In the case of the pardon at least, the crown was not pushed into a corner by a hostile parliamentary Commons. Neither was it forced to implement a desperate measure of last resort in the face of an unprecedented rebellion. The general pardon represented a sensible way of extending the control of the state down to the lowest echelons of society. This action then ensured that the full resources of the judicial system could be focused on prosecuting those individuals who had been exempted from the amnesty.

The Third Estate

It was the amendment and reissue of the amnesty in October 1382 which indicated that attention had been given to the problem of engaging those outside the circles of the

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[121] 'it was replied on the king's behalf that it had not been customary in parliaments in the past, for a general pardon and such grace to be had from the king, when the commons wished to grant the king nothing . . . To which the commons again replied that they would further discuss and consult on their grant to be made of the subsidy on wool, and it was then said on the king's behalf that the king would consider his said grace until the commons had done for their part that which pertained to them.' *RP*, vol. 3, p. 104.

[122] *SR*, vol. 2, pp. 106-07. See below, pp. 103-18. The general pardon of December 1414 was also conceded in return for a tax subsidy.

[123] See Appendix 3.

polity with the general pardon.[124] The removal of the requirement to sue out and pay for charters of pardon made this amnesty uniquely accessible. Such changes were made in response to a common petition presented in the October 1382 session of parliament which explicitly blamed the cost of a letter patent of pardon for restricting accessibility to the 1381 amnesty.

> Et porce grant nombre des gentz qi sont enditez de tresoun par cause de le rumour sont laborers, et tielx qi riens n'ont, et ne furent pas de poair de purchacer lours chartres, issint q'ils sont hors de mesme la pardoun: et a cause q'ils se doutent d'estre mys en exigende et utlagarie, et en cas q'ils soient prises d'estre myses a mort, s'enfuent ensemble as boys et autres lieux, et auxint grant nombre des autres qi ne sont pas enditez se doutent d'estre en mesme le cas, dont purra sourdre grant meschief. [125]

It had normally been accepted that fines would be paid to chancery for dispensations of grace in letters patent and charters. When they were not, the engrossments on the chancery rolls stipulated that they were given 'for God', as an act of charity.[126] However, a common petition concerning the 1377 general pardon gave the first indication that such a view was undergoing revision The petition requested that the king grant a letter of pardon to all those who sought one, without requiring them to make fine or pay a fee for the seal.[127]

That the petition asked for a waiver both of the fine *and* the fee for sealing was significant. The fee in the case of letters of pardon was set at 16*s*. 4*d*.[128] With the exception of those who swore to their poverty, it seems that some fee was normally required for all writs sought from the chancery, unless the keeper of the hanaper was

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[124] *SR*, vol. 2, pp. 29-30.

[125] 'A large number of the people who were indicted for treason because of the said uprising are labourers and the like who have nothing, and are not in a position to purchase their charters, so that they remain without the same pardon: and because they fear that they will be placed in exigent or outlawry, or seized and put to death, they flee into woods and other places, and what is more, a large number of others who have not been indicted fear the same plight, from which great trouble may ensue. On account of which may it please you to grant a general pardon of treason in the aforesaid uprising, excepting those who were excluded, without a charter being necessary, except for murder and felony.' *RP*, vol. 3, p.139.

[126] Wilkinson, *Chancery*, pp. 59-64.

[127] *RP*, vol. 2, p. 366 (26).

[128] The 'little' fee was set at 16*s*. 4*d*., while charters of great fee cost £7 11*s*. 8*d*. See Wilkinson, *Chancery*, p. 59.

specifically directed, usually by writ of privy seal, to issue it free of charge. The fine constituted the extra 2*s*. payable to the chancellor. In the case cited above, the king had conceded the fine and ruled that supplicants should pay the fees only. This seems to have set a precedent for the 1381 grant, which was proclaimed to be available 'for payment only of the fee for the great seal.'[129]

In fact, the payment of the extra fine had long been seen as unreasonable in the case of chancery writs that were deemed a necessity. It was thought that common law writs in particular should be 'free' to all the king's subjects, albeit with payment of the fees. A number of petitions were presented throughout the fourteenth century requesting that men might have their writs from chancery without having to pay the extra fine.[130] A petition of November 1381, for example, asserted that while Magna Carta had ordained that the law should not be denied nor sold to anyone, it was now customary for chancery to take fines for the issuing of various writs. This, it was said, greatly injured 'the estate of all the people and of the law', and the petition accordingly called for the removal of the fine levied on writs. The crown, however, still held out, replying that the king did not intend to deprive himself of so large a commodity, which has been levied continually in the chancery both before and after the making of Magna Carta.[131] However, until the requests made regarding the 1377 and 1381 pardons, dispensations of grace had not been viewed in the same light. They had been regarded as luxuries on which it was acceptable to levy fines as well as fees. That this attitude was changing, and that calls were also being made for the letters patent of pardon to be issued free of fine or fee, suggests they too were now seen as a necessity. In the aftermath of the Peasants' Revolt, this was more the case than ever before. In the petition presented on 18 October 1382, the Commons convincingly made the case that possession of a pardon, in the face of the perceived corruption of the judicial system, was indeed a necessity.[132]

The suggestion that the general pardon should be granted free of charge, while not completely novel, was certainly radical. By making such a concession, this general

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[129] *CPR, 1381-85*, p. 105.

[130] Wilkinson points to petitions presented in 1351, 1354 and 1371 against financial extortion, but they obtained no satisfaction. Wilkinson, *Chancery*, p. 61, quoting *RP*, vol. 2, pp. 229-30, 241, 261, 305. Musson and Ormrod, *Evolution*, p. 179, n. 55 also quote *RP*, vol. 2, pp. 2-30 (25), 241 (40), 261 (40). See Verduyn, 'Attitude', pp. 133-34.

[131] *RP*, vol. 3, p. 116 (88).

[132] *RP*, vol. 3, p.139.

pardon would be available to a far wider cross-section of the population than ever before and would therefore adopt a substantially different character both to those general pardons which preceded it and to those issued in subsequent reigns. At the heart of the Commons' protestation lay the fears of the wider community concerning the threat of false indictment and conviction without the protection of a royal letter of pardon.[133] This is substantiated to some extent by those pardons which state that the accusation had been falsely made by the enemies of the recipient. John Spayne, for example, was alleged to have played a central role in the disturbances which had broken out in King's Lynn. He was accused of murder, and of extorting money from local inhabitants.[134] However, in 1383, when Spayne's case was heard at the king's bench, it was declared that he had been indicted through 'the hostility of the people of the hundreds of Gallow and Brothercross'.[135] Similarly, the terms of John Bettes' pardon, dated 13 May 1383, stated that he had been falsely indicted by his enemies.[136] The Commons, in professing to represent the fears of these people, were drawing the lowest levels of society into political debate.

E. Powell has argued that the general pardons issued by Henry V were measures designed to reconcile political society to the government, and allow them to demonstrate their commitment to the regime.[137] Central to this hypothesis is the payment clause contained within the grant of a general pardon. At a cost of 16*s.* 4*d.* the general pardon had a certain in-built exclusivity.[138] As has already been commented in the previous chapter, the price of the necessary letter patent would represent almost two months wages for an average wage labourer. According to Powell, this comparative

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[133] Reform of the judicial system had long been on the political agenda of the Commons, echoing the contemporary perception that the quality of the legal system was degenerating. Some historians suggest that this perception reflected a real qualitative slide in the fourteenth century: B.H. Putnam, 'The Transformation of the Keepers of the Peace into the Justices of the Peace, 1327-1380', *TRHS* 4th series, 12 (1929): 19-48; Harriss, *Public Finance*, pp. 354-55, 516-17; Kaeuper, *War, Justice and Public Order*, pp. 174-83. Others argue that such complaints were prompted by rising expectations and an expanding legal apparatus reaching a greater range of the populace than ever before: Musson and Ormrod, *Evolution*, pp. 161-93; Verduyn, 'The Politics of Law and Order', pp. 842-67; Powell, 'Administration'.

[134] KB 9/166/1 mm. 67, 68, 73, 80, 81.

[135] KB 27/501 *rex* m. 1d; *CPR, 1381-5*, p. 272.

[136] KB 27/488 *rex* m. 25. Prescott, 'Judicial Records', p. 351, demonstrates that the method used to compile the lists of those exempted also left them open to the inclusion of victims of false accusation. The names were supplied by local commissions and it seems likely that Walworth's commission simply forwarded to chancery the names of those against whom prosecutions were outstanding.

[137] Powell, 'Restoration', pp. 53-74; Powell, *Kingship, Law and Society*, pp. 229-46.

[138] Or 18*s.* 4*d.* when the fine of 2*s.* to the chancellor was also charged.

exclusivity suggests that the general pardon was part of a process of negotiation in which the recipient was in a position to offer the crown a favour in return by upholding the institutions of government at the local level. The nature of the disorder in 1414 suggested that the offenders were drawn from the county gentry and the professional administrators of the Lancastrian regime, two groups upon whom the crown relied to implement the royal administration in the localities. In such a situation it would have been politically impossible for the government to punish these types of offenders.[139]

The challenge in 1414, therefore, was primarily one of enforcing a public order. However, in 1381 and 1382, the problem was the more acute need to quell rebellion and pacify the insurgents. Confronted by a common petition which challenged the exclusive nature of the general pardon, Richard's government reacted positively, granting a pardon for all those indicted of wrongdoing in the revolt, and a general pardon for all trespasses committed before 24 October, to every subject. These were to be made available without the need to sue out, and pay for, an individual letter patent.[140] This social inclusivity responded to the challenge presented by the Peasants' Revolt. The extension of the pardon to a wider social range than ever before ensured that the lower echelons of society were drawn into a compliance with, and interest in upholding, the judicial system which had pardoned them.

This extension of the pardon engaged the commons with an aspect of royal government and justice which it had previously only come into contact with through military pardons designed simply to boost recruitment.[141] While the right of the crown to issue charters of manumission to villeins over the heads of their landlords had been effectively challenged in parliament, its transcendent authority to bestow royal grace and mercy on its subjects was never in doubt.[142] The position of the crown and parliament at the centre of the formulation of the pardon has already been demonstrated. Pardon was not a matter for individual lords, and the issuing of royal mercy therefore served as a direct link between the crown and its subjects.

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[139] Conciliation has long been recognised as one of the key notes of Henry V's early years as king, dictated by a need to disown the legacy of faction. See: E.F. Jacob, *The Fifteenth Century* (Oxford, 1961), pp. 128-29; Harriss, *Henry V*, pp. 33-39.

[140] *SR*, vol. 2, pp. 30.

[141] See Appendix 4.

[142] *RP*, vol. 3, p. 100 (13). Parliament reminded the king of the concept of their property rights over serfs. Tuck, 'Nobles, Commons', pp. 199-200, emphasises that only the king could release men from the obligation to observe due process of law in depriving even rebels of their lives.

It must of course be remembered that this link was only one facet of a complex and changing relationship between the crown and the commonalty, the nature of which has been the subject of much detailed study. While an engagement with the full extent of this historiography is beyond the scope of this study, it is interesting to note that an examination of the general pardon perhaps contributes something to the 'cultural' arguments developed by historians such as R.H. Hilton and R. Faith.[143] They suggest that the impulse to restore the perceived norms of obedience and obligation after the upheaval of the Black Death induced a new emphasis on the responsibility of the lower echelons of society, to the enterprises of the state. In line with such a stance, it seems that the pardon was proposed as a means through which to reawaken the sense of obligation among the king's subjects, and the sense of duty among the officers of the crown.[144] The inclusivity of the 1382 pardon suggests that the commonalty were being symbolically drawn back into an acceptance of their obligation to public enterprises.[145] However, the way in which a general pardon was designed to operate does suggest a consensual aspect to this relationship which is yet to be fully explored.[146] In this area at least, the commonalty were given some access to the machinery of the state.[147] Those willing to observe the rules of the pardon were being drawn, but not actually coerced, into a type of social contract with the governing elite.

Despite the insecurity and inertia of the minority regime, it had the machinery of pardon at its disposal, and could deploy it to extend the arm of the state to the lowest levels of society. In this way they were able to draw such people into the legal system to a greater extent than any further repressive measures would achieve. As the

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[143] R.H. Hilton, *Class Conflict and the Crisis of Feudalism*, rev. edn (London, 1990), pp. 49-65; R. Faith, 'The "Great Rumour" of 1377 and Peasant Ideology', in Hilton and Aston (eds.), *The English Rising*, pp. 43-73; R.C. Palmer, *English Law in the Age of the Black Death, 1348-1381: A Transformation of Governance and Law* (Chapel Hill, NC, 1993); S.H. Rigby, *English Society in the Later Middle Ages: Class, Status and Gender* (Basingstoke, 1995), pp. 104-44. For an exposition of this historiography see Musson and Ormrod, *Evolution*, p. 176.

[144] *RP*, vol. 3, p. 102 (27).

[145] This runs parallel to Powell's argument that Henry V's pardons were used to encourage his subjects to stand by their military commitments in war: Powell, 'Restoration', pp. 244-45.

[146] An increasing desire, on the part of the commonalty, to provide themselves with the security of official documentation is suggested in E.M. Hallam's work on the demand for letters patent of exemplification from the Domesday Book, particularly under the circumstances of 1377. They were of course only sought by those peasants who could claim to inhabit the ancient demesne and cannot be represented as an index of peasant political behaviour. E.M. Hallam, *Domesday Book Through Nine Centuries* (London, 1986), pp. 53-72; Faith, 'The "Great Rumour"'.

[147] W.M. Ormrod, 'The Politics of Pestilence: Government in England after the Black Death', in W.M. Ormrod and P.G. Lindley (eds.), *The Black Death in England 1348-1500* (Stanford, 1996), pp. 155.

Commons commented in their petition of October 1382, because of the fear of false indictment, those who could not afford a pardon fled to the woods. Recipients of pardons, however, were required to present themselves in court and give surety for future good behaviour. While not everyone felt the need to comply with such regulations, those afraid of false accusation now had recourse to a royal pardon. In this sense it was a sensible measure but it should not be assumed it was the mark of a government interested in reform at home. Rather, it demonstrated the availability to the government of already established procedures for reconciliation. Moreover, the negotiation and formulation of the pardons through a dialogue in parliament indicates the importance of the assembly, and the part it had come to play in national affairs.[148]

Pardoning and Revenge: Richard II's 'Tyranny'

The general pardons discussed so far were therefore used to promote reconciliation in the face of disunity or rebellion. However, in 1398 Richard II subverted the principles of granting royal pardon, by using it as a tool of accusation and incrimination.[149] Richard convened his so-called 'Revenge Parliament' on 17 September 1397, with the intention of imposing a new personal agenda on the polity of the realm.[150] Two months earlier the king had ordered the arrest of his longstanding political opponents, the Lords Appellant, and the autumn parliament provided the forum for their public trial and conviction. Furthermore, he extorted concessions from the Lords and Commons which

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[148] Dobson, *Peasants' Revolt,* p. 325.

[149] *SR*, vol. 2, pp. 106-07.

[150] Historians have drawn attention to the notorious tactics Richard employed to intimidate the Lords and Commons: by surrounding the parliament with over two thousand Cheshire archers, and by refusing to name those individuals exempted from the general pardon proclaimed in the opening speech of the chancellor, Bishop Stafford of Exeter. For references to the former, see: CHES 2/70, m. 7d; *CCR, 1396-99,* p. 144; *RP*, vol. 3, p. 347. The Cheshire archers are also discussed in G. Dodd, 'Getting Away with Murder: Sir John Haukeston and Richard II's Cheshire Archers', *Nottingham Medieval Studies* 46 (2002): 102-118; R.R. Davies, 'Richard II and the Principality of Chester, 1397-9', in F.R.H. Du Boulay and C.M. Barron (eds.), *The Reign of Richard II: Essays in Honour of May McKisack* (London, 1971), pp. 256-79; J.L. Gillespie, 'Richard II's Cheshire Archers', *Transactions of the Historic Society of Lancashire and Cheshire* 125 (1974): 1-35. For the chronicle references, see: G.B. Stow (ed.) *Historia Vitae et Regni Ricardi Secundi* (Philadelphia, 1977), p. 140; *Adam Usk*, pp. 22-5. There is some discrepancy in the reports of the number of archers present, discussed in Dodd, 'Getting away with Murder', p. 102, n. 3.

effectively curtailed the powers of parliament.[151] For the chronicler Thomas Walsingham these events were the herald of a new and tyrannical phase of Richard's reign, and historians have generated a considerable body of scholarship in their attempt to elucidate the distinctive character of this period.[152] However, these studies have struggled to explain the motivation behind the dramatic events of 1397-8. This is in part, it seems, because one central element of Richard II's 'tyranny' has been overlooked: namely his view of the role and significance of the royal pardon.

Beyond the drama of parliamentary proceedings, scant attention has been paid to the way in which Richard actually used the royal pardon in these years to bring pressure to bear on his political opponents. While the chroniclers dwell on the set piece show trials of Arundel and Warwick, they allude only briefly to events occurring outside the limelight of parliament. Walsingham refers to a vague atmosphere of suspicion, and to secretive activities carried out by royal agents in order to secure forced loans for the king.[153] The administrative records of government, however, contain a whole series of veiled references to arrests, imprisonments and council meetings, which, when pieced together, reveal a sequence of events revolving around the use of the royal pardon as a political bargaining tool. Richard, it seems, was using the very concept of pardon to justify his move against the supporters of the Lords Appellant in the autumn of 1397. A detailed examination of these events is therefore vital to our understanding of the whole context surrounding Richard II's tyrannical behaviour in the final years of his reign. Moreover, with this context properly elucidated, we can begin to consider whether the

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[151] For the contemporary references to these events, see: *RP*, vol. 3, pp. 347-85; H.T. Riley (ed.), 'Annales Ricardi Secundi et Henrici Quarti', *Johannis de Trokelowe et Anon Chronica et Annales* RS 28 (London, 1866); *Vitae et Regni Ricardi Secundi*, pp. 137-51; F.S. Haydon (ed.), *Eulogium Historiarum Sive Temporis* RS 9 (London, 1858), 3: 371-9; *Adam Usk*, pp. 28-35; B. Williams (ed.), *Traison et Mort: Chronique de la Traison et Mort de Richart Deux Roy Dengleterre* (London, 1846), pp. 117-27; J. Taylor (ed.), *Kirkstall Abbey Chronicles*, Publications of the Thoresby Society (1952): 118-20; 'Chronicles of Dieulacres Abbey, 1381-1403', in M.V. Clarke and V.H. Galbraith, 'The Deposition of Richard II', *BJRL* 14 (1930): 164-70; C. Given-Wilson, *Chronicles of the Revolution,1397-1400* (Manchester, 1993), pp. 54-102.

[152] Walsingham famously commented that in the summer of 1397 the king 'began to tyrannise and burden his people'. Given-Wilson, *Revolution*, p. 71. See also: J.G. Edwards, 'The Parliamentary Committee of 1398', *EHR* 40 (1925): 321-33; Saul, *Richard II*, pp. 375-81; Tuck, *English Nobility*, pp. 187-92; M. Bennett, *Richard II and the Revolution of 1399* (Stroud, 1999), pp. 98-108, 118-20; M. Giancarlo, 'Murder, Lies and Storytelling: The Manipulation of Justice(s) in the Parliaments of 1397 and 1399', *Speculum* 77 (2002): 76-112; T.F.T. Plucknett, 'Impeachment and Attainder', *TRHS*, 5th series, 3 (1953): 145-58; Barron, 'Tyranny', pp. 1-18.

[153] Walsingham states that the king began to burden his people with great loans, and that the king's agents made secret inquiries into the wealth of particular citizens, before endorsing blank charters with their names. Given-Wilson, *Revolution*, p. 71. The author of the continuation of the *Eulogium Historiarum* refers to individual messages sent out to every bishop, abbot, gentleman and merchant, from whom the king then extorted large sums of money. Given-Wilson, *Revolution*, p. 65.

two high-profile declarations of pardon made in the 1397 Revenge Parliament were more than merely isolated gestures of grace. Indeed, it seems plausible to suggest that these acts were part of a wider agenda to use the prerogative of mercy to achieve specific political ends: to bring opponents of the regime to account and to send a clear signal that prerogative power would be exercised by the king, of his own free will. An investigation of Richard II's use of the prerogative of mercy thus sheds new light on the final, tyrannical years of his reign.

Historical studies of Richard II's period of tyranny traditionally date the emergence of this new phase to the summer of 1397. The arrest of the Lords Appellant and the seizure of their property have long been regarded as the first indications of the dramatic appeals and trials that were to follow in the autumn parliament.[154] From these high-profile events, historians then move on swiftly to examine the actions of the king once parliament assembled on 17 September. However, before this assembly convened, Richard had also taken action against a number of men who, it seems, were suspected of involvement with the conspiracy of the Lords Appellant. Some of these men were arrested and held in custody, before appearing in front of specially convened meetings of the council. Shortly after their appointments with the council these men then sued for pardon and paid substantial fines to the exchequer. Their example was followed by other individuals who, whilst not yet summoned before the council, clearly feared that they might be next.

Before parliament convened, then, Richard had issued orders to arrest certain men, and to hold them in custody until he sent word to bring them before a specially convened meeting of the council. These men were suspected of involvement with the Lords Appellant and were to be brought before the council to explain their actions. Twenty-nine individuals were arrested in this way, the majority of whom were taken in the first wave of arrests, which occurred between September and November 1397.[155] Of

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[154] The constable of the Tower of London was ordered to receive Thomas, Earl of Warwick and to keep him in custody, on 12 July 1397 (*CCR, 1396-99*, p. 140). The arrest of the Lords Appellant was proclaimed on 15 July (*CCR, 1396-99,* p. 208). Orders were sent out on 28 July to the guardians of the peace in Sussex, Surrey, Kent and Essex to arrest those stirring against the imprisonment of Gloucester, Arundel and Warwick (*CCR, 1396-99,* p. 147). Inquests were then made into the property of the Earls, and orders for its seizure were sent out after they had been tried and convicted in parliament (*CCR, 1396-99,* pp. 154, 157, 159, 160, 162).

these individuals John Cobham is the most well-known because of his eventual conviction and banishment in the Shrewsbury session of parliament.[156] However, none of the others were given a public audience in parliament. Seven of them were definitely summoned before the king's council, all between 30 September and 5 November, at meetings which were perhaps intended to attract little public attention. The allegiance of these seven men was clear: all were prominent associates of the Lords Appellant. John Wiltshire had been a councillor to the Earl of Arundel; Thomas Feriby had been the Duke of Gloucester's chancellor since 1394; and Robert Rikedon, Thomas Lampet, William Castleacre, John de Boys and Hugh Grenham were all associates of the Duke of Gloucester.[157] Whether or not the king and his ministers actually ordered these men to pay fines and to sue out pardons when they were brought before the council, all of them understood the message given. All but Grenham and de Boys immediately sought a copy of the Appellant pardon as soon as it was proclaimed in the opening session of the September parliament. Their names are recorded together, along with eight others, on one membrane of the pardon rolls.[158] This membrane is the only one to record any

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[155] Twenty-two men were arrested between September and November 1397: John Cobham, John Wiltshire, Thomas Feriby, John Aspall, John Lacy, Robert Jugler, Hugh Grenham, Robert Rikedon, John Bullocke, John Catesby, John de Boys, Thomas Lampet, William Castelacre, William Clipstone, John Faunessoun, Thomas Armurer, Richard Armurer, Edward Charleton, John Tracy, Richard Chamberlayn, John Bray, John Bakere. A further seven were arrested between February and May 1398: John Broun, Walter Stywarde, John Saymour, Richard Herefelde, Lawrence Bright, John Fesaunt and William Wetheresfelde. *CCR, 1396-99*, pp. 149, 151-54, 157-59, 164, 222, 238, 243, 246, 254, 262; *PPC*, vol. 1, pp. 76-77.

[156] Prior to this he had been held in custody at Donnington castle from 8-26 September 1397, before being ordered to come into the king's presence. It seems he was then held prisoner by the Duke of Surrey, before finally being brought before parliament on 28 January 1398, and banished for his treasonable activities as a member of the parliamentary commission of 1386. *CCR, 1396-99*, pp. 157, 159, 245; *RP*, vol. 3, pp. 381-82; J.S. Roskell, L. Clark and C. Rawcliffe, *The Commons, 1386-1421*, History of Parliament (Stroud, 1993), 2: 607-08.

[157] Their individual summonses to the council are recorded in: *CCR, 1396-99*, pp. 153, 155, 159, 222, 225, 234; *PPC*, vol. 1, pp. 76-77. For details of their careers, see: A. Goodman, *The Loyal Conspiracy, The Lords Appellant under Richard II* (London, 1971), pp. 94-104; Roskell, Clark and Rawcliffe, *The Commons*, pp. 232-33, 320-21, 874-75.

[158] C 67/30, m.3. This class of documents, commonly referred to as the 'pardon rolls', are properly termed 'supplementary letters patent'. All are dated between 18 October-28 November 1397. The eight other men were: Giles Malory, Nicholas Lilling, Hugh de la Zouche, Thomas Coggeshalle, Richard Monk, John Estephus, Walter Roo and Thomas Walwayn. They were all prominent associates of the Lords Appellant. The king's warrant for two of these pardons (as writs under the privy seal) survive: John Estephus: C 81/570/11739; John Wilteshire: C 81/570/11745. They also survive for several pardons granted in 1398: John Keleryan, C 81/579/12649 (6 February 1398), enrolled on: C 67/31, m. 13; John Chapman: C 81/579/12693 (2 March 1399), enrolled on: C 67/31, m. 7; John atte Wode: C 81/581/12839 (12 April 1399), enrolled on C 67/31, m. 10; John More, C 81/573/12038 (24 April 1398), enrolled on C 67/30, m. 19. Barron comments of these writs that 'in at least five further cases the chancellor was instructed to issue charters of pardon under the great seal which have not been enrolled.' Barron, 'Tyranny', p. 9, n. 1. However, as shown above, all are in fact enrolled on the supplementary patent rolls. See R. Storey, *Index to Pardons*, unpublished typescript, The National Archives.

pardons issued as early as September-November 1397, several weeks before any other such letters were granted. Seven of those so pardoned also paid substantial fines to the exchequer at this time. Their names are listed together on the receipt rolls in an entry dated 4 December 1397, and described as 'fines made in the presence of the king's council'.[159] Thomas Coggeshalle and Hugh de la Zouche both paid £133 6*s*. 8*d*.; Thomas Feriby £100; Richard Monk £20; Walter Roo £10; and Robert Rikedon and Thomas Lampet paid £13 6*s*. 8*d*. each.

While the existence of these fines has been noted before, historians have not recognised that they were paid by a distinct group of men, whose fortunes in the autumn of 1397 can be traced through their individual summonses before the council, their procurement of pardons and their payment of fines, to reveal that Richard had singled them out for special treatment even before he presided over the first session of the Revenge Parliament.[160] This is interesting when considered in light of the statement Richard had made on 15 July 1397, proclaiming the arrest of the Lords Appellant. He stated that their arrest was not connected with the uprising of 1387-8 and he assured any associates of Arundel, Gloucester and Warwick that they should not fear 'impeachment or hurt' for their part in the rising.[161] Despite this reassurance, it seems that associates of the Appellants were right to fear Richard's future intentions towards them. By early September, the king had already gone back on his word and singled out certain of these men for special treatment. The existence of this distinct group is even more significant in light of the fact that, at the opening of parliament on 17 September, Richard directed his chancellor not only to proclaim a wide-ranging pardon, but also to stipulate that fifty unnamed men would be exempted from its terms. Were these fifty men perhaps the same group that Richard had taken into custody shortly before the opening of parliament? If so, it would seem that the king's intention was to deny them the amnesty of this comprehensive pardon until he had brought them before the council (which, as we have seen, he did between 30 September and 5 November) and, in many cases,

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[159] E 401/608. From the wording of the entry, it therefore appears that Coggeshalle, Monk, de la Zouche and Roo were also in fact brought before the council, although their individual writs of summons do not survive. Another entry on the same roll records that Thomas fitz Nicole paid £100 on 16 November 1397 'pro mora sua penes Ricardum comitem Arundell', and a further £50 in March 1398. The king also later granted the men of Essex and Hertfordshire a collective pardon, in return for the sum of £2000, and anyone who refused to contribute his share of what was in effect a huge collective fine was liable to be imprisoned. *CPR, 1391-6*, pp. 311-12; *CFR, 1391-9*, pp. 250-52. Tuck, *English Nobility*, p. 197.

[160] Barron, 'Tyranny', p. 8; A. Steel, *The Receipt of the Exchequer, 1377-1485* (Cambridge, 1954), p. 118.

[161] *CCR, 1396-99*, p. 208; *Foedera* [first edition], vol. 8, pp. 6-7.

impose on them substantial fines. Whether or not this group of men can be associated with the 'fifty unnamed persons' mentioned by the chancellor, they were certainly key targets for Richard's programme of revenge. Almost all of them went on to purchase yet another letter of pardon in May and June 1398.[162] Moreover, their fate lends credence to the charges of 'unjust fines and exactions' laid against Richard at his deposition, an issue to which we will return.

It must be made clear that not all those arrested between September and November 1397 were immediately brought before the council. Four men were released soon after arrest, following orders from the king.[163] In one case it was specified that the individual concerned, one Edward Charleton, was to be set free on certain conditions: he was to pay a fine of 500 marks; to sue with the king for his grace by 21 April 1398; and to remain ready to come before the council if summoned. It was later recorded that Charleton had paid the fine, 'as the treasurer had borne witness by word of mouth.'[164] Some of these men, it seems, were initially allowed to go free without having to come before the council. However, even this decision was soon to be repealed, and a number of individuals initially exempted from attending the council were now summoned before the tribunal. This seems to be the implication of an enigmatic entry into the minutes of an undated council meeting. It states that certain persons, who were initially exempt from attending the council, were now to be ordered to 'treat with the council' and, if they failed to cooperate, they were to be imprisoned. It also refers to certain fines to be made by these individuals, which, it states, should be delivered to the Treasurer and placed in a special bag (rather than being processed through the official channels of the exchequer). Finally, it stipulates that none were to be present in the council at the exaction of the fines except the Chancellor, the Treasurer, the Keeper of the Privy Seal,

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[162] Giles Malory purchased a second pardon on 10 June, C 67/30, m.10; Nicholas Lilling on 16 June, C 67/30, m. 6; Thomas Coggeshalle on 15 May, C 67/30, m. 23; Robert Rikedon on 1 May, C 67/30, m. 25; Thomas Lampet on 10 June, C 67/30, m. 17; Thomas Walwayn on 12 June, C 67/30, m. 15; Richard Monk on 15 June, C 67/30, m. 15; William Castelacre on 6 June (and Elizabeth his wife), C 67/30, m. 9; Walter Roo on 10 June, C 67/30, m. 13. Two different forms of the pardons were in fact available.

[163] John Catesby, Edward Charleton, Richard Chamberlayn and John Bray. *CCR, 1396-99*, pp. 157, 159, 164. Catesby was steward to the Earl of Warwick and Bray was an associate of the Duke of Gloucester. Goodman, *Loyal Conspiracy*, p. 97; Roskell, Clark and Rawcliffe, *The Commons*, pp. 501-02.

[164] *CCR, 1396-99*, p. 286.

Sir John Bussy, Sir Henry Green and Sir William Bagot.[165] The date of this entry is unclear. Tout believed that it could not have been written before the end of 1398, while Caroline Barron dated it to September 1397.[166] While its date cannot be determined precisely, it seems likely that this decision in fact relates to an order, issued on 3 April 1398, to twenty-eight named men, who were instructed under pain of a £200 fine, for 'particular causes specially moving the king and council', to cease all other activities and to present themselves before the king and council at Westminster on 21 April 1398.[167] Included among this list of twenty-eight names were Edward Charleton, who had already been arrested and set free once (see above), and Giles Malory, Hugh de la Zouche, Thomas Coggeshalle, Thomas Walwayn, John Stevens and Richard Waldegrave, all of whom had already purchased pardons or paid fines in October-November 1397.[168] The other men summoned to the council on 3 April followed this example and most sued for pardon in April-June 1398.[169] Several also paid sizeable fines to the exchequer on 13 July 1398, and these were again recorded as 'fines paid in the presence of the king's council'.[170] John More, a London mercer, was among those summoned, but, in a pardon of 24 April 1398, he was forgiven a fine of 100 marks

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[165] 'certains persones exemptz de venir devant le consail du roy au fin quils tretent avec mesme le counsail et que sur le dit tretee report soit fait au roy et que mesmes les persones soient commys a prisone en cas quils ne purront accorder ovec le dit counsail. . . Item que les sommes que serront pris des fins des dites persones exemptz soient delivrees au Tresurer Dengleterre et mys en une bagge. Item que cellui soit paient en counsail a la taxacion des fins affaire par les persones exemptz forspris les Chancellor, Tresoror, Garde du prive seel, Monsieur John Bussy, Monsieur Henry Green et Monsieur William Bagot.' *PPC*, vol. 1, pp. 75-76.

[166] Barron, 'Tyranny', p. 8, n. 1.

[167] *CCR, 1396-99*, p. 277. The men summoned were: Hugh de Zouche , Payn Tiptoft, Edward Charleton, Arnald Savage, Giles Malorye, John Trussell, Richard Waldegrave, Thomas Herlyng, Philip Milstede, David Holbech, Thomas Coggeshalle, Richard Whityngton, Thomas Oldcastell, Thomas Walweyn, John Stevens, John Hende, John Shadworth, Robert Plesyngton, John Harwedoun, John Tauk, John More, John Saymore, William Echyngham, Richard Cralle, John Frome, John Bonham, John Mewe, John Whethales.

[168] C 67/30, m. 3; E 401/608.

[169] Payn Tiptoft, 30 April 1398, C 67/30, m. 2; Edward Charleton, 20 May 1398, C 67/30, m. 23; Giles Malorye, 18 October 1397, 10 June 1398, C 67/30, mm. 3, 10; John Trussell, 27 April 1398, 5 June 1398, C 67/30, mm. 3, 18; Richard Waldegrave, 12 June 1398, C 67/30, m. 15; Thomas Coggeshalle, 7 November 1397, 15 May 1398, C 67/30, mm. 3, 23; Thomas Oldcastell, 14 June 1398, C 67/30, m. 14; Thomas Walweyn, 18 November 1397, 12 June 1398, C 67/30, mm 3, 15; John Hende, 10 June 1398, C 67/30, mm. 14, 15 (possibly also 3 September 1398, C 67/31, m. 7); John Harwedoun, 12 June 1398, C 67/30, m. 12; John More 21 May 1398, C 67/30, m. 19; William Echyngham, 5 May 1398, C 67/30, m. 3; Richard Cralle, 15 June 1398, C 67/30, m. 15; John Bonham, 17 May 1398, C 67/30, m. 19.

[170] E 401/609. John Frome paid £66 13*s*. 4*d*.; William Echyngham £33 6*s*. 8*d*.; Edward Charleton £266 13*s*. 4*d*.; John Seymour £33 6*s*. 8*d*. Richard Crowe [Cralle] 'nuper de retencione comitis Arundell' £13 6*s*. 8*d*.; David Holbech £100.

which had been imposed on him by the council for having 'ridden with the condemned lords, contrary to his allegiance'.[171]

The fate of these men certainly lends credence to the charges of 'unjust fines and exactions' laid against Richard at his deposition, as Caroline Barron concluded in the only previous study to examine these events in any detail.[172] Richard clearly forced many of those who supported the Appellant uprising to sue for pardon, despite his earlier assurance that they would not have to do so. A large proportion of these men were also forced to pay fines far higher than the standard charge for a pardon, and many, it seems, had to purchase more than one of these letters patent before they were in any sense reconciled with the regime.[173]

This last point, that many of the Appellant supporters were purchasing more than one pardon, warrants a closer examination of the general pardons proclaimed in parliament. Historians who have examined the proceedings of the Revenge Parliament often note that, in his opening address delivered on 17 September, the chancellor declared that a general pardon would be available to all who sought the king's grace (with the exception of the fifty unnamed men). However, there is in fact some uncertainty over the content of Bishop Stafford's speech. According to the parliament rolls, Stafford made the point that if the king's subjects were duly obedient and upheld the king's prerogative powers and laws, they would ultimately reap the reward.[174] To demonstrate this, and to strengthen his subjects' goodwill towards him, Richard intended to bestow on them a grant of general pardon as evidence of his gracious mercy, with the proviso that certain individuals would be excluded. Adam of Usk's report, on the other hand, says nothing of a generous bestowal of grace, but instead reports that the king declared his intention to pardon all those who had schemed to undermine his power and regality.[175] This was clearly a reference to the actions of the Lords Appellant. According to Usk, then, this was not a generous bestowal of grace to all the

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[171] C 81/573/12038; C 67/30, m. 19. Caroline Barron connects John More's pardon with the plan to summon the previously exempted persons before the council (*PPC*, vol. 1, pp. 75-76), but does not connect the 27 other men, who were mentioned in the summons of 3 April (*CCR, 1396-9*, p. 277). Barron, 'Tyranny', p. 8 and n. 2.

[172] Barron, 'Tyranny', pp. 6-9.

[173] *RP*, vol. 3, p. 418, articles 23 and 24.

[174] *RP*, vol. 3, p. 347.

[175] *Adam Usk*, p. 21.

king's subjects for any past misdeeds. It was instead only intended to cover the offences committed in fighting for the Appellant cause in 1388.[176]

This version of events is supported by the rubric of the supplementary patent rolls. It records a copy of the letter patent issued to the group of men who sued out pardons in October and November 1397 (discussed above). This letter of pardon is clearly concerned only with offences committed in riding with the Lords Appellant, and does not grant pardon in any more general sense:

> Nos volentes ex regia nostra benignitate graciam facere in hac parte de gracia nostra speciali pardonavimus Egidio de Malorre chivalier sectam pacis nostre et id quod ad nos versus ipsum pertinet occasione dicte comissionis et exercisii euisdem ac congregacionis insurrecctionis equitataciones depredacionis imprisonamenti interfecionis et arsure per ipsum in comitiva predicoram ducis et comitum.[177]

According to the supplementary patent rolls, a further 583 people obtained a copy of this pardon for their association with the Appellants between January 1398 and September 1399.[178] This first declaration of pardon, then, seems to have been aimed solely at forcing those implicated in the Appellant uprising to make themselves known to the king and seek his grace. The desire to secure such a pardon was clearly heightened by the secrecy surrounding the list of exempted persons. Although the chancellor had said that the king would name these people in parliament, no list was forthcoming. The Commons remained anxious to hear the names and their Speaker, Sir John Bussy, went as far as to protest against the secrecy surrounding these exempted

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[176] The need to sue for a pardon after the 1397 parliament, but before the beginning of the 1398 session, was widely known. See the warrant for a letter patent sent by the king to the chancellor under the privy seal: C 81/571/11819. The king sent this letter from Coventry on 1 January 1398. It orders that the chancellor send letters to the sheriffs of England to publicly to proclaim that those seeking such pardons were to do so by the feast of the Nativity of John the Baptist (24 June). However, the warrant does not shed further light on whether this was a general pardon, or a pardon only to those associated with the Appellants.

[177] 'we have pardoned by our special grace [name of recipient] the suit of our peace and that which relates to us against himself in the matter of the said commission and the same, congregating, rebelling, riding, committing depredations, imprisoning, killing and arson by himself in the company of the said duke and earls.' C 67/30, m. 3.

[178] There are 596 pardons to Appellants: C 67/30, mm. 19 (42 names), 4 (3), 3 (99), 2 (124), 1 (117); C 67/31, mm. 13 (53), 12 (133), 4 (2), 2 (23).

persons.[179] If, as suggested above, Richard intended this exemption to apply to the group of men he had recently taken into custody, there was an obvious reason for such subterfuge. It was clear that the king did not intend to adopt the conciliatory tone of previous general pardons, but rather to manipulate the pardon into a tool of intimidation with which to highlight the guilt of the former Appellants and their adherents.[180]

It was not until the Shrewsbury session of parliament that the king consented to grant a general pardon to all his subjects, for any misdeeds committed before 31 January 1398, and not just those concerning the Appellant revolt.[181] It was also made conditional on the grant of a wool subsidy.[182] The representatives duly agreed to give their consent and handed over the customs revenue for life to the king, a grant which had the potential to weaken their bargaining power in future negotiations with the crown. However, their generosity was rewarded with a pardon which still excluded those who had rebelled against Richard in 1388. These men, although unnamed, were to sue for pardon individually. The take-up of this pardon was far greater than for any previous amnesty. Over four thousand pardons were issued in total; almost double the number granted in 1377 to celebrate Edward III's jubilee year.[183] Clearly, the anxiety generated by Richard's use of the pardon allowed the king to discover who his enemies were, and enabled the exchequer to profit from their insecurity.

The royal pardon clearly played a central role in Richard's opening moves against the supporters of the Appellants in the autumn of 1397. With these events properly elucidated it also becomes clear that the declarations of pardon made in the Revenge Parliament were not simply isolated gestures of grace. They were in fact part of a comprehensive scheme to use the prerogative of mercy to force political opponents to answer for their actions. Richard's use of the prerogative did not end here, however. Once the trials of Arundel and Warwick commenced in the first session of parliament,

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[179] *Adam Usk*, p. 25.

[180] *SR*, vol. 1, pp. 396-98; *RP*, vol. 2, p. 364; *RP*, vol. 3, p. 102; *SR*, vol. 2, pp. 20, 29-30.

[181] This still excluded certain individuals. *RP*, vol. 3, p 369 (77); *SR*, vol. 2, pp. 106-07. The names of the recipients are recorded on the supplementary patent rolls C 67/30, mm. 5-18, 20-34; C 67/31, mm. 1, 3, 5-11. The practice of issuing two forms of pardon followed the procedure instigated in 1377 (see above, pp. 82-90). A few had their pardons duplicated in the patent roll and pardon rolls, for instance Sir William Bagot: C 67/31, m. 13. A few were only entered into the patent roll and not the pardon roll, and at least five others received pardons which have not been enrolled, the chancellor being instructed to issue them under the great seal: C 81/570/11739, 11745; C 81/579/ 12649, 12693; C 81/ 581/ 12839.

[182] *RP*, vol. 2, pp. 364 (19), 365. *SR*, vol. 2, pp. 106-07. The general pardon of December 1414 was also conceded in return for a tax subsidy.

[183] *RP*, vol. 2, pp. 361-62. See Appendix 2.

the very definition of royal pardon and mercy came under intense scrutiny. Richard wanted to make clear to all that the pardons he had granted the Lords Appellant in 1388 had been extorted from him under duress, and could not, therefore, be allowed to stand. Conversely, Arundel and Warwick both defended themselves from the charges laid against them on the basis of these pardons. The exact definition of royal grace therefore came to play a crucial role at the forefront of national politics. What follows is an examination of the concept of pardoning articulated in the trials of Arundel and Warwick. It must be emphasised that, in using arguments surrounding the prerogative of mercy against the two lords, Richard was pursuing a course of action that he had, in fact, initiated in the first arrests of autumn 1397 and had consistently used against his political opponents thereafter.

The Trials of Arundel and Warwick

In essence, the key issue in the trials of Arundel and Warwick was the validity of the amnesties that Richard had granted them in 1388. Immediately after the Lords Appellant had been formally accused of treason, parliament took the step of revoking the 1388 pardon.[184] However, the Earl of Arundel challenged the fundamental legality of such an annulment, and based his entire defence on the argument that he could not be tried for misdeeds which the king had already pardoned.[185] He claimed that his pardons were still valid because they had been granted by the king within the last six years, when he was of full age and free to act as he wished. Richard himself countered this with the assertion that he had granted mercy provided that it was not to his prejudice. John of Gaunt, presiding over the trial as High Steward of England, introduced a different interpretation of the pardon by asking the Earl why, if he was innocent of treason, he had sought a pardon at all. To this Arundel is reported to have responded with the famous remark: 'To silence the tongues of my enemies, of whom you are one, and to be sure, when it comes to treason, you are in greater need of a pardon than I am.'[186] Arundel's defiant stance failed to sway his judges, and, convicted of treason, he was

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[184] *RP*, vol. 3, pp. 350-51. All the members of the 1386 commission except Gloucester, Arundel and Warwick, and the archbishop, were, however, immediately exempted from the revocation of the pardon. Tuck, *English Nobility*, p. 188.

[185] Given-Wilson, *Revolution*, pp. 58-59.

[186] Given-Wilson states that the descriptions of the trials of Arundel and Warwick, given by Adam Usk and by the Monk of Evesham, were probably based on a tract written by a clerk of the royal chancery present at the proceedings. Their accounts are confirmed by the Rolls of Parliament. Given-Wilson, *Revolution*, pp. 58-59; *Adam Usk*, pp. 28-35; *RP*, vol. 3, pp. 350-52. See also: C. Given-Wilson, 'Adam Usk, the monk of Evesham, and the parliament of 1397-8', *Historical Research* 66 (1993): 329-35.

taken to Tower Hill for execution. These proceedings serve to give some insight into the way in which the king's pardon was perceived to operate in later medieval England.

The legality of revoking a pardon was fundamental to Arundel's trial, but was also clearly part of a wider and persistent discourse on the nature of the prerogative of mercy and the king's use of it. The Earl's case rested on the fact that the pardons which Richard had granted him in 1388 and 1394 were still valid. To support this claim, he made the point that Richard had not been coerced into granting them, and in 1394 had been 'of full age and free to act as he wished.' Indeed, Arundel argued, he put no pressure on the king for a pardon, and knew nothing of it until the king gave it to him of his free will. The crown's case, on the other hand, relied on the standard get-out clause that any act which proved prejudicial to the monarch could be revoked. The same logic had been used in 1377 to justify the repeal of the acts of the Good Parliament.[187] The speaker of the Commons, Sir John Bussy, clearly thought that the assent of the Lords and the Commons had added an extra air of legality to the revocation of the pardon. Ultimately, however, by claiming that he had been forced into granting the pardon, Richard could revoke it on his own authority. This certainly demonstrates the extent to which a grant of pardon was dependent on the king's prerogative and good will, although the charges made against Richard at his deposition made it clear that misuse of this power would certainly provoke resentment.[188] Arundel's point about Richard's age at the time the pardons were granted, however, was hard to dispute. The Earl stressed that the king had attained his majority by the time he granted him a pardon in 1394. Richard had indeed declared himself of age five years before, on 3 May 1389. Interestingly, however, Richard had still technically been a minor during the Merciless parliament of 1388. At this assembly the Appellants had emphasised Richard's youth and the evil counsel which had led him astray. Yet they had still recognised his authority to grant them an amnesty for their actions.[189] It was clear that to some extent the Appellants wanted the best of both worlds: to claim that Richard's youth had lain him open to manipulation; but also to assert that he could grant them a pardon of his own free will. The age at which a monarch could exercise his prerogative powers was not

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[187] See above, pp. 82-90.

[188] The revocation of the pardon which the king issued to the Lords Appellant in 1388 is given in Given-Wilson, *Revolution*, pp. 173-74.

[189] *SR*, vol. 2, pp. 47-48; *Knighton's Chronicle*, pp. 504-05; *Westminster Chronicle*, pp. 296-306; *Adam Usk*, pp. 9-10. See also: Goodman, *Loyal Conspiracy*, pp. 36-41; J.L. Leland, 'Unpardonable Sinners', *Medieval Prosopography* 17 (1996): 181-95.

clearly defined. As a ten year old at his accession, Richard II had always exercised the power to grant mercy under the authority of the privy seal. However, when the infant Henry VI acceded to the throne the use of the prerogative of mercy fell into abeyance. Interestingly, one of Henry's first acts on coming of age was to issue a general pardon, at the request of the parliamentary Commons, suggesting perhaps that the ability to grant mercy was widely regarded as a power which rested on the decision of an adult monarch.[190] Since pardon was a royal prerogative, it was clearly important that it should be issued by the king himself, as a personal contract between recipient and monarch.

It is clear that the king's subjects valued their right to appeal to the monarch himself for mercy. The king could give a verdict informed by notions of equity and conscience which took into account the extenuating circumstances surrounding a particular case, in a way that the royal justices, acting within the bounds of the common law, could not. The possibility of obtaining grace was theoretically available to any of the king's subjects and this was clearly an important provision. A petition of a suspected Lollard to Henry VI, for example, expresses such a view in the request to sue to the king alone 'in your own solemn proper person without any other judge'.[191] In essence the appeal to the prerogative was seen to be fundamental to upholding the integrity of the law, and the development of procedures and channels of access to such hearings was a response to the basic requirement of government to provide effective justice. The idea of being able to petition the king (usually via the chancellor) for grace was integral to fourteenth-century notions of justice. Even when negative views were expressed about certain aspects of pardoning, they were predicated on an underlying notion of the value of the prerogative of mercy. A common petition of 1353 exemplifies this in putting forward the familiar complaint that known felons were receiving pardons, but adding the important proviso that the king's grace should always be open, as it had been previously, to those who deserved it.[192] Again, as already mentioned, in the wake of the Peasants' Revolt the parliamentary Commons maintained that the recently issued general pardon should be open to all, regardless of their ability to pay, and the king conceded to their request.[193] The popularity of such methods of appeal and much of the literary discourse on the issue testifies to the idea that decisions of grace gave the petitioner a chance to

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[190] On 27 March 1437. Storey, *House of Lancaster*, p. 213.

[191] Cited in: Watts, *Henry VI*, p. 79.

[192] *RP*, vol. 2, p. 253 (41). See also *SR*, vol. 1, p. 330.

[193] See above, p. 98.

seek redress for injustices committed in the royal courts. The persistence of local mitigation and the role of the men who served on trial juries in recommending mercy, makes it clear that discretion still played an active role at all levels of the legal process. Similarly the development of ideas of equity in the court of chancery shows that such ideas were thought to have a legitimate future in the royal judicial system.[194]

Returning to the proceedings against the Appellants in the Revenge Parliament of 1397, Gaunt's question to Arundel about why he had sought pardon if he was in fact innocent raises a further point about the understanding of the king's pardon: the issue of whether or not it necessarily implied guilt. In this period a pardon could be sued out before trial, and pleaded by the suspect on his arraignment before the justices.[195] If this was the case the recipient would not actually have been convicted before the king's courts. Indeed, an individual innocent of the charges against them might seek pardon in order to avoid relying on the justices to reach a favourable verdict, and to save themselves the considerable expenses that might be incurred during the trial procedure. It is clear, however, that high-profile grants of mercy often served to emphasise the guilt of the recipient, while at the same time reconciling them with government. The amnesty granted to the Ordainers by Edward II, discussed earlier in this chapter, was initially rejected by the earls, who reasoned that an acceptance would be tantamount to admitting that their actions had been illegal.[196] Examples of intended recipients rejecting pardon are rare, but it is clear that under these circumstances acceptance brought with it the implication of guilt. Gaunt clearly felt Arundel's acceptance of a pardon carried with it similar connotations.

Richard had clearly abused his power to pardon by using it as a tool of accusation and incrimination. However, in avoiding a repetition of the violence shown to the royal favourites in 1388, the king was able to show himself capable of mercy.[197] In the Earl of Warwick's case, in particular, Richard was able to exercise clemency because of the Earl's willingness to admit his guilt and throw himself on the king's mercy. Warwick's ostentatious display of contrition gave the king the opportunity to pardon the Earl with no loss of face. Throughout the whole series of measures Richard initiated against the Appellants and their supporters, from the first arrests and council

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[194] See above, Chapter Two, p. 27, n. 28.

[195] The ability to obtain pardon before arraignment was somewhat controversial, and was finally outlawed in the Tudor period. See above, Chapter Two, p. 20, n. 2.

[196] See above, pp. 71-72.

[197] Tuck, *English Nobility*, p. 190; Given-Wilson, *Revolution*, p. 17.

meetings of autumn 1397, to the trials of Warwick and Arundel, and the reissue of the general pardon in 1398, the king used the prerogative of mercy as a tool with which to manipulate his political opponents. He subverted the traditional uses of pardon, and proved that his grants of mercy were not to be relied upon.

However, it must be noted that throughout the fifteenth century these grants of royal mercy were once again used as symbolic acts of political reconciliation. On one level these acts of clemency can be seen as a pragmatic concession by the crown - an acknowledgement of its inability to enforce all the judicial penalties it prescribed.[198] But they can also be seen as an important representation of the crown's responsibility to reconcile its subjects to its authority. Despite Richard's misuse of the prerogative, the general pardon remained at the heart of the crown's judicial policy. As one of the important acts of individual and corporate mercy it became a trademark of English politics in the later Middle Ages.

The issue of pardoning and the role of royal mercy occupied a central position in English political culture. This role inevitably attracted a certain amount of discourse and debate, both, as has been seen, in the forum of parliament, but also in less official circles. In legal treatises such as *Bracton* and *Fleta*, the authority of the king's prerogative of mercy over the jurisdiction of the common law courts was a central question. On the one hand, legal theorists and members of the polity were anxious to limit the potential for a monarch to abuse such a prerogative by pardoning undeserving felons, as had been witnessed in Edward I's grants of military pardons. On the other hand, commentators praised the equitable justice dispensed by the monarch, and many acknowledged the right of his subjects to have access to such a process of appeal. This debate surrounding the use and abuse of the royal pardon, forms the subject of the next chapter.

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[198] Hurnard, *Homicide*, p. vii.

Chapter Four

Perceptions of Pardoning I: Misuse and Abuse?

Introduction

It is clear from the focus of the previous chapter that requests for, and grants of, royal mercy at moments of political crisis were intended to convey particular messages of reconciliation, of renewed royal authority, or of the guilt of certain parties, to the political community at large. Responses to such grants indicate that these inferences were widely recognised and that contemporary attitudes were in large part governed by the immediate political circumstances that surrounded them. Aside from these large-scale displays of mercy, however, the issue of pardoning and the role of royal mercy remained a persistent theme of discourse and debate. At the centre of such discussion was the authority of the king's prerogative of mercy over the jurisdiction of the common law courts. On the one hand, legal theorists and members of the polity were anxious to limit the potential for a monarch to abuse such a prerogative by pardoning undeserving felons. On the other, commentators praised the equitable justice dispensed by the monarch, and many acknowledged the right of his subjects to have access to such a process of appeal.

Whilst pardoning was discussed throughout the century in a range of different contexts, modern scholarship has concentrated on two distinct perceptions of pardoning in particular. On the one hand, the critical denunciations of military pardons presented before parliament in the mid-fourteenth century have been seized upon by several historians of late medieval law and order. For these scholars such complaints add credence to their overarching thesis of a deterioration in public order during this period, as the English crown sacrificed law and order at home in order to further dynastic ambitions abroad. The exploitation of the royal pardon was thus, in the view of Kaeuper, Hewitt and Harriss, another short-term expedient taken to channel resources into the war effort, and should accordingly be attributed a relatively minor role in the debate over public order in the later-fourteenth century 'war-state'.[1] Indeed, it has been classed as one of the truly short-sighted expedients of the English monarchy.[2] At the other extreme, literary critics working in a largely distinct field of scholarship have focused on the exaltation of pardoning expressed in those texts of the 'mirrors for

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[1] Kaeuper, *War, Justice and Public Order*; Hewitt, *The Organisation of War*; Harriss, *Public Finance*; Nicholson, *Edward III and the Scots.*

[2] Musson, 'Second "English Justinian"', pp. 69-88.

princes' tradition which laud mercy as an essential royal virtue. Studies by Ferster and Watts in particular have examined such statements in the light of other normative works on kingship and have elucidated the impact of advice literature on contemporary politics.[3] Both kinds of study have served to give the impression that contemporary perceptions of pardoning belonged to either one or other of these two extremes.

Not all expressed opinions on the subject can be so easily polarised. The purpose of this chapter and the one that follows is therefore to present a more subtle exposition of such perceptions in the context of the judicial and political developments which occurred throughout the fourteenth century. At the centre of such an analysis must be the fundamental contemporary concern with the king's position in relation to the law. This concern motivated efforts to define the whole body of royal prerogative rights, which inevitably prompted debate over whether pardoning should remain outside the parameters of the common law. At the same time, however, it was acknowledged that the king should continue to exercise discretion in certain cases. Indeed, by the end of the century courts of conscience had developed to formalise the process of an appeal to equity (in the sense of moral fairness) which had persisted in the royal judicial system, providing a defined and quick method of access to the king's discretionary justice. Within this context, it is important to recognise that while the use of military pardons for a time generated intense debate among the political community, preoccupation with this aspect of pardoning was relatively short-lived, and protest largely confined to the sixteen year period between 1337 and 1353. Discussion of the role of pardoning, however, had been initiated at least a century earlier, and was to endure throughout the fourteenth-century. At its core was the complex issue of the king's role in upholding the law.

Before the first military pardons were issued by Edward I in 1294, concern had already been raised over the status of pardoning and its position outside the parameters of the common law. This chapter and the one that follows therefore seek to examine these opinions. The former will examine the perceptions of those who highlighted the misuse and abuse of pardoning - both those who were forthright in their denunciation and those who took a less extreme stance - while the latter will examine the more

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[3] Ferster, *Fictions of Advice*; Watts, *Henry VI.*

positive image conveyed in the advice literature and in the evidence of the popularity and use made of opportunities to petition for the king's grace.[4]

Pardons and Public Order

The reaction to Richard II's misuse of the general pardon in 1398 demonstrated that the prerogative of mercy was constrained by certain public expectations.[5] Richard's attempt to use the pardon to accuse and incriminate political opponents by emphasising their exclusion from its protection was specifically denounced at his deposition in 1399. However, criticism of the use of pardoning was not exclusively reserved for such overtly political occasions. The surviving common petitions and parliamentary agenda of the fourteenth century indicate that certain features of pardoning repeatedly attracted the attention and comment of contemporaries. The call to regulate pardoning became a consistent feature of the Commons' reform programme, prompting several attempts at remedial legislation in the first decade of Edward III's reign and again towards the end of the 1370s.[6] One recurrent concern was the way in which the prerogative was being exercised without recourse to the due legal process, an area which will be examined later in the chapter.[7] Another persistent theme of criticism was the suspected link between the free availability of military pardons and the prevalence of disorder throughout the realm, and it is this issue alone that has long exercised historians of late medieval law and order.

Several historical studies have made much of the contemporary view that pardons were in effect being bought by notorious criminals, who would thus be encouraged to continue their former lifestyle in the expectation that another pardon would be available if they were ever indicted again. For Jusserand, writing in the mid-nineteenth century, these complaints demonstrated an early awareness of the corruption

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[4] In doing so, these chapters follow the 'new historicist' focus on the historical and cultural conditions of the production of a text. The literary text is thus 'situated' within the institutions and social practices that constitute the overall culture of a time and place, and with which the literary text interacts. See above, Chapter One, p. 5; Chapter Two, p. 25, n. 20.

[5] See above, Chapter Three, pp. 103-17.

[6] Ormrod, 'Agenda'; Plucknett, 'Parliament', pp. 232-33; H.L. Gray, *The Influence of the Commons on Early Legislation* (Cambridge, Mass., 1932); Ormrod, *Edward III*, p. 156; Verduyn, 'Attitude', pp. 2-3; M.C. Prestwich, 'Parliament and the Community of the Realm in Fourteenth Century England', in A. Cosgrove and J.I. McGuire (eds.), *Parliament and Community*, Historical Studies 14 (1983), pp. 13-14; G.L. Harriss, The Formation of Parliament, 1272-1377', in Davies and Denton (eds.), *The English Parliament in the Middle Ages*, p. 29; N.B. Lewis, 'Re-election to Parliament in the Reign of Richard II', *EHR* 48 (1933): 380-85.

[7] See below, pp. 127-33.

he saw as inherent in the granting of pardons. Medieval law and custom, he insisted, encouraged malefactors by granting them charters of pardon. The royal chancery willingly granted the charters to increase its revenue, and the Commons 'unweariedly renewed their complaints against these crying abuses.'[8] This policy, he maintained, had two results: the 'number of brigands increased by reason of their impunity', secondly men dared not bring the most formidable criminals to justice for fear of reprisals. The protests of the Commons were further undermined by the great lords who obtained charters for their own men on the premise that they were abroad, occupied in fighting for the monarch.[9]

In several more recent historical studies, the policy of issuing military pardons, inaugurated by Edward I in 1294, has been subsumed into a more general thesis on the later medieval 'crisis of order'. The contemporary perceptions of law and order, and the level of lawlessness revealed by legal and administrative records, have generated a considerable historiography.[10] Whatever the objective reality, widespread complaint centred on the threats of increasing violence in everyday life, as well as on the Crown's failure to maintain order and enforce law, on royal abuse of the king's pardon, and on the crown's inability to restrain the corrupting forces of 'bastard feudalism'. Accordingly, several historians have viewed pardons as a contributory factor in the deterioration of public order as the later fourteenth century moved from 'law state' to 'war state'.[11] Hewitt, for example, asserts that former outlaws returned from military campaigns with not only their pardons and resultant freedom of movement, but also the habits acquired by a 'rough but often exhilarating life in the chevauchée, unhampered by the restraints of "civil" life.'[12] In his view it is evident that such men could not be readily reintegrated into English society, and he sees the proof of this in frequent

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[8] J.J. Jusserand, *English Wayfaring Life in the Middle Ages*, 8th edn, (London, 1891), p. 166.

[9] Jusserand, *English Wayfaring Life*, p. 167.

[10] Kaeuper, *War, Justice and Public Order*, pp. 174-83; Hurnard, *Homicide*, pp. 311-26. Both have argued that the policy of pardoning felons and recruiting them into the army typifies the tensions between the pursuit of war and maintenance of law and order. Putnam, 'The Transformation of the Keepers of the Peace', pp. 19-48; Harriss, *King, Parliament*, pp. 354-55, 516-17. Others argue that such complaints were prompted by rising expectations and an expanding legal apparatus reaching a greater range of the populace than ever before: Musson and Ormrod, *Evolution*, pp. 161-193; Musson, *Public Order*; Verduyn, 'The Politics of Law and Order', pp. 842-67; Powell, 'Administration', pp. 49-59. See above, Chapter Three, p. 99, n. 134.

[11] Kaeuper, *War, Justice and Public Order*; Hewitt, *The Organisation of War*; Harriss, *Public Finance*; Nicholson, *Edward III and the Scots*.

[12] Hewitt, *The Organisation of War*, p. 173. Hewitt states that it seems probable that 2-12% of most armies of the period consisted of outlaws (Hewitt, *Organisation of War*, p. 30).

outbreaks of disorder, particularly by armed bands.[13] Kaeuper also sees these pardons as one instance of a shift from law to war.[14] For him the tension between the basic goals of the medieval state manifested itself in the royal policy towards pardons for felonies: before Edward I had introduced military pardons, royal mercy had served the interests of justice. Afterwards, it merely supplied criminals with an immunity which would allow them to undermine the legal process.[15]

Whether or not the broader 'law state verses war state' argument of these studies stands up to closer scrutiny, it is true to say that a survey of common petitions to parliament during the middle decades of Edward III's reign reveals a deep-seated concern with the volume of military pardons being issued to suspected criminals. Several studies have examined these petitions, and it is therefore unnecessary to give a similar chronological survey in this chapter.[16] It is important, however, to examine these views in the wider context of perceptions of pardoning that were expressed throughout the century as a whole. It is also pertinent to recognise that works of several different genres contributed to the discussion. In particular, one strand of literary material, labelled as 'protest literature' since the work of Thomas Wright in the nineteenth century, has long been studied for the perceptions on law and order it reveals. Again, it is not the intention of this chapter or the one that follows to rehearse these familiar

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[13] He cites instances such as the wounding of the king's bailiff in the fairs at Holderness and Wells (1347); the rescue of a criminal from the king's bailiff at Kingston-upon-Hull (1351); the attack on the justice at Eynsham (1350); the attacks on ships in the port of Bristol and Newcastle (1348, 1354); and the armed gangs in the fairs and markets of Gloucestershire (1348), *CPR, 1358-61*, p. 160, and in Cheshire (1360-1). Hewitt, *The Organisation of War*, p. 174; M. Prestwich, 'Gilbert de Middleton and the Attack on the Cardinals, 1317', in T. Reuter (ed.), *Warriors and Churchmen in the High Middle Ages: Essays presented to Karl Leyser* (London, 1992), pp. 179-94; E.L.G. Stones, 'The Folvilles of Ashby Folville, Leicestershire, and their associates in Crime', *TRHS*, 5th series, 7 (1957): 117-36; S.L. Waugh, 'The Profits of Violence: The Minor Gentry in the Rebellion of 1321-2 in Gloucestershire and Herefordshire', *Speculum* 52 (1977): 843-69.

[14] Kaeuper, *War, Justice and Public Order*, p. 126.

[15] The criticism that pardons supplied criminals with 'immunity' is widespread, but problematic. The charter would pardon the recipient past offences, and so might give him a second chance, to continue a life of crime, but not with immunity for future offences. If indicted again, the offender could not present the old pardon for these new offences. It was also the case that the pardon was meant to be 'proved' by the individual on their return from foreign campaign. This involved presenting the charter in court, to allow any aggrieved party the chance to bring an appeal. Only then would final peace be proclaimed. See above, Chapter Two, pp. 45, 61-62.

[16] For the most thorough account, see A. Verduyn, 'Attitude', pp. 6, 21, 44-47, 104-05, 132-33, 183-86.

findings.[17] However, several texts in this broad genre do have new insights to offer into perceptions of the king's mercy. Some of the more politically aware vernacular texts, the outlaw romances such as the *Tale of Gamelyn* and the ballads which drew on the Robin Hood tradition, the visionary-political discourse of *Piers Plowman* and the didactic drama and satire of the Wakefield master in the Towneley Corpus Christi play *The Killing of Abel,* express opinions on the use of the royal prerogative of mercy which have yet to be fully elucidated. Analysis of this material will therefore be presented in this chapter and in the one that follows.

Prior to the granting of pardons for military service in the 1290s, pardoning had already received a considerable amount of attention from the political community.[18] The king's *right* to exercise this prerogative of mercy had not been at issue, but rather the manner in which it should be exercised. The aim was to ensure that pardons were being issued only to worthy recipients, and that grants did not undermine the due process of the law. On the whole, it seems, in cases attended by mitigating circumstances, it was accepted that the defendant deserved pardon and should not be subject to the rigours of a law that could not discriminate between premeditated slaying and slaying in self-defence. The main concern was rather that pardons should not be used to excuse men who had committed acts of felony from the sentence they would rightly have received had their case had been put before the justices. Moreover, as T.A. Green has argued, the opinion of the local community was of paramount importance, and to be seen as just, pardons had to reflect the views of the local men serving on juries of presentment and on trial juries. Presenting juries, after all, determined which persons

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[17] General themes of corruption and maintenance within the legal system were a common trope of many politically aware texts. Poems such as *The Simonie* and *Winner and Waster* attacked the venality of the courts, as did outlaw romances such as the *Tale of Gamelyn* and the Robin Hood ballads. More specific injustices were depicted in the *Outlaw's Song of Trailbaston,* while *Piers Plowman* provided a far-reaching denunciation of judicial corruption. For discussion of such texts see the following: J.R. Maddicott, 'Poems of Social Protest in Early Fourteenth Century England', in W.M. Ormrod (ed.), *England in the Fourteenth Century: Proceedings of the 1985 Harlaxton Symposium* (Woodbridge, 1986), pp.130-44; P.R. Coss (ed.), *Thomas Wright's Political Songs* (Cambridge, 1996), pp. 224-30, 323-45; T. Wright (ed.), *Political Poems and Songs*, RS 14 (London, 1859-61); J. Coleman, *English Literature in History 1350-1400: Medieval Readers and Writers* (London, 1981), pp. 58-156; R.F. Green, *A Crisis of Truth, Literature and Law in Ricardian England* (Pennsylvania, 1999), pp. 198-205; Musson and Ormrod, *Evolution*, pp. 161-93; R.B. Dobson and J. Taylor, *Rymes of Robyn Hood: An Introduction to the English Outlaw* (London, 1976); W.W. Skeat (ed.), *The Tale of Gamelyn* (Oxford, 1884); R.W. Kaeuper; 'An Historian's Reading of The Tale of Gamelyn', *Medium Aevum* 52 (1983): 51-62; J. Scattergood, 'The Tale of Gamelyn: The Noble Robber as Provincial Hero', in C. Meale (ed.), *Readings in Medieval English Romance* (Cambridge, 1994), pp. 159-94; E.F. Shannon, 'Medieval Law in the Tale of Gamelyn', *Speculum* 26 (1951): 458-64; Baldwin, *Government, passim*; S. Knight and T. Ohlgren (eds.), *Robin Hood and Other Outlaw Tales* (Kalamazoo, 1997); R.B. Dobson and J. Taylor, *Rymes of Robyn Hood, An Introduction to the English Outlaw* (London, 1976).

[18] This is discussed in more detail below, pp. 127-33.

were 'publicly known' to be felons, while trial juries were able to exercise discretionary justice in certain cases, even to the extent of 'nullifying' the trial.[19] The concern of the local community to avoid granting pardons to criminals was perhaps heightened by a desire to avoid surrendering their powers of discretion to the competency of the royal prerogative. The protests surrounding military pardons therefore followed a long established tradition. Not all pardons issued in return for military service were given to proven criminals, but it would be reasonable to assume that a large number of felons were receiving charters under this policy.[20] It seems that the Common petitions to parliament on this subject reflected a longstanding concern about the consequences for law and order if pardons continued to be issued to those widely regarded as notorious felons. If people began to fear possible reprisals from pardoned criminals, the whole basis of the judicial system, reliant as it was on individuals coming forward to present indictments, would be undermined.[21]

Indeed, the seven petitions on the issue submitted between 1337 and 1353 all complained that felons were unjustly receiving pardons, and attempted to restrict the king's use of the prerogative to those cases in which mercy was deserved.[22] The 1337 petition tried to limit the king's power to pardon, by barring notorious offenders from

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[19] The jury could try to nullify the trial if they recognised that the act was proscribed by the law but did not believe that it should be; or if they thought that the act proved was properly classed as criminal, but did not deserve the punishment prescribed; or if the personal circumstances of the defendant excused them from the generally fair sanctions that the law proscribed. T.A. Green, *Verdict According to Conscience, Perspectives on the English Criminal Trial Jury, 1200-1800* (Chicago, 1985), pp. xvii-xix. See also A. Musson, 'Twelve Good Men and True? The Character of Early Fourteenth-Century Juries', *Law and History Review* 15 (1997): 115-44.

[20] See above, Chapter Two, pp. 49-51.

[21] Verduyn, 'Attitude', p. 45; SC 8/119/5913; SC 8/39/1937. In September 1333 the sheriff of Yorkshire was instructed to appoint 'discreet and lawful men of the county' to hold inquiries in the matter: *CCR, 1333-37*, pp. 173-74. *CCR, 1333-37*, p. 158. The king also ordered the justices to check that the service really had been performed before allowing the pardons. *CCR, 1333-37*, p. 158.

[22] Such petitions also formed part of a wider political agenda which the Commons began to develop towards peace-keeping. This subject has been comprehensively examined, most notably by Verduyn. Despite the infrequency of parliaments in the 1340s, the Commons managed to achieve a consistency of approach towards such issues and continued to pursue them in subsequent decades. They opposed the use of general commissions of trailbaston, of the itinerant king's bench and of the general eyre. In contrast, the peace commissions, working in tandem with the assize justices, were seen as less intrusive and were promoted as a viable alternative. It was only in 1368 that the Commons gained the commissions that truly accorded with measures they sought. Similarly, agreements to restrict the use of military pardons throughout the 1340s were in practice ignored, and measures seem to have been more successful in 1353 only because the government recognised the value of tackling the problem of desertion. See: Verduyn, 'Attitude', pp. 77, 193-203; Verduyn, 'The Politics of Law and Order', pp. 842-67; A.J. Verduyn, The Commons and the Early Justices of the Peace under Edward III', in P. Fleming, A. Gross and J.R. Lander (eds.), *Regionalism and Revision: The Crown and its Provinces in England, 1250-1650* (London, 1998).

being taken into royal service.[23] Petitions in 1339 and in 1346 attempted to prohibit the issuing of pardons after the king's departure abroad on campaign.[24] The others, presented in 1340, 1348, 1351 and 1353, all complained that although pardons should only be issued in accordance with the coronation oath, felons were continuing to receive them and then committing further crimes.[25] In all but one case, the king agreed that he did not wish to grant pardons against his coronation oath, but in practice continued to issue them at the same rate as before. The exception was the last petition in 1353, when the king and council took the opportunity to address the problem of desertion, decreeing that in future the charter would state the reason for the pardon and the name of the intercessor. The justices would have the power to inquire into the validity of the claims, and if they found the information to be untrue, the charter would be annulled.[26] There does seem to have been a genuine intent to enforce this measure, and no complaints were presented in 1354 and 1355, although if the renewed hostilities later in the decade provoked further complaint, the lack of surviving parliament rolls make it impossible to know.[27]

The effectiveness of such protest in upholding standards of public order has been assessed elsewhere, and it is not the intention of this chapter to provide a reappraisal of these findings.[28] What this work does seek to elucidate, for the first time, however, is the wide and diverse nature of the discourse on pardoning which continued throughout the late medieval period. In essence, petitions against military pardons were addressing the king's right to intervene in the legal process and pardon men widely regarded as criminals. In these particular complaints, the further point was made that such men were re-offending after their return from campaigns abroad, but at their core remained the sentiment that felons should not receive pardon. In articulating this, the

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[23] *RPHI*, pp. 268-69 (3).

[24] *RP*, vol. 2, p. 104 (10); *RP*, vol. 2, p. 161 (28).

[25] 1340: *SR*, vol. 1, p. 286; 1348: *RP*, vol. 2, p. 171 (53); 1351: *RP*, vol. 2, p. 229 (26); 1353: *RP*, vol. 2, p. 253 (41); *SR*, vol. 1, p. 330. The mention in such statutes of pardons given in accordance with the king's coronation oath had come to be used as a short-hand reference to mean those pardons issued in cases attended by mitigating circumstances, this point is explicitly made in the 1328 statute of Northampton, *SR*, vol. 1, p. 257.

[26] In the January parliament of 1340 the crown had ordered all those with charters of pardon to proceed towards the coast and join the array of troops or face being put to answer immediately on the points contained in their charters: *RP*, vol. 2, p. 108.

[27] One further petition in 1364 elicited the response that no pardon would be issued without the consent of the party grieved: *SR*, vol. 1, pp. 386-87.

[28] See note 10 above.

Commons were following a line of argument that had been consistently taken before the first military pardons were issued in 1294, and which they continued to pursue throughout the fourteenth century. The overriding issue was the need to reconcile the prerogative of pardon with the dictates of the common law.

Pardoning and the Common Law

The extent of the king's right to intervene in the legal process had already come in for close scrutiny by the beginning of the fourteenth century, and it was long to remain a contentious issue. In the second half of the thirteenth century legal treatises such as *Bracton* and *Fleta* had already stressed the need to reconcile the prerogative of pardon with the dictates of the common law. While the king's *right* to pardon was largely unchallenged, the *way* in which the prerogative was to be used certainly became the focus of extensive debate. For the pre-eminent legal and constitutional historians of the nineteenth and early twentieth century, such views represented admirable aspirations towards the ideals of legal objectivity and impartiality with which they identified. Holdsworth, Pollock and Maitland suggested that these concerns demonstrated an early awareness of the obstacle presented by the prerogative to the development of the common law, and the unreliability of this form of discretionary justice.[29] However, in their enthusiasm to criticise the prerogative of mercy, such historians went further than most medieval commentators. A careful examination of the views expressed by fourteenth-century legal theorists and political representatives suggests that concern was centred on the way in which the king could grant pardon before trial and thus override the legal process, rather than on the existence of the prerogative itself. At the same time, most saw the need for the king to retain discretionary powers, and recognised that the prerogative could play a legitimate role in moderating the severity of the law in certain cases. The analysis which follows therefore seeks to explore such views, free from the anachronistic perception of pardoning as representative of corruption and weakness in the royal judicial system.[30]

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[29] Pollock and Maitland, *History of English Law*; Stephen, *History of the Criminal Law*; Holdsworth, *History of English Law*. This view was later taken up by Hurnard, who condemns medieval pardons for nullifying the deterrent force of prospective punishment. Hurnard, *Homicide*, p. vii.

[30] Kesselring comments that modern eyes often have difficulty seeing pardons as anything but corrupt and counterproductive, influenced as they are by post-Enlightenment assumptions about the nature and uses of punishment. She notes that Hurnard obscured the role of pardons in medieval law and society by imposing twentieth century views of justice and punishment. Kesselring, *Mercy and* Authority, p. 17.

Concern was voiced, both in legal treatises and in parliamentary legislation, that the king's brand of discretionary justice did not exist harmoniously alongside the practice of common law, and at times even undermined it. Of these, the author of *Fleta* went the furthest. *Fleta* did not deny that homicide by misadventure and in self-defence might be dealt with by the grant of a pardon, but made it a matter of right rather than grace: 'Tenetur rex de iure quod suum fuerit perdonare.'[31] *Britton* also regarded acquittal as appropriate in cases of excusable homicide, though this emerges only in relation to appeals.[32] Most of the views expressed in fourteenth-century petitions and legislation, however, followed *Bracton* in focusing on the instances in which the king used the royal pardon to excuse criminals from punishment by intervening before a trial jury had been given the chance to reach a verdict. As early as the mid-thirteenth century, *Bracton* sought to imply that the king did not always strictly confine himself to pardoning excusable homicide. He thought this was unjust, even if the criminal had been outlawed at the king's own suit, and with the proviso of standing to right if appealed by the victim's kin.[33] The use of the pardon in cases attended by mitigating circumstances was often seen as a valuable safeguard, and might even be portrayed as part of the king's moral duty - the practical application of the promise sworn in the coronation oath to uphold justice in his realm.[34] However, it was less acceptable to issue pardons to the undeserving, and to do so outside the confines of the judicial system.

Bracton's concerns were echoed in the 1278 Statute of Gloucester, which stipulated for the first time that all defendants were to put themselves 'upon the country' and stand trial before receiving pardon.[35] It stated that no writ of inquiry into mitigating circumstances should be issued from Chancery before trial. Instead the defendant was to be held in prison until a trial could be held by the justices in eyre or gaol delivery. If they found that the defendant had killed accidentally or in self-defence the justices were to submit a report to the king, who would then take the defendant 'into his grace', if it pleased him to do so. By insisting on the process of the law, it seems that the intention behind the statute was to define the role of the king's pardon more precisely. Those

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[31] 'The king is bound, as of right, to pardon what belonged to him'. Richardson and Sayles (eds.), *Fleta*, vol. 2, p. 75. See Hurnard, *Homicide*, p. 275, n. 3.

[32] F. M. Nichols (ed.), *Britton* (Oxford, 1865), book 1, chp. 24.

[33] *Bracton*, ff. 132b, 133.

[34] See below, Chapter Five, pp. 167-72.

[35] *SR*, vol. 1, p. 49.

responsible for the statute were careful to stipulate that grace should only be granted after the accused had been acquitted by the jury, a measure which would reconcile the use of the prerogative with the authority of the judicial system.[36] However, it should not be construed from this that statute law was in some way being used to challenge the king's discretionary powers, or that common law procedure was in any sense distinct or removed from the king's will. Indeed, the whole body of Edwardian statutes issued between 1275 and 1290 were the product of royal inquiries into the running of the king's judicial and administrative system in the localities.[37] They were designed to deal with old difficulties and current grievances by clarifying or updating particular aspects of the common law. This was not a new and distinct set of laws, but rather a contribution to the continuing evolution of the body of common law. As such, there is no suggestion that any novel restraint could be imposed by statute on the king as a source of justice. The statutes reflected the thoughts of legal theorists and practitioners, but they were ultimately subordinate to the authority of the king's will in the same way as the rest of the common law. The clause of the 1278 Statute of Gloucester referred to above might have been a concession to widespread opinion on the point, but would not have been forced on an unwilling monarch, and in one sense it showed the crown taking the lead in defining the role of pardoning more precisely.[38] Yet it still acknowledged the continued role of the prerogative of mercy in the legal system.[39] *Fleta,* written twelve years later in 1290, continued to acknowledge the authority of the statute:

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[36] Hurnard suggests that one aim of the statute was to halt the pardoning of those who were still fugitives. If they sought pardon they were obliged to surrender and stand trial. It seems that fugitives were perceived to be at an unfair advantage so long as friends could request a special inquisition which, if favourable, would lead to pardon, and if adverse would leave them in no worse position than their present one, whereas those who surrendered and stood trial risked their lives. It was also decreed that appeals were not to be quashed without good cause, and that appellants were to be allowed a year within which to appeal. This may have extended to the pardoning of homicides that had been outlawed on appeal. The requirement that fugitives seeking pardon should appear in court would at least ensure that there was an opportunity for an appeal to be made. Hurnard, *Homicide*, pp. 281-82.

[37] The starting point of this legislation was the inquest of 1274, and parliament of Easter 1275. This prompted efforts to overhaul the local administration and explore the full extent to which tenants-in-chief and others had usurped liberties and abused their rights.

[38] Pardons were still occasionally granted on the verdict of a special inquisition after the passing of this statute, and the monarch did still pardon occasional fugitives and outlaws who had not yet surrendered to custody, eg: *CPR, 1272-81*, pp. 282, 308. Some pardons issued after the statute covered only the outlawry of the recipient and not the felony itself, with the intention that the holder would then submit to trial for the crime itself, eg. J.I. 1/739, m. 47. In 1279 Edward also ordered Yorkshire justices to acquit those killed by accident, J.I. 1/1060, m. 13d; *CCR, 1272-9*, p. 213; C 144/14, no. 41. It seems likely that while the king intended to bypass the statute on certain occasions, it was thought that the proclamation of the statute would indicate that the procedure was to be tightened and thus discourage claims for pardon outside the judicial channels. Hurnard, *Homicide*, p. 285.

[39] Powicke, *The Thirteenth Century,* pp. 371-80.

Inhibetur tamen ne breue exeat a curia ad inquirendum si quis alium interfecit per infortunium vel se defendendo vel alio modo quam per feloniam, set si talis in prisona existens, coram iusticiariis se ponat in patriam de bono et malo, et conuincatur per patriam quod id fecit per infortunium vel se defendendo, tunc remittatur gaole et cum regi super facti veritate cercioretur, graciose dispensabit cum tali, saluo iure cuiuslibet.[40]

The statute does not seem to have been forgotten, and fourteenth century reformers continually sought to revive its underlying principles.

This was the most important attempt at greater regulation under Edward I. There are, however, indications that some efforts were made by Chancery officials at stricter handling of evidence supplied as grounds for pardon. If there were inadequacies in the evidence given in the writ for pardon, or defects in the wording, a writ for a second inquisition could be sent out on the authority of the Chancellor. This process supported the due formality in the granting of pardons through Chancery, and followed in the spirit of the 1278 statute in defining the legal process of pardoning. However, in the same period similar writs were being sent out under the privy seal, which did not follow the same formula.[41] It might be supposed that such actions were thought to threaten efforts to regularise the procedure for pardoning.

Early in the next reign further moves were made to clarify the procedure for pardoning, in response to complaints put forward in 1309 and 1311. The emphasis was still on trial before pardon. The parliamentary Commons presented the so-called 'Stamford Articles' to parliament in 1309, in which they included the complaint that felons were finding it easy to secure royal pardons, and that those who had indicted them were fleeing to other districts in fear of reprisals.[42] In response, the king promised

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[40] 'Yet it is forbidden that a writ shall issue from the court to enquire whether a man slew another by mischance or while defending himself or in some way other than feloniously. But if such a one, lying in prison, submits to trial by jury for good or ill before the justices and it is found by the jury that he did the deed by mischance or while defending himself, then let him be sent back to gaol and, when the king is certified of the truth of the matter, he will deal graciously with him, saving the right of any other person.' Richardson and Sayles (eds.), *Fleta*, p. 61. The wording echoes those of the earlier Statute of Gloucester.

[41] The writs issued under the privy seal omitted the questions of whether the crime was felony and malice aforethought, and if so what sort of felony and malice. They also added a question about the killer's reputation. Hurnard, *Homicide*, p. 292.

[42] *RP*, vol. 1, p. 444 (9). This is the earliest extant Commons petition to address a matter of law and order. See Verduyn, 'Attitude', p. 6.

to issue pardons only in cases of excusable felony that had been recorded as such by his justices: 'Si hom tue autre par mesaventure, ou soy defendant, ou en deverie, et ce soit trove par Record de Justices.'[43] While the complaint might have been given renewed impetus by the use of military pardons since 1294, it followed a formula already propounded by commentators and members of the polity before the notorious military pardons had been introduced. The king's response confirmed this continuity by echoing the principles of trial before pardon set out before 1294. The persistence of such a sentiment was confirmed only two years later when the framers of the 1311 Ordinances again returned to the issue. They asserted that the people were aggrieved that the king, on evil advice, was giving his peace so lightly, *against the form of the law*, and therefore emboldening criminals to kill and rob others.[44] Instead they proposed that neither felon nor fugitive should be protected or defended from a charge of felony by the king's pardon, unless the case was one in which the king could give grace according to his oath, by process of law and the custom of the realm:

> nul felon ne futif ne soit covert ne defendu desormes de nul maner de felonie, par la chartre le Roi de sa pees a luy grantes, nen autre maner si non en cas ou le Roi poet faire grace solom son serment, e ceo par proces de ley, et la custume de Realme.[45]

The reference to the king's coronation oath was intended as a shorthand reference to the king's duty to pardon excusable felony.[46] A charter given for any other reason was to be

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[43] 'If a man kills another by misadventure, or in self-defence, or in delirium, and that be found by the record of the justices'. Hurnard comments that the king's reply stated that past custom would be followed in the matter. However, this link to past practice was not in fact made explicitly on this occasion. For Hurnard this ruling gave undeserved credit to earlier kings for confining pardons so strictly and was still optimistic as to the possibility of future restraint. Hurnard, *Homicide*, p. 323.

[44] *SR*, vol. 1, p. 164, c. 28.

[45] 'no felon nor fugitive be from henceforth protected or defended from any manner of felony, by the king's charter of his peace granted to him, unless in a case where the king can give grace according to his oath, and that by process of law and custom of the realm.'

[46] This interpretation was made clear in the 1328 Statute of Northampton, which repeated the stipulation that such a charter of pardon would not be granted unless the king could give it according to his oath, but went on to say that this was intended as a shorthand reference to the king's duty to pardon excusable felony: 'tiels chartres ne soient mes grantees fors qen cas ou le Roi le poet faire par son serment, cest assavoir en cas ou home tue autre soi defendant, ou par infortune'; 'that such charter shall not be granted, but only where the king may do it by his oath, that is to say, where a man slayeth another in his own defence, or by misfortune', *SR*, vol. 1, p. 257.

null and void. Again the statute sought to reconcile the use of the pardon with the process of the law and with past custom in order to curtail the unpredictable element of the king's discretionary justice.[47]

The same line was taken in the legislation of the first decade of Edward III's reign. Attempts were made in 1328, 1330, 1334 and 1336 to limit the granting of pardons to excusable felony, and to implement a clear legal procedure in such cases.[48] The 1330 statute also introduced the idea that the king had agreed to confine the issuing of pardons to sessions of parliament. This seems to be based on a misinterpretation of the earlier statute of Northampton, but was still present in the petition of 1334.[49] The 1336 statute also stipulated that sureties were to be found or charters of pardon would be null and void.[50] All those already in possession of pardons were to come before the sheriff and coroner in the county where the felony had been committed before 24 June, with mainpernors who would swear to their future good behaviour. In one case, at least, the statute seems to have been taken seriously: a soldier called John Gernoun had remained in service in Scotland from the time the statute was issued until beyond the deadline of 24 June. He was concerned that his pardon had lapsed and he petitioned the king for leniency. The king and council ordered that John's claim should be verified by Edward de Kendale, his commander in Scotland. Once this had been done, the sheriff of Hertfordshire was notified that Gernoun had been excused his surety until Whitsun next, and that the names of his guarantors were to be returned into chancery without their seals.[51]

Such measures did not explicitly include a call to restrict the use of military pardons. Rather, in their insistence on the record of a court and due process of the law,

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[47] Its terms were subsequently confirmed in 1331: *SR*, vol. 1, p. 264.

[48] *SR*, vol. 1, p. 257; *SR*, vol. 1, p. 264; *RPHI*, pp. 237 (18), 238 (19); *RP*, vol.2, p. 115; *SR*, vol. 1, p. 275.

[49] The authors of the petition seem to have believed that the 1328 Statute of Northampton had already confined the granting of pardons to sessions of parliament, but the statute in fact contains no such regulation, *SR*, vol. 1, pp. 257, 264.

[50] Within the following fifteen days the details of the mainprise were to be submitted to the chancery. If recipients failed to do so, or re-offended, their pardons became invalid. In future people had to find mainprise within three months of the issue of any pardon. See C 237 for bails on special pardons. These documents record the six sureties put forward by individuals receiving pardon, for their future good behaviour. These bails date back to 1294, although it was the 1336 statute which standardised the procedure. The bails of Edward I's reign are single membranes relating the finding of sureties in Chancery. After 1336 the documents usually appear as writs to the sheriff and coroners ordering them to see that such sureties were found in the county court, with their return either endorsed, or more usually, attached.

[51] SC 8/48/2379. However, increasingly pardons were issued with clauses allowing the obligation to find mainpernors to be ignored. Plucknett, 'Parliament', vol. 1, pp. 119-20.

the petitions and statutes seem more concerned to enforce trial before pardon, and to bring pardoning within the scope of the judicial system. At this stage, then, the legislation points to a desire to regularise the procedure for pardoning, and to limit its use to felony attended by mitigating circumstances, intimated in references to the king's coronation oath.

The petitions presented in the period 1337-1353 were more explicitly motivated by concern at the exploitation of pardoning to bolster the levels of recruitment into the king's army, as has been outlined above.[52] While their main aim was to curtail the use of military pardons, however, they continued to resort to a similar formula, requesting that henceforward pardons would only be issued in accordance with the coronation oath. However, the last of these petitions, presented in 1353, introduced a new approach: from then on, rather than attempting to limit the use of the prerogative, efforts were focused on preventing abuses by recipients and petitioners.

Abuse of Pardons by Recipients and Petitioners

This change of approach had already been alluded to in the statute of 1336, which sought to ensure the future good behaviour of recipients of pardon by requiring them to present sureties before the sheriff and coroner.[53] The statute of 1353 then sought to address head on the contentious issue of pardons granted at the intercession of influential patrons. These measures signalled a significant shift of emphasis: from now on attention would be focused on the abuse of pardoning by recipients and petitioners, rather than on the exploitation of the prerogative by the monarch himself. By employing an intercessor to plead their case before the king, a defendant could potentially bypass the judicial process.[54] For those seeking to regularise the process of pardoning, this method was worryingly susceptible to corruption. In the preamble to the statute itself, it was observed that the king had often granted charters of pardon 'per feintes et nient veritables suggestions de pluseurs gentz, dount pluseurs malx sont avenuz cea en

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[52] See above, pp. 120-23.

[53] Kesselring identifies the parliaments of 1328, 1330 and 1336 as assemblies which sought to limit the king's ability to pardon, after which, she comments, medieval parliaments did not try to impose any restriction on the king's power to pardon, but instead sought to prevent abuses by recipients and petitioners. Kesselring, *Mercy and Authority*, p. 20. In fact, attempts to restrict the use of the prerogative of mercy surfaced before 1328, and three further attempts were made after 1336, in 1337, 1340, 1390. However, it is true to say that by the end of the 1330s the Commons were shifting their focus to the administrative process of pardoning, and away from limiting the scope of the king's power to pardon.

[54] See Appendix 5.

arere'.[55] To counter this it introduced the requirement that every charter of pardon granted at the suggestion of an intercessor would record the name of the patron, and the reasons put forward to secure the pardon. The justices before whom such charters were presented were to enquire into these particulars and if they found them to be untrue they were to reject the charter. This would also address the problem of desertion, for the Commons claimed that the king had often granted his charter of pardon to well-known thieves and common murderers on the understanding that they would remain overseas in his wars, when in fact they quickly returned to continue their criminal activity without hindrance.[56] Such measures culminated in a far more comprehensive statute enacted in 1390.[57] It stated that in the parliament which had opened at Westminster on 17 January 1390, the Commons had requested that no pardons would in future be granted for felony at the instigation of powerful intercessors. Moreover, if anyone 'demanded' such a pardon of the king, they would be fined according to their social rank.[58] The king answered that although he would save his liberty and regality as his progenitors had done before, he would consent to certain points in order to promote peace within his realm. The resultant statute stipulated that the names of the suitors for pardon were to be endorsed on the bill and sent from the Chamberlain to the Keeper of the Privy Seal and then to Chancery. It also introduced a sliding scale of fines for those who procured a false pardon for another person.[59] By 1393 it was recognised that these fines were proving unworkable - the threat of heavy penalties had intimidated those genuinely in need of pardons and malicious indictments had been made in the

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[55] 'upon feigned and untrue suggestions of divers people, whereof much evil hath chanced in times past' *SR*, vol. 1, p. 330.

[56] *RP*, vol. 2, p. 253 (41).

[57] *SR*, vol. 2, pp. 68-69.

[58] *RP*, vol. 3, p. 268. Kesselring notes that Sir Edmund Coke claimed that this statute constituted an indirect attempt to restrict the king's ability to pardon. He said that the members of parliament thought that no king would openly pardon a murderer, E. Coke, *The Third Part of the Institutes of the Laws of England: concerning high treason, and other pleas of the crown* (London, 1797), p. 236. Kesselring thought that the text of the enactment suggested that they hoped only to prevent people from obtaining a pardon under false pretences: people sometimes misrepresented their offences or sought pardon for a lesser crime, knowing that the usual formula for pardons covered all felonies. Her statement is true as far as the enactment is concerned, but the text of the common petition on the parliament rolls shows that they had initially attempted to restrict the king's power to pardon. See also Green, *Verdict According to Conscience*, p. 33.

[59] The statute also sought to eradicate the use of all-inclusive pardons, which remitted a range of serious crimes. It was stated that in pardons of felony the crime should be specifically named in the charter. If a pardon for murder came before the justices without this record, they were to inquire, by inquest of the visne where the dead was slain, if he had been murdered by await, assault or malice prepensed. If this was found to be the case, the pardon was to be disallowed. This problem is alluded to in the outlaw ballad *Adam Bell*. See below, pp. 142-45, for further discussion.

knowledge that no man would risk suing out a pardon. Accordingly, this part of the statute was soon repealed.[60] However, in 1404 the remaining statute was extended, because of the complaints put forward against pardons procured for criminals who had turned king's evidence and become approvers.[61] According to the statute, those indicted of felony sometimes turned approver to safeguard their lives, and then sought to secure pardon through 'brokage, grants and gifts' to intermediaries. It was therefore enacted that any pardon granted to an approver must be endorsed with the name of the intercessor who procured it. This intermediary was then to be fined £100 if the recipient offended again.[62] Such initiatives suggest that it was not just the king who had the potential to exploit the prerogative of mercy. The system of pardoning could also be manipulated by certain of his subjects to suit their own ends.

The Forging of Pardons

Some abuses of the procedure were known to the king: the bribes offered to intermediaries mentioned in the statutes discussed above would not have been a surprise, and no doubt filtered through to the crown. Other instances of abuse, however, were more clandestine. The forging of pardons along with other royal charters, for example, while not common, did at times come to light. In 1301 it was revealed that a pardon for robbery had been obtained from a forger of the king's seal.[63] By 1305 another forgery had come to light, and some of those suspected of helping to fabricate

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[60] *SR*, vol. 2, p. 86. An archbishop or duke were to be fined £1000; a bishop or earl 1000 marks; an abbot, prior or baron 500 marks; and a clerk, bachelor or other of less estate 200 marks and one year's imprisonment. Kesselring points out that the wording of the statute has caused some confusion. It does seem to imply that these sums were to be paid every time a pardon was sought, but, as she points out, the provision of one year's imprisonment suggests they were intended as penalties (Kesselring, *Mercy and Authority*, p. 22, n. 21). In fact, it would seem that the confusion arose from the wording of the original Commons petition presented in parliament. The petition requested that no pardon would be granted for treason, murder or rape at the instance or request of anyone. If anyone did attempt to demand such a charter of the king they were to be fined on the same sliding scale that was included in the statute. Importantly the Commons' petition also contained the clause 'And if any of the aforsaid estates demand or cause to be demanded any charter of felony, or murder, and it is afterwards proven treason or murder, let them incur the aforsaid penalty, each according to his estate.' While the king had rejected such a restriction of his prerogative, he had kept the sliding scale of fines. However, without the explanatory clause of the Commons it is not clear from the statute that they are intended as punishment for a false petition.

[61] An approver was a prisoner who confessed to a felony and agreed to inform on his accomplices in order to delay or avoid altogether his own execution. See A. Musson, 'Turning King's Evidence: The Prosecution of Crime in Late Medieval England', *Oxford Journal of Legal Studies* 19 (1999): 467-79; F.C. Hamil, 'The King's Approvers', *Speculum* 11 (1936): 238-58.

[62] *SR*, vol. 2, p. 144. Kesselring thought that in 1401 a statute had reiterated that people might make suits for pardon without any fear of wrongdoing. However, this statute, *SR*, vol. 2, p. 130, was aimed specifically at those who were exempted from the pardon to the Appellants in 1388. *SR*, vol. 2, pp. 47-48.

[63] Hurnard, *Homicide*, p. 304.

and publish it were tried in the King's Bench. William of Truro had been arrested and kept in prison in York for suing out a 'certain false charter of pardon', in the name of another man. William declared that the charter had been handed to him by the man named in the pardon, one Thomas Trewyder of Fowey, and by John Pervet of Lostwithiel. The two men were summoned to appear before the king, but the sheriff reported that Thomas had been outlawed for the death recorded in the pardon, and could not be found (it was later revealed that he had fled 'to parts overseas'). John, however, surrendered himself to prison. At the hearing William said that the two men had handed him the charter so that he could carry it to the king's chancery, and once there he could sue out a writ of the king for 'proclaiming the peace' of Thomas. John then acknowledged that Thomas, his uncle, had told him that he had obtained the lord king's peace, and asked John to present the charter in the county court, and have it proclaimed. John had duly taken the pardon to the county court, but had been told by the sheriff that he would not validate it without the king's writ. John and his uncle had then gone to William, who was about to set out for Westminster on his own business, and handed the charter to him so that he would obtain a writ for them. As a result of John's testimony, William was freed. At a further hearing John reported that he heard Thomas say that a certain Stephen, goldsmith of Winchelsea, was present when the aforesaid charter was sued out and made, and had lent Thomas 18*s*. for the purpose. Stephen was duly summoned, but testified that he had never seen the charter before and had nothing to do with the case. He claimed that he was merely a business associate of Thomas – they were partners in a certain ship. He had, he acknowledged, lent Thomas the money in order to accomplish a certain business of his in the same ship, but not for the purpose of suing out any charter. He put himself on the country and was found innocent of any wrong-doing. Finally, in 1309 John was arraigned to answer the indictment. He also put himself on the country and was released after the jurors found him innocent.[64] While this seems to have been a particularly protracted and complex case, it is clear that the parties involved were aware that the forging of pardons was practised in some quarters, and knew that to be accused of such activity was a serious charge.

False pardons of this type were even alluded to in dramatic and literary works. The Wakefield master included such a reference in the Towneley Corpus Christi play

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[64] *SCCKB* 58, pp. 149-52.

The Killing of Abel.[65] The play includes a scene in which Cain purports to read out a proclamation of royal pardon excusing both himself and his servant from the murder of Abel. Despite its scriptural context, Cain's words are clearly intended to invoke the idea of a secular royal pardon: he refers to commands in the 'kyngys nayme' and asserts that 'The kyng wills that they be safe' (ll. 419, 429). It is interesting to note the personal form of address used to open the proclamation: 'the kyng wrytys you untill' (ll. 427), literally meaning 'the king writes to you'. Most proclamations were authorised by the privy seal, suggesting that they represented decrees of the monarch with the advice of his council. Some, however, were issued under the signet, perhaps because they contained urgent communiqué, and were thus sent off in haste by the king alone.[66] The writ of proclamation then usually conformed to a set formula: the opening salutation to the local official was followed by a preamble explaining the need for the decree, and then by the text of the proclamation itself.[67] It is doubtful whether the opening greeting or the preamble would usually be read aloud. It seems that in this scene Cain's reading of the opening address is included for dramatic purposes: he invokes the king's name in a bid to command the attention of his audience and instil in them a due sense of solemnity, as he battles against the constant interruptions of his servant, who echoes his speech in mocking asides.

Until this scene occurs, the play follows the sequence of events described in Genesis: Cain murders his brother but God refuses to allow the murderer himself to be killed in punishment for his crime.[68] God speaks to Cain, telling him that his brother's blood cries out for vengeance, and that he will deal out his punishment (ll. 350-5). But Cain interrupts (ll. 356-369), saying that since he cannot win God's mercy, and has been put out of God's grace, any man may kill him. This would perhaps have echoes, for a medieval audience, of the procedure for outlawry, in which the accused was expelled from the king's peace, and could lawfully be killed by royal officers. However, God tells him that he will not let this happen and puts a mark on Cain, to warn anyone who

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[65] Cawley (ed.), *Wakefield Pageants*. All references are to this edition unless otherwise stated. The Towneley cycle survives in a single manuscript dated to c. 1475-1500. Cawley suggests that performance of the pageants predated the text, but comments that before 1450 there is no firm demographic evidence to support the likelihood of the performance of a full cycle of biblical pageants at Wakefield. Cawley, *Wakefield Pageants*, pp. xiv-xvii. See B.A. Brockman, 'The Law of Man and the Peace of God: Judicial Process as Satiric Theme in the Wakefield Mactacio Abel', *Speculum* 49 (1974):699-707, for discussion of the themes of sanctuary and the king's peace.

[66] See, for example, *Foedera*, vol. 4, p. 30.

[67] See J.A. Doig, 'Political propaganda and royal proclamations in late medieval England', *Historical Research* 71 (1998): 255. For further discussion see below, Chapter Five, p. 182.

[68] *Genesis*, ch. 4, v. 8-16.

meets him that if he is killed, seven lives will be taken in revenge. This is the point at which the scriptural account ends, but in the pageant, the scene is extended to accommodate a dialogue between Cain and his servant on the murder of Abel. Cain reveals that he has killed his brother, and urges his servant to help him bury the body, at first with promises of pardon, but later, in increasing desperation, with threats of violence if he does not comply. He tries to persuade his servant that he has the power to proclaim a pardon for them both:

Cayn: A, syr, I cry you mercy! Seasse,
And I shall make you a release.
Garcio: what, wilt thou cry my peasse
Thrughout this land?
Cayn: Yey, that I gif God avow, belife.
(ll. 406-9)

The use here of the phrase 'Cry my peasse' echoes the phrasing of official royal documents. In a precise legal context the 'king's peace' was a term which referred to the state of order which should prevail throughout the realm. If an individual committed a felony they offended against the king's peace, and those individuals who were outlawed were put outside the king's peace: literally beyond the protection of the law. According to the formula of a letter patent of pardon, the recipient was actively taken back into the king's grace. The task of proclaiming pardon was performed by 'criers' (*criatores*), hence the reference here to 'cry my peasse'. According to legal theory as set down in *Glanvill,* criers were required to inform the parties openly and proclaim summonses to court in a public place.[69]

Cain's promise of royal mercy is followed by a proclamation of the pardon itself. Cain twists God's earlier decree that no one should murder him in punishment

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[69] Doig, 'Political propaganda and royal proclamations', p. 255. Doig notes that the royal messengers attached to the exchequer, the 'nuncii regis', were charged with the responsibility of delivering these writs to the counties. Although the number of permanent messengers was four or five, their ranks were swelled by a lesser class of messenger called 'cokini' or 'cursores'. On royal messengers, see: M.C. Hill, *The King's Messengers, 1199-1377: a contribution to the history of the royal household* (London, 1961), pp. 14-26; 141-42; M.C. Hill, 'The king's messengers in England, 1199-1377', *Medieval Prosopography* 17 (1996): 63-96; K.A. Fowler, 'News from the front: letters and despatches of the fourteenth century', in P. Contamine, C. Giry-Deloison, M.H. Keen (eds.), *Guerre et société en France, en Angleterre et en Bourgogne, XIVe-XVe siècle* (Lille, 1991), pp. 63-92; M.C. Hill, 'King's messengers and administrative developments in the thirteenth and fourteenth centuries', *HER* 61 (1946): 315-28. See also: Musson, *Medieval Law in Context,* p. 97; Clanchy, *From Memory to Written Record*, pp. 272-73. See above, Chapter Two, p. 45; Chapter Three, p. 69.

for his crime by suggesting that he has in fact been forgiven, and then formulates this divine edict into a royal proclamation of pardon for them both, declaring it to be the king's will that they both remain safe, and that no man find fault or blame with them. This proclamation is delivered in a style that would have been familiar to an audience accustomed to hearing such statutes and charters read aloud in public places by a sheriff or court crier. In the play, however, the authority of Cain's speech is undermined by the mocking interruptions of his servant:

Caym: I commund you in the kyngys nayme,
Garcio: And in my masteres, fals Cayme,
Caym: That no man at thame fynd fawt ne blame,
Garcio: Yey, cold rost is at my masteres hame.
Caym: Nowther with hym nor with his knafe,
Garcio: What! I hope my mastere rafe.
Caym: for thay ar trew full manyfold.
Garcio: My master suppys no coyle bot cold.
Caym: the kyng wrytys you untill.
Garcio: Yit ete I neuer half my fill.
Caym: The kyng wills that they be safe.
Garcio: Yey, a daght of drynke fayne wold I hayfe.
Caym: At thare awne will let tham wafe.
Garcio: My stomak is redy to receyfe.
Caym: Loke no man say to them, on nor other-
Garcio: This same is he that slo his brother.
Caym: Byd euery man thaym luf and lowt.
Garcio: Yey, ill-spon weft ay comes foule out.
Caym: Long or thou get thi hoyse and thou go thus aboute!
Bid euery man theym pleasse to pay.
(ll. 419-438)

The scene emphasises the public spectacle involved in the proclamation of a pardon: it seems likely, for instance, that at this point the actor playing Cain would produce a mock charter as a prop from which to read, to imitate those scenes of royal proclamations so familiar to his audience. It serves to demonstrate the regard in which the king's subjects held the charter as a physical object, and the real power it had to

avert the immediate threat of prosecution. The play also presents a satirical comment on the abuse of authority: Cain sets himself up as an alternative master and appropriates the king's pardon for his own ends and to buttress his own authority. As an intercessor for pardon on behalf of his servant, his confidence in his own ability to procure a charter perhaps hints at the contemporary anxiety over the bribery and influence exerted by patrons. Ultimately, however, the play reveals the corrupt and profane nature of Cain, and thus upholds the idea that the only true way to obtain a legitimate pardon is to petition the king himself.[70]

Such a sentiment also found expression in other politically conscious vernacular texts of the period.[71] In *Piers Plowman*, for example, Langland condemns Lady Meed's attempts to act as an intercessor and procure a pardon for Wrong through underhand means.[72] In the fourth passus of the B-text, she colludes with Wisdom and Wit (who appear to be Wrong's lawyers) in an attempt to extract a pardon from the king through persuasion and bribery, echoing the sentiment that the system of pardoning was open to abuse by those with access to powerful patrons or to officials with some knowledge of the workings of the law. This scene also conveys the idea that the king's grace should be dispensed with due consideration of the dictates of conscience and reason. Langland has Reason and Conscience present at court to hear Peace present a petition against the crimes of Wrong, personified as a king's purveyor. The charges against him, which amount to a list of those crimes classed as felony under the criminal law, include a whole host of crimes, including larceny, rape, murder and riding armed, as well as forcible entry, ravishment, forestalling, and maintenance. The king himself is therefore

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[70] The closing lines of the play remind the audience that Cain is eternally damned for the murder of his brother: 'And to the dwill be thrall, warld withoutten end/ Ordand ther is my stall, with Sathanas the feynd' (ll. 464-5). It is possible that the use of the proclamation scene in the drama may have been intended to invoke widely held feelings of contempt for the injustice the audience associated with pardoning, and to appeal to popular sentiment by mocking it. But the scene might also have been seen as a humorous way in which to emphasis the evil nature of Cain. The former view is consonant with the awareness of injustice and corruption elsewhere in other Towneley plays. See, for example, Mak's assumption of bogus royal authority in 'The Second Shepherd's Play', in much the same way as Cain in 'The Killing of Abel'. Mak pretends to the shepherds that he is a 'yeoman of the crown', by imitating a southern English accent, in order to deceive them and steal one of their sheep; Cawley, *Wakefield Pageants*, ll. 190-220. Again in 'The Conspiracy', the Wakefield author emphasises the corruption of the High Priests; Cawley, *Wakefield Pageants*, ll. 46-450. Cawley comments that it is likely that this characterisation of Annas and Caiaphas was influenced by the Wakefield author's dislike of the corrupt ecclesiastical lawyers of his own day; Cawley, *Wakefield Pageants*, p. 119; G.R. Owst, *Literature and Pulpit in Medieval England: A neglected chapter in the history of English Letters and of the English People*, 2nd edn (Oxford, 1961), p. 496.

[71] See above, n. 17.

[72] B-text, Passus IV, ll. 76-77. See G. Dodd, 'A Parliament Full of Rats? *Piers Plowman* and the Good Parliament of 1376', *Historical Research* 77 (2004): 1-29. See Appendix 5.

able to take up the prosecution when Peace drops his suit later in the passage.[73] From the outset the king is aware that Peace is telling the truth, and, sensing this, Wrong seeks the help of a powerful patron to intervene on his behalf. He procures the assistance of Worldly Wisdom, offering him a bribe to intercede for him and win the king's favour. Wisdom and Wit at first admonish Wrong, saying that people who act on impulse often provoke trouble, but they are still ultimately willing to accept his request. They depart from him with the warning that his life and lands will hang in the balance if Meed cannot prevail upon the king to be lenient: 'But if Mede it make, thi meschief is uppe;/ For bothe thi lif and thy lond lyth in his grace' (B-text, Passus IV, ll. 72-73). Wisdom tries to persuade the king to be pragmatic and recognise the potential financial benefits: if Wrong is willing to pay compensation, the king should let him have bail. His surety can pay out a ransom for him, and the whole affair will be settled to the benefit of all concerned.[74] This is perhaps intended as a warning by Langland against those who would take such a pragmatic attitude towards grants of royal pardon. While the king could benefit financially from making such letters freely available, in doing so he would compromise the standards of justice he had sworn to uphold. At this point Meed then interjects and begs the king to show mercy, offering Peace a gift of pure gold and promising on Wrong's behalf that he will never offend again. Won over by this, Peace himself reverses his earlier plea and petitions the king to have mercy on the defendant.[75] Meed's plan, however, is thwarted by the king, who rules that Wrong will not be released unless Reason takes pity on him, or Humility stands bail.[76] This is followed by Reason's impassioned speech, in which he attacks the abuse and corruption he sees among the clergy and king's courtiers. He concludes with the advice that if he were a king with a realm to protect, he would leave no wrong unpunished, nor would he let anyone win favour through gifts, or gain mercy through Meed. Only their meekness would sway him:

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[73] B-text, Passus IV, ll. 48-62; C-text, Passus IV, ll. 46-48, 52-54, 58-59, 63. Peace drops his suit in B-text, Passus IV, ll. 104-05.

[74] B-text, Passus IV, ll. 87-93.

[75] Peace is a pliable figure, ready to compromise rather than uphold strict justice, as later in B-text, passus XX, ll. 335, when he agrees to admit Flatterer into Unity. See Schmidt's note on this in Schmidt (ed.), *Vision of Piers Plowman*, p. 422. However he does try to resist when the friar is revealed as *Penetrans-domos* (ll. 340-48), but Hende-Speche intervenes and lets him in (ll. 349-50).

[76] The king listens to the voice of natural reason and rejects false counsel. C-text, passus IV, ll. 131-32, 136-37.

. . . I seye it by myself,' quod he, 'and it so were
That I were a kyng with coroune to kepen a reaume,
Sholde nevere Wrong in this world that I wite myghte
Ben unpunysshed in my power, for peril of my soule,
Ne gete my grace thorugh giftes, so me God save!
Ne for no mede have mercy, but meeknesse it made;
For '*Nullum malum* the man mette with *inpunitum*
And bad *Nullum bonum* be *irremuneratum*.'

(B-text, Passus IV, ll. 137-144)

His final words quote Innocent III's definition of a just judge, who leaves no evil man unpunished and no just man unrewarded, and advises the king that if he follows this principle, the law will serve the interests of justice and love shall rule the land. All the just men agree with him and even Wit praises Reason's speech. The king gives his verdict in favour of Reason and swears that he will be counselled by Conscience and Reason in all things. Reason extols the uncompromising principle of retributive justice, although Conscience recognises this as an ideal rather than a workable reality:

Quod Conscience to the Kyng, 'But the commune wole assente,
It is ful hard, by myn heed, herto to brynge it,
[And] alle youre liege leodes to lede thus evene.

(B-text, Passus IV, ll. 182-4).[77]

Despite Langland's scepticism regarding the role of influential patrons, he sets his denunciation in the context of a more general condemnation of the corruptible processes of the law (B-text, Passus IV, ll. 27-41). His solution in this instance is for the king himself to pass judgement, albeit with the counsel of Reason and Conscience, rather than leaving the case to be heard in the royal courts.[78]

It was not only overtly corrupt characters such as Cain or Lady Meed who were shown to be ready to attempt to deceive the king, and bend the pardoning procedure to their own purposes. The outlaw heroes in the ballad *Adam Bell, Clym of the Clough and William Cloudesley* use their knowledge of pardoning to try and beguile the king

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[77] For further discussion of the literary and theological background to figures such as Reason and Conscience, see below, Chapter Five, pp. 164-65.

[78] B-text, passus IV, ll. 188-195; Baldwin, *Government*, pp. 45-50.

into granting them grace, before he discovers the true extent of their crimes, knowing that a pardon framed in general terms will cover any other offences they may have committed.[79] The protagonists evade capture for the crimes they commit in rescuing one of their number from the gallows, and seek a pardon from the king. However, they neglect to mention their most recent offences, and merely ask forgiveness for poaching in the king's forest:

> And whan they came before our kynge,
> As it was the lawe of the lande,
> They kneled downe without lettynge,
> And eche helde up his hande.
> They sayd, "Lord, we beseche you here,
> That ye wyll graunte us grace;
> For we have slayne your fatte falowe dere,
> In many a sondry place."
> (Fitt. III, ll. 464-471) [80]

The outlaws are clearly aware of the procedure for pardoning, and presumably know that if they are able to secure a charter written in general terms, it will also cover any other crimes they might have committed.[81] Despite certain misgivings, the king is swayed by the entreaty of the queen, who intercedes on their behalf, and he accedes to

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[79] For the text see: Knight and Ohlgren (eds.), *Robin Hood,* pp. 235-67. All references to *Adam Bell* are to Knight and Ohlgren (eds.), *Robin Hood,* unless otherwise stated. The earliest full version survives in Copeland's text of the mid-sixteenth century, although two earlier fragments also exist, one from 1536 and one from slightly earlier. However, references to the names of the outlaw protagonists were made in a parliament roll of 1432, suggesting that the tale was well known at this time, see Knight and Ohlgren (eds.), *Robin Hood,* p. 235. Dobson and Taylor suggest *Adam Bell* emerged at the same time as the earliest extant Robin Hood tales. Dobson and Taylor, *Rymes of Robyn Hood,* p. 259. For further discussion, see: F.J. Child (ed.), *English and Scottish Popular Ballads* (New York, 1965), 3: 14-22; D. Gray, 'The Robin Hood Ballads', *Poetica* 18 (1984): 1-39; E.J. Hobsbawn, *Bandits,* 2nd edn (London, 1985); J.C. Holt, *Robin Hood,* 2nd edn (London, 1989); T. Wright, 'On the Popular Cycle of the Robin Hood Ballads', in T. Wright (ed.), *Essays on Subjects connected with the Literature, Popular Superstition, and History of England in the Middle Ages* (London, 1846), pp. 164-211.

[80] The forest is specifically named as 'Englyshe-wood' or Iglewood, outside Carlisle (Fitt I, l. 16). For further discussion of the performance of pardon, see below, Chapter Five, pp. 180-82.

[81] See above, pp. 134, n. 58.

their request (Fitt. III, ll. 496-499).[82] However, messengers soon arrive from the north to inform the king that the same men are responsible for atrocities recently committed in the city of Carlisle. They not only used a forged letter under the king's seal to gain entry to the city and rescue a condemned man from the gallows; but also slew three hundred of the king's subjects, including his justice and sheriff, in the fighting which ensued.[83] The king realises the outlaws have tried to dupe him into pardoning them, and is furious at being deceived.[84] He summons his archers to assemble for target practice before setting out to arrest the wanted men. However, William appears and mocks their ability, dazzling them all with a display of his own skill. This culminates with William shooting

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[82] The king at first suspects the outlaws to be the notorious thieves of whom he has heard rumours, and declares that they will be hanged. However, the queen intercedes and begs him to show mercy, claiming that since she has asked nothing of her husband in the past, he is now obliged to grant her this request. The king is surprised at her entreaty, saying that she might have asked for towers and towns, or parks and forests, but the queen persists and assures him that the outlaws will be true men from now on. The king duly gives his consent, but soon comes to regret his decision, and is furious at letting himself be persuaded when his initial suspicions are confirmed. It is interesting that in this instance the queen intercedes on behalf of the outlaws without any apparent appeal from them. In a parallel scene from *Melibee*, for instance, the criminals seek an audience with Dame Prudence, and impress upon her their contrition, in order to persuade her to act for them (ll. 1773-5). Here, the queen seems to be acting purely in the interests of mercy, without regard for the circumstances of the crime or the contrition of the criminals. For further discussion, see above, Chapter Two, p. 40, n. 70; below, Chapter Five, p. 162, n. 56.

[83] The king reads of the atrocities in the letter given to him by messengers from the north in Fitt, III, ll. 530-59. These deeds have already been described to the audience earlier in the ballad, in Fitt. II, ll. 213-60; Fitt. II, ll. 310-21; Fitt. II, ll. 322-75. The use of the forged letter reveals the outlaws' awareness of the procedures for the transmission of the king's orders, and of the authority with which a document bearing the royal seal was imbued. The extent to which legal knowledge permeated all classes has been examined in several studies: Neville, 'Common Knowledge of the Common Law'; A. Musson, 'Social Exclusivity or Justice for all? Access to Justice in Fourteenth-Century England', in R. Horrox and S. Rees-Jones (eds.), *Pragmatic Utopias: Ideals and Communities*, 1200-1630 (Cambridge, 2001), pp. 136-55; P. Hyams, 'What did Edwardian Villagers understand by the Law?' in Z. Razi and R.M. Smith (eds.), *Medieval Society and the Manor Court* (Oxford, 1996), pp. 78-79. For discussion of the use and significance of written documents, see: Clanchy, *From Memory to Written Record.* It is also significant that the gate-keeper, a man responsible for town security, is easily duped by the outlaws. Local officer-holders were often the subject of ridicule in satirical literature, and here again an officer entrusted with upholding law and order is unwittingly helping to undermine it. See *Tale of Gamelyn* and *Outlaws Song of Trailbaston* in particular. The latter even names specific officers: Henry de Spirgurnel and Roger Belflour, who were members of the south-western trailbaston circuit in 1305-7. As justices on trailbaston commissions, however, these men were above the rank and file of the office-holding gentry. See Dobson and Taylor, *Rymes of Robyn Hood,* pp. 250-55; Knight and Ohlgren (eds.), *Robin Hood*, pp. 184-226; I.S.T. Aspin (ed.), *Anglo-Norman Political Songs*, Anglo-Norman Text Society 11 (Oxford, 1953); P. Coss (ed.), *Thomas Wright's political songs of England : from the reign of John to that of Edward II* (Cambridge, 1996).

[84] The king is also beguiled into granting pardon in *Robin Hood and the Monk.* At first he is angered at being tricked by Little John, but this time he quickly relents and renews his pardon to John and to Robin, praising John's loyal service to his master and highlighting the debt Robin now owes John: 'I gaf theym grith [pardon],' then seid oure Kyng;/ 'I say, so mot I the/ Fforsothe soch a yeman as he is on/ In all Inglond ar not thre./ ...'Robyn Hode is ever bond to hym,/ Bothe in strete and stalle/ Speke no more of this mater,' seid oure Kyng,/ 'But John has begyled us alle.' ll. 343-346, 351-354. See also J.C. Holt, *Robin Hood* (London, 1983), pp. 28-30. For further discussion of pardoning in Robin Hood, see below Chapter Five, pp. 159-67.

an arrow through an apple balanced on his son's head; a scene made familiar by the William Tell legend.[85] The king is won over by this feat and the tale ends in traditional fashion, with the monarch standing by his original grant of pardon and appointing William to high office, as happens in the *Tale of Gamelyn*, and the *Gest of Robyn Hode*, and is implicit in *Robin Hood and the Monk*.[86] Seen from one perspective, the king's issue of a pardon to guilty men on the basis of their physical prowess alone is itself clearly an abuse of his prerogative powers. However, none of the tales make this point; instead the pardon is justified on the grounds that the outlaws have been fighting injustice and display honour and loyalty within the outlaw band. From the opening lines of the ballad, the outlaws are portrayed sympathetically: the whole sequence of events is set in motion by William's desire to see his wife and three children, who live within the city walls, despite the dangerous position in which this would place him. After his presence is revealed to the justice and sheriff, he puts up a valiant fight, and ensures that his wife and children are safe, before finally being overpowered. The essentially moral and pious character of the men is also emphasised in their final resolve to go to Rome to be absolved of their sins, before returning to take up their offices and live out their lives in the service of the king.[87] The king implicitly recognises the essential justice of their cause. Their violence has been targeted against corrupt clerics or officers of the crown who get no more than they deserve, and by pardoning the outlaws the king receives them back into his peace, quelling the threat that their violent deeds present to the

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[85] See Child (ed.), *Popular Ballads*, vol. 3, pp. 16-21. Dobson and Taylor suggest that the compiler of *Adam Bell* was merely adapting to his own purposes one of the most popular stories of north European literature, a legend already long drained of any genuine mythological content. Dobson and Taylor, *Rymes of Robyn Hood*, p. 260, n. 3.

[86] William is made chief ranger of the north, and the Queen also grants him a wage and appoints him a gentleman. His brethren are appointed yeomen of the chamber, and his wife and son are granted places in the royal household. In the *Gest of Robyn Hode*, King Edward, disguised as a monk, infiltrates the outlaw camp, and witnesses a display of their archery skills. Seeing their prowess, he abandons his intention to arrest them and grants them pardon and high office. For the text of the *Gest*, see: Knight and Ohlgren (eds.), *Robin Hood*, Fitt. 7, ll. 1645-64; For *Robin Hood and the Monk*, see: Knight and Ohlgren (eds.), *Robin Hood*, ll. 339-42. *Robin Hood and the Monk* is an early example - the oldest surviving manuscript dates from some time after 1450, but Knight and Ohlgren suggest it can be related to Langland's reference to the tales of Robin Hood, made in the 1370s. They date the *Gest* to c. 1450, and the earliest fragment survives from a text of 1530. For further discussion, see: Dobson and Taylor, *Rymes of Robyn Hood*, pp. 109, 122, 71-79, 113-115; Child, (ed.), *Popular Ballads*, pp. 94-96. Again in the *Tale of Gamelyn* it is the outlaw's physical strength and aptitude for violence which ultimately wins the king's grace and appointment to high office in the very legal system he has hitherto undermined. Knight and Ohlgren date the tale to c. 1350-1370. Knight and Ohlgren (eds.), *Robin Hood*, pp. 184-226; Skeat (ed.), *The Tale of Gamelyn*, p. 33, ll. 887-94; Kaeuper; 'An Historian's Reading of The Tale of Gamelyn', pp. 51-62; Scattergood, 'The Tale of Gamelyn', pp. 167-68; Shannon, 'Medieval Law in the Tale of Gamelyn', pp. 458-64. For further discussion of the monarch's role in these outlaw romances, see below, Chapter Five, pp. 159-67.

[87] The pious character of Robin Hood is often emphasised, most notably in the *Gest*, Fitt. I, ll. 29-40.

maintenance of law and order, and emphasising the active role of the monarchy in bringing about reconciliation and guaranteeing the rights of its subjects.[88] This ending also provides an escapist notion of the idealised justice which only the monarch can bestow, an idea which will be explored further in the subsequent chapter.[89]

These ballads go some way to demonstrating the extent to which the law of the realm was regarded as personal to the king. As the supreme lawgiver, he played an active role at the head of the judicial system, and the king's subjects valued their right to appeal directly to him for judgement. The value of the genre of outlaw ballads for a study of political culture, then, lies in its ability to convey idealised concepts of royal mercy, and its place in medieval society. While the person of the monarch was, by the later fourteenth century, largely removed from the day-to-day procedures of the royal courts, the ballads serve as a reminder that certain sections of society, at least, still closely associated the monarch with the judicial system that operated in his name. Indeed, while some legal historians have been at pains to emphasise the development and codification of the common law in this period, it must be remembered that this did not preclude royal intervention in judicial matters altogether.[90] In responding to requests for royal arbitration, in answering petitions for grace, and in actively seeking to intervene in particular cases, the monarch usually exercised some practical influence over the legal system.[91] The extant evidence of royal arbitration and petitions for grace, as well as the outlaw ballads discussed above, suggests, however, that the king's subjects still conceived of a particular brand of justice dispensed by the monarch himself. Moreover, this perception is echoed in texts from a diverse range of genres: the visionary-political discourse of *Piers Plowman* expresses a profound sense of disappointment in the inability of the late medieval English legal system to rectify the injustices of the times, but places its emphasis on the person of the monarch as the means to overcome the corruption inherent in the judicial process: so too, the didactic drama and satire of the Wakefield master, in the Towneley Corpus Christi play *The*

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[88] Ormrod and Musson, *Evolution*, p. 170.

[89] See above, Chapter Five, pp. 159-67.

[90] With the notable exceptions being: Musson, *Medieval Law in Context*, pp. 218-64; Watts, *Henry VI.*

[91] See, for example, *Year Books of the Reign of Edward the Third*, vol. 3, pp. 196-97; KB 145/1/18; JUST 1/425, mm. 12d., 13, 21d, 22; SC 1/39/27; SC 1/55/86; *Calendar of Letter Books of the City of London*, G, 2, 23. The king's bench acknowledged the personal influence of the king in its proceedings: *SCCKB* 7, vol. 3, pp. cxxxiii-iv. For royal arbitration, see: Powell, 'Arbitration', pp. 49-67; Powell, 'Settlement of disputes by arbitration', pp. 21-43; Rawcliffe, 'English Noblemen and their Advisers', pp. 157-77; Rawcliffe, 'Parliament and the Settlement of Disputes', pp. 316-42.

Killing of Abel, brings into focus the resonance which proclamations of royal pardon commanded in medieval society. The precise use of legal vocabulary here serves as a reminder of the prevalence of the king's justice.

Royal Intervention in the Legal System

The royal prerogative rights were perceived to be an integral part of the judicial system.[92] To most people, the common law and the prerogative powers were both aspects of the king's law, dispensed in the royal courts.[93] Even for lawyers well versed in the evolving common law procedures, the king's pardon was a necessary safeguard. Some attempts were made to ensure that individuals stood trial before receiving pardon, but as the century progressed, efforts became focused on eliminating abuse of pardoning, by both the monarch in his use of military pardons, or by petitioners for mercy who sought to gain pardon through unofficial channels. The monarch's ability to bypass the legal system and to use the privy seal to issue orders on his own authority became a cause for concern when he was thought to be abusing this power. Texts such as *Mum and the Sothsegger* and *Richard the Redeless* challenged Richard II's abuse of his prerogative powers, exemplified in his controversial policy of retaining and in the pervasive influence of maintenance in the judicial system. Such literature reinforced the message of *Piers Plowman* that those in judicial office must maintain high standards in administering the law.[94] Abuse of other prerogative powers, such as rights to purveyance, to feudal aids, and to the profits of judicial fines, were also subjects of parliamentary debate.[95] While the legality of the king's right to exercise them was

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[92] Hale was concerned to emphasise that 'the Common Law includes *Lex Prerogativa* as 'tis applied with certain Rules to that great Business of the King's Prerogative'. See: *Prerogatives of the King*, Selden Society 92, p. xxxviii, n. 1. See also: W. Staundeforde, *An Exposicion of the King's Prerogative* (London, 1568); T. Smith, *De Republica Anglorum*, ed. M. Dewar (Cambridge, 1982), p. 85.

[93] As has been indicated previously, the pardoning prerogative occupied a unique position in the law. It was a power invoked by the monarch, to intervene in criminal law proceedings. However, almost all pardons contained the clause that the injured parties, or the family of the victim in homicide cases, could bring a private appeal against the defendant. While these were criminal cases, private appeal, a more usual feature of civil law, could be brought. As will be seen in the following chapter, concepts of pardoning were also influenced by ideas deriving from canon law, and even from customary law.

[94] 'Richard the Redeless', passus II, ll. 81-90, in H. Barr (ed.), *The Piers Plowman Tradition: A critical edition of Pierce the Plowman's Crede, Richard the Redeless, Mum and the Sothsegger and The Crowned King* (London, 1993), p. 111. Discussed by J.A. Yunck, *The Lineage of Lady Meed: The Development of Medieval Venality Satire* (Notre Dame, IN, 1963), pp. 271-72. Barr suggests that *Richard the Redeless* was written shortly after the deposition of Richard II, as an 'advice to princes' poem which uses a review of Richard's misrule to warn future rulers against making the same mistakes. *Mum* was written later than *Richard* and discusses events of the first decade of Henry IV's reign. Barr (ed.), *Piers Plowman Tradition*, pp. 16, 22.

[95] See above, Chapter Three, pp. 74-81.

unchallengeable, the manner in which he did so was a cause for concern, and increasingly became associated with an intrusive form of central government control.[96]

However, despite the abuse of pardoning by both the king and petitioners, when individuals came up against a problem with the legal process, many wanted a quick method of appeal to the equitable justice of the king. In criminal matters, this was achieved through a petition for pardon, dealt with by the king himself, or by his officers in chancery. In civil matters, appeal was increasingly being made to one of the emerging courts of conscience. In both civil and criminal appeals to the king's prerogative, however, the guiding principle was that of conscience. In criminal matters, the king could provide a moral judgement in cases for which there was no provision at law. In civil matters, the monarch, and increasingly the court of chancery, could preside over cases which involved offences against conscience, and give a verdict according to the prerogative powers of the crown. Indeed, the idea that decisions of conscience and equity liberated the petitioner from the corrupt bureaucracy of the legal system seems to have become a prevailing view in the literary discourse surrounding the issue. It is this perception that will be explored further in the next chapter.

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[96] By the later years of Edward II's reign a reform agenda addressing such matters was clearly developing. T.F.T. Plucknett saw in the legislation produced during these years a particular focus on constitutional matters and on the prerogative rights. As far as the latter was concerned, two reforms were particularly urgent: those touching purveyance and the prerogative of pardon (Plucknett, 'Parliament', p. 230). The statute of 1327, for example, tackled the keeping of gaols and false presentments, while the 1330 statute attempted to regulate purveyance, maintenance and the granting of royal pardons. Given the evidence of surviving petitions and the reactive nature of legislation, these issues seem to have been matters of long-standing concern. See also: Ormrod, 'Agenda', p. 12. Agreements were made on the part of the crown to remit its right to collect all outstanding judicial and feudal debts in 1316, 1327, 1328 and 1340. After a lull throughout the 1340s, acceded to again in 1357 and 1362. See above, Chapter Two, pp. 51-52, and Appendix 3.

Chapter Five

Perception of Pardoning II: Mercy as a Virtue?

I. Introduction

The king's position in relation to the law came in for considerable scrutiny during the fourteenth century. The Commons sought to prohibit any exploitation of the prerogative of mercy by the crown, although petitioners themselves were not always averse to obtaining a pardon through less than official channels when they were in need of one.[1] However, in their preoccupation with this abuse of pardoning, historians have overlooked the continuing support for, and use of, discretionary mercy at all levels of the judicial system. Those scholars who have noted the continued vitality of this form of mitigation have struggled to find an explanation.[2] For some, the persistence of pardoning was simply testament to the inefficiencies of past legal systems. Hurnard accordingly condemned the use of pardons for 'its complete disregard of the need to maintain the deterrent force of prospective punishment'.[3] Literary scholars have paid some attention to the positive image of mercy conveyed in well-known works of advice such as *Confessio Amantis* or the *Tale of Melibee*; in outlaw romances such as the *Tale of Gamelyn*; in the visionary-political discourse of *Piers Plowman;* and in the didactic drama of plays such as *The Castle of Perseverance*, but such ideas are yet to inform empirical research on historical sources.[4] This chapter therefore seeks to draw together material traditionally separated by the disciplinary boundaries between Historical and Literary scholarship, in order to give a more nuanced appraisal of prevalent concepts of

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[1] See above, Chapter Four, pp. 133-46.

[2] See above, Chapter Four, pp. 121-27.

[3] Hurnard, *Homicide,* p. vii.

[4] Ferster, *Fictions of Advice*; Watts, *Henry VI;* Green, *A Crisis of Truth*; Stokes, *Justice and Mercy*; L. Patterson, *Chaucer and the Subject of History* (London, 1991); A.J. Minnis, *Chaucer and Pagan Antiquity* (Cambridge, 1982); E. Porter, 'Chaucer's knight, the alliterative Morte Arthure, and the medieval laws of war: a reconsideration', *Nottingham Mediaeval Studies* 27 (1983): 56-78; H. Phillips and N. Havely (eds.), *Chaucer's Dream Poetry* (New York, 1997), pp. 294-300; D. Gray, 'Chaucer and Pity', in M. Salu and R.T. Farrell (eds.), *J.R.R. Tolkien, Scholar and Storyteller: Essays in Memoriam* (London, 1979); McCune, 'The Ideology of Mercy'. (All references to the works of Chaucer are to Benson (ed.), *Riverside Chaucer*, unless otherwise stated); M. Eccles (ed.), *The Macro Plays: The Castle of Perseverance; Wisdom; Mankind*, EETS, OS 262 (Oxford, 1969). For references to scholarship on outlaw romances, see above, Chapter Four, pp. 142, n. 78, 144, n. 82. There have been few attempts by historians of the law to use this material. See: C.M.D Crowder, 'Peace, and Justice around 1400: A Sketch', in J.G. Rowe (ed.), *Aspects of Late Medieval Government and Society* (Toronto, 1986), pp. 53-81.

mercy, and to explore the extent to which texts of various genres overlapped on the subject of pardon.[5]

The discussion which follows seeks to explore the reciprocal relationship between the ideas on mercy expressed in a whole variety of texts and the practical implementation of pardon in the courts and in the actions of government. The 1377 proclamation of general pardon, for example, or Richard of Maidstone's description of the royal procession through London in 1392, demonstrate the extent to which political culture drew on literary and religious concepts of mercy, and in turn influenced views on pardoning expressed in politically aware vernacular texts such as *Piers Plowman*. Moreover, this reciprocal relationship can be considered in terms of the people formulating such ideas, or at least assimilating them with judicial and governmental practices. The 1377 proclamation of pardon, for example, was delivered by Bishop Houghton, a cleric with a sophisticated knowledge of scripture and also the Chancellor of England, with a firm grasp of immediate political demands. Similarly, Richard of Maidstone was in one sense giving an eyewitness account of an historic event, but doing so in language which followed literary conventions and employed classical and allegorical illusions.[6] This analysis, it is hoped, will contribute to our understanding of how political debates developed and were articulated in later medieval England.

The first section of this chapter considers evidence of popular support for the use of discretionary mercy, through the opinions expressed by the representatives of the commonalty, and the impressions which can be gleaned from their actions on trial juries or as petitioners for mercy. In the most immediate and practical sense, those subjects who had reason to deal with the law, or assist in its implementation, valued the pardon as a safeguard against the overuse of the death penalty: by providing a way to take extenuating circumstances into account in particular cases, it guarded against children or the insane, or those who killed accidentally or in self-defence, from automatically receiving capital sentences for felony. In a more general sense, legal 'consumers' demonstrated if not support for the use of discretionary mercy, then an acceptance that such methods permeated all levels of the judicial system. The lenient verdicts of trial juries, the continued presence of older notions of local mitigation, and the popularity of new forums for discretionary justice in the court of chancery, for example, all suggest that the royal pardon was accepted as one manifestation of discretionary mercy among

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[5] Spiegel, 'History, Historicism', p. 77. See above, Chapter Two, n. 20.

[6] *RP*, vol. 2, p. 361-62; A.G. Rigg, *A History of Anglo-Latin Literature, 1066-1422* (Cambridge, 1992), pp. 285-86.

many. This was true even if this particular route led the petitioner to the crown. Occasionally, representatives of the shire communities even asserted the view that access to the king's discretionary justice was a fundamental right of his people. This serves to demonstrate that not all forms of mercy and pardon were viewed in the same light. While the parliamentary Commons petitioned repeatedly to curb the use of pardons for military service, for example, they saw no contradiction in insisting that access to the king's discretionary justice should remain open.[7] In 1382 the parliamentary Commons took such a stand in the wake of the Peasants' Revolt: maintaining that the recently issued general pardon should be open to all, regardless of their ability to pay.[8] Even when negative views were expressed about certain aspects of pardoning, they were often predicated on an underlying notion of the value of the prerogative of mercy. A common petition of 1353 exemplifies this: it puts forward the familiar complaint that known felons were continuing to receive pardons, but adds the important proviso that the king's grace should always be available, as it had been previously, to those who deserved it:

> Item, pur ceo qe nostre seignur le roi par suggescions meyns veritables ad plusours foitz grante sa chartre de pardon as larons notairs et as communes murdrers, fesantz a lui entendre q'ils sont demorantz en ses guerres de outre meer, la ou ils sont sodeinement retournez en lour pays a perseverer en lour mesfaitz, en deceite du roi et en affraie des communes de lour pays; plese a nostre dit seignur, solonc sa bone disposicion, tieles deceites redresser, et en tieu cas en temps avenir estre meultz avise. Priantz touz jours a sa bone seigneurie qe sa grace soit tutdys overte, come avant ad este a ceux qi la purront deservir.[9]

The second section of this chapter considers in more detail the idea of mercy as a royal duty. Legal tracts such as *Bracton* certainly suggested that the monarch was

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[7] See below, pp. 153-58.

[8] *RP*, vol. 3, p.139.

[9] 'Also, because our lord the king, by false representation, has often granted his charter of pardon to well-known thieves and common murderers, who led him to believe that they are remaining overseas in his wars, when they have quickly returned to their country to continue their crimes, in deceit of the king and in disturbance of the commonalty of their regions; may it please our said lord, according to his good disposition, to redress such deceits, and to be better advised in such cases in times to come. Praying always to his good lordship that his grace shall always be open, as it has been previously to those who deserve it.' *RP*, vol. 2, p. 253 (41). See also *SR*, vol. 1, p. 330.

obliged, through his coronation oath, to reconcile his subjects to his peace, and to allow them to share in the benefits of royal grace, whenever possible. Such ideas were developed into notions of reciprocal duty between the crown and the community, and were given a theological context in sermons and advice literature.[10] One frequent approach was simply to draw a parallel between merciful treatment of one's neighbours and God's gift of salvation. The *Book of Vices and Virtues*, for example, discusses, in 'The Degrees of Mercy', the things that move man to mercy, followed by the fruits of mercy: the forgiveness of sins and unfailing profit.[11] Some texts go no further than extolling mercy as a virtue in generalised terms, while others give a more nuanced appraisal of the appropriate dispensation of pardon. Similarly, some authors justified the use of the prerogative in purely theological terms: the monarch's mercy must imitate the divine in order for him to receive equal leniency from his Lord on the Day of Judgement. Others justified the use of the pardon in more prosaic terms, as a display of the majesty and power of the monarchy. The latter impression was certainly conveyed in the symbolism and pageantry of royal ceremonies, discussed in the third section of the chapter. A variety of medieval texts, including homiletic pieces, sermons, pastoralia, chronicles, mystery, morality and academic plays, devotional entertainment, court poetry and royal propaganda all engaged in this discussion. This chapter samples texts from a variety of different genres: from 'mirrors for princes' such as *Confessio Amantis* and *Tale of Melibee*; outlaw romances including the *Tale of Gamelyn* and *Adam Bell*; politically-aware vernacular texts such as *Piers Plowman* and *Life of Our Lady* and didactic dramas including *The Castle of Perseverance,* to delineate the cultural context and discourse of mercy within which pardons operated.[12]

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[10] See below, pp. 171-72, for discussion of the 1377 opening sermon to parliament.

[11] Francis (ed.), *Vices and Virtues*, pp. 190-95.

[12] The term 'discourse' cannot be used without some reference to its wide range of possible significations. For a comprehensive review of these connotations, see: S. Mills, *Discourse* (London, 1997). Mills usefully defines a discourse as 'statements which are enacted within a social context, which are determined by that social context, and which contribute to the way that social discourse continues its existence.' Mills, *Discourse*, p. 11. Thus, discourses do not occur in isolation but in dialogue, in relation to, or more often, in contrast and opposition to other groups of utterances. Foucault's work on discourse also demonstrated the way in which discourses shape our interpretation of texts. M. Foucault, *The Order of Discourse: An Archaeology of the Human Sciences* (London, 1970). Pecheux also argues that discourses do not exist in isolation, but are the object and site of struggle. Discourses are thus not fixed but are the site of constant contestation of meaning. M. Pecheux, *Language, Semantics and Ideology* (Basingstoke, 1982). Reference to a discourse of mercy, particularly in parliament, suggests that this was in some sense a vocabulary of power harnessed by the crown, as opposed to other discussions of mercy and pardon which did not invoke this language of power.

II. 'Consumer Demand'

Discretionary justice was a common and accepted practice at all levels of the legal system: prosecution decisions, jury verdicts, judicial sentences, and royal pardons all to some extent embodied this approach to the law. The king's use of this prerogative must therefore be seen in the wider context of a legal system made up of an amalgam of different jurisdictions and commissions, each with its own appeal to some form of discretionary mercy.[13] While some members of the legal profession criticised recourse to such methods as a bar to increasing the competence of a codified body of criminal law, for most it was accepted as one of a number of familiar methods used to mitigate the severity of the law.[14] In the king's courts acquittal rates were high: jurors often tried to find the accused guilty of a lesser charge and judges were free to exercise discretion favourable to the accused, to the extent of recommending pardon.[15] The worst offenders might be singled out for exemplary punishment but jurors, justices and kings had the means to mitigate the severity of the law.

Why did such discretionary methods persist if, as has been commonly accepted, the period saw increasingly determined efforts to impose a uniform body of common law throughout the realm?[16] One answer has been to refer to the shortcomings of this body of law. For scholars such as Hurnard, it was the deficiency of medieval law that allowed these merciful practices to persist.[17] While this view betrays distinctly teleological overtones in its attempt to judge the efficiency of past legal systems, it does serve to emphasise the point that the common law had not yet fully evolved, and could not, in any case, make provision for every circumstance which might arise. In another sense, discretionary mercy perhaps also represented a popular desire to cling on to

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[13] E. Powell, 'Administration', *passim.*

[14] See above, Chapter Four, pp. 128-29.

[15] T.A. Green found that conviction rates at gaol delivery were consistently low: juries condemned only about 15% of homicide suspects and nearly 33% of those indicted for theft, Green, *Verdict According to Conscience*, pp. 22-23. Hanawalt gives 12.4% as the conviction rate for homicide at early fourteenth-century gaol deliveries and about 30% as the conviction rate for theft, B. Hanawalt, *Crime and Conflict in English Communities 1300-1348* (Cambridge, 1979), p. 59. Pugh's figures for Newgate gaol delivery rolls 1281-90 are: 21% for homicide and 31% for all forms of theft: Pugh, 'Reflections of a Medieval Criminologist,' pp. 6-7.

[16] Several studies have emphasised the strengthening range and application of the king's law in this period. See, for example: P. Brand, *The Making of the Common Law* (London, 1992); T.F.T. Plucknett, *A Concise History of the Common Law* (London, 1956); J. Hudson, *The Formation of the English Common Law: Law and Society in England from the Norman Conquest to Magna Carta* (London, 1996).

[17] Hurnard, *Homicide,* p. vii.

earlier notions of local mitigation and dispute settlement, before the power to pardon had been so comprehensively assumed by the monarch.[18] Whether this perception represented the last vestiges of practices of local mitigation, reconciliation and compensation, or whether it was a constructed ideal of a mythical past, deliberately conjured by those seeking flexibility within the king's law, it seems to have remained pervasive.[19] This provided benefits both to the petitioner and to the judges, who, while perceiving the importance of the formalities of full written proof and firm precedent, nevertheless were keen to retain an effective counterbalance through personal discretion to look to the equity of the case. However, one fundamental reason for the persistence of discretionary mercy is perhaps that the legal system was essentially intended to operate this way.

For those administering the law and for those who had reason to deal with it, discretionary mercy was an essential adjunct to its practical operation.[20] While not enshrined in the law, such ideas provided a means to circumvent it. Although the reality of the law was harsh, the mitigation of its penalties was a regular part of its administration. Historians rarely present this phenomenon of mitigation in royal courts as mercy or clemency. Instead, they view such practices as either a mark of corruption in the administration of justice, or an indication of the law being used in a way only partially directed by the crown and perhaps for differing purposes. Most historians have explained merciful behaviour in the courts as a response to the harsh sanctions for breaking the king's peace, and by citing lenient attitudes towards violence and

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[18] A. Musson, 'Appealing to the Past: Perceptions of the Law in Late-Medieval England', in Musson (ed.), *Expectations of the Law*, p. 166. For example: P. Brand (ed.), *Earliest English Law Reports*, Selden Society, 111, 112 (London, 1996), 2: 254.

[19] For discussion of earlier notions of dispute settlement and compensation, see: Hurnard, *Homicide*, pp. 1-31; G. Koziol, *Begging Pardon and Favor: Ritual and Political Order in Early Medieval France* (New York, 1992), pp. 214-34. R.A. Fletcher, *Bloodfeud: Murder and Revenge in Anglo-Saxon England* (London, 2002). For discussion of traditional forms of mitigation such as sanctuary, benefit of clergy and abjuration, see above, Chapter One, pp. 13-19.

[20] T.A. Green comments that 'jury discretion was from the outset a given of the administration of the criminal law', Green, *Verdict According to Conscience*, p. 20.

criminality.[21] This ignores an entire dimension of merciful behaviour in the courts, and fails to see that the system of justice was not confined to the administration of punishment. For historians of seventeenth-century justice, opportunities for mitigation were a consciously intended feature of the law.[22] This more practical definition of criminality gives weight to the circumstances of the crime and the condition of the accused.[23] The process of selective enforcement worked to offset the rigidity of legal categories and it was assumed that these informal standards would be applied in passing judgement. It is therefore essential to examine closely the cultural norms which justices and jurors were required to translate in order to meet the claims of justice and mercy.[24]

The persistence of such forms of mitigation in fourteenth-century England certainly bears witness to the enduring support given to the idea of judgment based on notions of equity (in the sense of moral fairness) and mercy. The popularity of such methods of appeal and much of the literary discourse on the issue testifies to the idea that decisions of conscience and equity liberated the petitioner from the corrupt procedures of the legal system and gave them access to the purer form of justice dispensed by the king. The monarch was able to take the particular circumstances of each case into account, and make a judgement informed by a sense of moral fairness. As T.S. Haskett notes, our modern notion of equity did not exist before the sixteenth century, and prior to this was more closely allied with the idea of 'conscience', as the link between law and morality.[25] The word 'equity' was used on occasion to denote the same sense of a judgement based on moral fairness:

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[21] In Given's study of thirteenth century records of eyre, he concludes that punishment meted out by the royal courts would have deterred few intent on murder. The justice found in royal courts was 'more than tempered with mercy; it was extremely lenient'. This attitude was caused by the harshness of law which insisted upon capital punishment without distinguishing the nature of the crime'. J.B. Given, *Society and Homicide in Thirteenth Century England* (Stanford, Calif., 1977), p. 105. Pugh also argues that judgement could be seen in the context of the 'crude and inflexible punishments then prevailing.' R.B. Pugh, *Imprisonment in Medieval England* (Cambridge, 1968), pp. 89-90. B.W. McLane, 'Changes in the Court of King's Bench, 1291-1340: The Preliminary View from Lincolnshire', in W.M. Ormrod (ed.), *England in the Fourteenth Century* (Woodbridge, 1986), pp. 152-60. Hanawalt asserts that the legal system was used primarily for social control within the local community. Still acquittal rate was so high because punishment for conviction was too severe. Hanawalt, *Crime and Conflict*, p. 63. Bellamy argued that the severity of punishment caused jurors to convict few for felony but many of trespass. J.G. Bellamy, *Crime and Public Order*, pp. 58-60.

[22] C. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth Century England* (Cambridge, 1987), p. 111.

[23] C. Herrup, 'Law and Morality in Seventeenth-Century England,' *P&P* 106 (1985), p. 106.

[24] Green, 'A Retrospective', p. 386.

[25] Haskett, 'The Medieval English Court of Chancery', pp. 246-80, 310-11; Haskett, 'Conscience, Justice and Authority', p.159.

> Equytye is a ryghtwysenes that consideryth all the pertyculer cyrcumstaunces of the dede the whiche is also temperyd with the swetnes of mercye.[26]

However, conscience was the more usual term, as Haskett comments: 'Of all the principles at work in the middle ages, conscience was, I would suggest, the most widely understood, as well as one of the most important.'[27] It was the underlying notion in all prerogative judgements, whether in response to petitions for pardon or to chancery bills. The monarch could also draw on such notions to waive the fees normally charged for dispensations of grace in letters patent and charters, if the poverty of the petitioner threatened to deny them access. On such occasions the engrossments on the chancery rolls state that they were given 'for God', as an act of charity.[28]

The connection between law and morality provided the foundation for notions of natural law, divine law, justice and conscience, while reason, on the other hand, brought to mind ideas of good sense and proportionality.[29] This sense of an alliance between reason and conscience was a trope echoed by politically-aware writers such as Langland, who develops the theme in passus IV of the B-Text of *Piers Plowman* where the king presides over a hearing with Conscience and Reason in attendance.[30] N. Doe

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[26] Alford, *Piers Plowman, A Glossary of Legal Diction*, pp. 51-52, quoting Christopher St. German, *Doctor and Student*, ed. T.F.T. Plucknett, and J.L. Barton, Selden Society 91 (London, 1974), p. 95. Alford notes that it is used in the sense of what is just and fair. See also: *Piers Plowman*, B-text, passus XVII, ll. 305-06: 'the kyng may do no mercy til bothe men acorde And eyther have equite...'; B-text, passus XIX, l. 311: *Spiritus Justicie* spareth noght to spille hem that ben gilty . . . For counteth he no kynges wrathe . . . present . . . preiere or any prynces lettres; He dide equyte to all eveneforth his power.' For the distinction between equity and the justice of the common law, see: W.J. Birnes, 'Christ as Advocate: The Legal Metaphor of *Piers Plowman*', *Annuale Mediaevale* 16 (1975): 71-93.

[27] Haskett, 'Conscience, Justice and Authority', p. 159. C.S. Lewis notes that 'conscio' is a compound of the prefix 'cum', meaning 'with' and 'scio' meaning 'I know'. The full sense of the word therefore retains the meaning of the prefix, to mean 'I share (with someone) the knowledge that'. This full sense is sometimes weakened: when Gawain saw his hostess steal into his bedroom and tried to work out 'in his conscience' what this might portend, the word must mean 'mind' or 'thought' (*Gawain*, ll. 1197). Chaucer and Gower both use the word to suggest some form of tenderness: Chaucer's Dido is a woman of innocence, pity, truth and conscience (*LGW*, ll. 1254-5); for Gower, Pompey 'tok pite with conscience' on the captive Armenian king (Book VII, ll. 3230). C.S. Lewis, *Studies in Words* (Cambridge, 1960), pp. 181-213.

[28] For example, *RP*, vol. 3, p. 372; *CPR, 1327-1330*, p. 308; *CPR, 1343-1345*, p. 571. For further discussion see Wilkinson, *Chancery*, p. 60; Davies, 'Common Law Writs and Returns', pp. 140-41; Baker, *Introduction*, pp. 63-110; Musson and Ormrod, *Evolution*, pp. 14-15.

[29] N. Doe, *Fundamental Authority in Late Medieval English Law* (Cambridge, 1990), pp. 4-5, 177.

[30] See below, p. 162, for further discussion.

sees morality as providing the justification to moderate the absolute, abstract ideas of right and wrong embodied in the law, when the circumstances of a particular case demanded.[31] While reason was understood primarily by the common lawyers, conscience was a notion widely known from its theological context.[32] Despite attempts to define the procedure of royal mercy more precisely, the medieval concept of pardoning cannot in essence be defined as a formulaic procedure with a predictable outcome. Neither can the expectations of petitioners be defined in terms of learned jurisprudence, but rather in their understanding of conscience and mercy. The persistence of local mitigation and the role of those who served on trial juries in recommending mercy, makes it clear that discretion still played an active role in the legal process. The development of ideas of conscience and equity in the court of chancery also shows such ideas were thought to have a legitimate future in the royal judicial system.

While such ideas of mercy and mitigation persisted, they were also augmented by the evolution of the court of chancery towards the end of the century. The development of this forum into a prerogative court able to dispense verdicts outside common-law procedure has recently been elucidated through research led by T.S. Haskett.[33] This has demonstrated that the English side of chancery began to deal with what were called 'offences against conscience', and to provide remedy in civil actions that could not be dealt with through the common law courts.[34] When this work on chancery is considered in the light of the procedure for pardoning, the parallels are clear: the development of the court of chancery provided a quick and effective means of appealing to the prerogative decision of the monarch in civil actions in much the same way that petitions for pardon did in criminal matters.[35] Both the chancery bill and the

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[31] Doe, *Fundamental Authority*, pp. 4-5.

[32] Green comments that a discretionary judgement from the jury was 'A verdict rendered according to conscience and reflecting the jury's conception of just deserts'; it was 'divine in the sense that it was beyond judicial reproach.' Green, *Verdict According to Conscience*, p. 20.

[33] Wilkinson, *Chancery*; Haskett, 'The Medieval English Court of Chancery', pp. 245-313; Haskett, 'Conscience, Justice and Authority', pp. 151-63.

[34] J. Baker remarks that the chancellor could deal with the exceptional case, and even protect the foolish, by ordering unjust bonds cancelled, demanding discovery of needed documents and insisting that fiduciary obligations be carried out. He could do this because his was a court of conscience, and respondents there could be coerced into doing whatever conscience required, according to the peculiarities of the case. Baker, *Introduction*, pp. 118-19.

[35] Chancery predominantly dealt with civil litigation such as uses, holdings, deeds, bonds, obligations, debt, money, imprisonment, and to a lesser extent trespass and assault. For further discussion of the types of cases heard in chancery, see Haskett, 'The Medieval English Court of Chancery', pp. 291-311.

petition for pardon were essentially petitions for grace, and both usually required the support of sureties. Concerns about the abuse of the prerogative in chancery were also expressed in the same terms as the misuse of pardoning. Complaints about the potential to abuse chancery's prerogative jurisdiction, lacking as it did the safeguards of the common law process, seem familiar in the light of the identical concerns surrounding pardoning, discussed in the previous chapter.[36] It is also interesting to note that by the 1390s the role of the office of chancery in the procedure of pardoning was increasingly prominent, and was in fact explicitly stated in the legislation of 1393.[37] The crucial factor in both cases was the crown's ability to take personal circumstances and mitigating factors into account in a way that the prescribed judgements of the common law could not.[38] The petitioner who failed to obtain justice through the courts therefore asked the king for a judgement based on notions of equity and conscience.

In essence the appeal to the prerogative was seen to be a necessary protection for the king's subjects, and the development of procedures and channels of access to such hearings responded to the basic requirement of government to provide effective justice. Access to the king's prerogative judgement was therefore of central concern: at the beginning of the fourteenth century it was the idea of access to the king himself in parliament which dominated; by the middle of the century, the focus had shifted to a standardised procedure of appeal through the office of chancery for a pardon or for a hearing before the prerogative court. In this context of frequent recourse to discretionary decisions, the king's pardon represented a means of circumventing the strict procedures of the legal system and appealing to a decision based on morality and conscience. This somewhat idealised notion of royal justice also featured prominently in outlaw ballads and in politically aware vernacular literature.

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[36] Haskett, 'Conscience, Justice and Authority', p. 155. See above, Chapter Four, pp. 127-33.

[37] See above, Chapter Four, pp. 134-35.

[38] Haskett writes of chancery: 'Operationally, it involved the relaxation of known but unwritten rules to meet the exigencies of justice in particular cases, and this required a procedure for delving into individual circumstances. The common law system, however, shut out many facts; its archaic methods of proof were designed to settle general issues, not specific questions.' Haskett, 'Conscience, Justice and Authority', p. 158. Such ideas echo the notions underlying pardoning which have been referred to throughout this thesis.

Idealised Notions of the King's Mercy

The king's use of his prerogative of mercy was widely praised in popular literature, although some texts warned the monarch that it was essential for him to balance the claims of justice and mercy in order to deal fairly with his subjects.[39] Outlaw romances such as the *Tale of Gamelyn, Adam Bell,* the *Gest of Robin Hood* and *Robin Hood and the Monk,* which circulated in the fourteenth and fifteenth centuries, lauded the king's personal justice as an idealised and pure form of judgement, in contrast to the corruption and maintenance manifest in the legal system and rife among the officers of the crown.[40] Such texts often drew on notions of pardoning to rectify injustice. Outlaw heroes such as Robin Hood and Clym of the Clough were shown to be innocent victims of an iniquitous judicial system.[41] The pardon, in such cases, was the remedy prescribed. It embodied the justice of the king himself, unmediated by the courts. The implication was that true justice would acquit the innocent outlaw, but this had to be obtained from the monarch himself. Once made aware of the situation, the king would dispense a justice that took account of mitigating circumstances, and saw through the malicious indictments that had deceived his justices.[42] Even in works generally critical of the judicial administration, the king's pardon stood apart from the workings of the courts and was often used to conclude outlaw tales as a symbol of pure and untainted justice.

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[39] The term 'popular' in reference to these texts obviously raises contentious issues of audience and dissemination. The word is not used here to imply class connotations or signal mass culture, but to indicate a wide currency among the literate. See McCune, 'The Ideology of Mercy', pp. 47-8. J. Coleman comments that although many people from the educated estates may not have read to themselves for information or entertainment, they often formed an audience for other's reading. J. Coleman, *English Literature in History, 1350-1400: Medieval Readers and Writers* (London, 1981), pp. 18-57. Michael Clanchy also makes the point that some proportion of reading and writing was available to a large part of the English people. Many were not cultivated readers but people who needed to understand the records, mainly legal, that continually assumed greater importance in everyday life; Clanchy, *From Memory to Written Record*, pp. 231-40; H.S. Bennett, *English Books and Readers 1475-1557,* 2nd edn (Cambridge, 1969), pp. 19-29.

[40] See above, Chapter Four, pp. 142-46.

[41] The hero of the *Outlaw's song of Trailbaston* is the victim of malicious indictment, and both Gamelyn and Robin Hood take to the woods because judicial corruption prevents them demonstrating their innocence. However recourse to royal intervention is ultimately available.

[42] In this sense the ballads follow the familiar trope of criticising local officials. The transgressions his officers have carried out in his name are unknown to the king, who is therefore innocent of all blame. When made aware of the situation, he steps in to rectify injustice. Local officer-holders were often the subject of ridicule in satirical literature, see *Tale of Gamelyn* and *Outlaws Song of Trailbaston* in particular. The latter even names specific officers: Henry de Spirgurnel and Roger Belflour, who were members of the south-western trailbaston circuit in 1305-7. As justices on trailbaston commissions, however, these men were above the rank and file of the office-holding gentry. See Dobson and Taylor (eds.), *Rymes of Robyn Hood,* pp. 250-55; Knight and Ohlgren (eds.), *Robin Hood*, pp. 184-226.

Several outlaw ballads end with the protagonists receiving a pardon from the king, despite the attempts of minor royal officials to condemn them for their crimes. In each instance, when the king hears of the outlaws' crimes he is initially determined that they will hang for their offences. In *Adam Bell* the king vows to God that he will show the outlaws no mercy and will hang all three of them; in *Robin Hood and the Monk* the king is so delighted to hear that Robin is in the Sheriff of Nottingham's prison that he rewards the messenger who brings him the news with money and high office (even though the messenger is in fact Little John in disguise); in the *Gest* King Edward even journeys to Nottingham and resides there for more than half the year, in order to catch Robin.[43] However, in each instance the monarch soon changes his mind and grants pardon to the protagonists. In the *Gest* the king is on-hand at the opportune moment to pardon the outlaws. Interestingly, in this instance it is the king who is first to ask pardon of Robin. The king, disguised as an abbot, has been captured by the outlaws, and when his identity is revealed to Robin, Edward asks mercy of the outlaw.[44] Robin immediately returns the compliment by begging for mercy from God and from his king, and is duly pardoned.[45] In *Robin Hood and the Monk*, the king receives word that Robin has escaped from prison with the help of Little John. He is initially outraged, but soon realises that the outlaws have duped them all, and declares that he has pardoned the men, even though they are absent.[46] In *Adam Bell*, however, the initiative to seek the king's mercy is taken by the outlaws, so sure are they of the justice of their cause. The men are clearly aware of their right to appeal to the monarch, and seem confident of a favourable reception:

> And whan they had souped well,
> Certayne withouten leace,
> Clowdyslé sayde, 'We wyll to oure kynge,
> To get us a chartre of peace.'[47]

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[43] *Adam Bell*: Knight and Ohlgren (eds.), *Robin Hood*, ll. 485-90. The king is only persuaded to show Clym and his men mercy at the request of the queen. See below, p. 162, n. 55. *Robin Hood and the Monk:* Knight and Ohlgren (eds.), *Robin Hood*, ll. 220-232. *Gest of Robin Hood*: Knight and Ohlgren (eds.), *Robin Hood*, ll. 1420-23; ll. 1463-64.

[44] Also alluding to connections between divine and royal pardon. See above, Chapter One, pp. 13-19.

[45] Knight and Ohlgren (eds.), *Robin Hood*, ll. 1652-59.

[46] Knight and Ohlgren (eds.), *Robin Hood*, ll. 333-49.

[47] Knight and Ohlgren (eds.), *Robin Hood*, ll. 437-40.

Following this declaration, the outlaws make their way to the 'kynges courte' in London (l.448), intending to secure an audience with the king. They are challenged by a porter and an usher, but brook no opposition in their quest to seek out the king.[48] The outlaws seem sure of their right to petition the king himself for pardon, and even know the correct procedure for presenting their request when they come before him:

> And whan they came before our kynge,
> As it was the lawe of the lande,
> They kneled downe without lettynge,
> And eche helde up his hande.[49]

This reference to the procedure for begging the king's mercy in order to obtain a 'chartre of peace' (l. 440) emphasises the materiality of the king's charter and the iconic qualities of the document (and seal), in a manner reminiscent of the Towneley play the *Killing of Abel,* discussed in the previous chapter. In one scene, Cain promises to obtain a pardon for his servant, to which the latter replies 'What, wilt thou cry my peasse Thrughout this land?'(ll. 408).[50] Cain then proceeds to proclaim a charter of pardon for them both. Another proclamation of 'peace' (the word used to denote pardon), features again in the Towneley play, *Caesar Augustus*: 'Byd hym go hastely . . .youre gyrth and peasse to cry' (ll. 51-4).[51] In practice, the notion of the boundaries of the 'king's peace' were central to outlawry. Outlaws had no right to petition, since they had been placed outside the king's peace. Under normal circumstances, they were more likely to turn themselves in to the sheriffs and accept temporary imprisonment pending the process of intercession for their pardons. If they did not have expectations of mercy, they were really at a loss: as the *Outlaw's Song of Trailbaston* puts it, 'I dare not come into peace among my kinsmen'.[52] Perhaps because of the lack of dramatic immediacy contained in the realities of the process, however, literary outlaws have the habit of going directly to the king and placing themselves at his mercy. In some of the earlier outlaw tales the

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[48] Knight and Ohlgren (eds.), *Robin Hood*, ll. 449-69.

[49] Knight and Ohlgren (eds.), *Robin Hood*, ll. 469-72. For further discussion of the performance of pardon, see below, pp. 180-82.

[50] See above, Chapter Four, pp. 135-38.

[51] Again in the *Tale of Gamelyn* the protagonist goes to the king, makes peace with him and is forgiven. Knight and Ohlgren (eds.), *Robin Hood*, ll. 1101-08.

[52] Dobson and Taylor (eds.), *Rymes of Robyn Hood,* p. 253. For details of this process see Hurnard, *Homicide*, pp. 32-34.

materiality of the king's charter is again explicitly emphasised. In the closing scene of the *Gesta Herewardi* some stress is placed on Hereward's right to the quiet possession of his father's lands as enshrined in his charter from the king.[53] The idea that these charters drew the recipient back into the king's peace was therefore given particular emphasis in these texts. Ideally, these charters symbolised a personal and reciprocal relationship between subject and monarch – the king grants pardon, favour, restoration of rights and estates and the subject agrees to live quietly and to give loyal service. Such ideas are much in evidence in the whole process of royal pardoning, and were expressed particularly in relation to the grants of general pardon during the later fourteenth and fifteenth centuries.[54]

In each of the ballads mentioned above, the king pardons the outlaws on the basis of a moral decision which goes contrary to the strict dictates of the law.[55] Seen from one perspective, the king's issue of a pardon to guilty men is an abuse of his prerogative powers. However, none of the tales take this standpoint. Instead, it is implied that the pardon is justified on the grounds that the outlaws have been fighting injustice and display honour and loyalty within the outlaw band. The king's explanation of his pardon in *Robin Hood and the Monk* rests on the loyalty that John has displayed to Robin, and an acknowledgement of John's ability to outwit them all:

'He is trew to his maister,' seid oure kyng;
'I sey, be swete Seynt John,
He lovys better Robyn Hode
Then he dose us ychon.
Robyn Hode is ever bond to hym,
Bothe in strete and stalle;
Speke no more of this mater,' seid oure kyng,
'But John has begyled us alle.'[56]

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[53] Knight and Ohlgren (eds.), *Robin Hood*, pp. 666-67.

[54] Powell, *Kingship, Law, and Society*; Ormrod, '"Fifty Glorious Years", pp. 13-20. See below, Chapter Three, pp. 82-118.

[55] In *Adam Bell*, the king's decision is also influenced by the queen's intercession on behalf of the outlaws. See above, Chapter Four, p. 142. For the intercessory role of the medieval queen in other contexts see: Strohm, *Hochon's Arrow*, pp. 95-119; Honeycutt, 'Intercession and the high-medieval queen', pp. 126-46; Parsons, 'The queen's intercession in thirteenth-century England', pp. 147-77; Parsons, 'The intercessory patronage of Queens Margaret and Isabella of France', pp. 145-56; Collette, 'Joan of Kent', pp. 350-62; Ormrod, 'In bed with Joan of Kent', pp. 277-92.

[56] Knight and Ohlgren (eds.), *Robin Hood*, ll. 350-56.

Again, from the opening lines of *Adam Bell*, the outlaws are portrayed sympathetically: the whole sequence of events is set in motion by William's desire to see his wife and three children, despite the dangerous position in which this placed him. After his presence is revealed to the justice and sheriff, he puts up a valiant fight, and ensures that his family are safe, before finally being overpowered. The essentially moral and pious character of the men is also emphasised in their final resolve to go to Rome to be absolved of their sins, before returning to take up their offices and live out their lives in the service of the king. This scene also clearly reinforces the connection between divine and royal pardon, emphasised in *Piers Plowman*, in the Towneley plays and in the statutes of general pardon.[57] The king implicitly recognises the essential justice of their cause. Their violence has largely targeted corrupt clerics or officers of the crown who get no more than they deserve. By pardoning the outlaws the king quells the threat that their violent deeds present to the maintenance of law and order and emphasises his own role in bringing about reconciliation and guaranteeing the rights of its subjects.[58] This ending also provides an escapist notion of the idealised justice which only the monarch can bestow. The king's grant of pardon in these ballads is not justified in strictly legal terms. Indeed, if the letter of the law is administered, the men would undeniably be found guilty, but the king's decision can take into consideration the essentially moral character of these men. Crucially, however, the king does not have to justify his decision, even in these moral terms. The king's grant is a gift of grace, and as such it does not have to be earned by the recipient, but is instead given as a sign of forgiveness of past transgressions. The king has the divinely ordained power to bestow grace wisely; and the exercise of this power as portrayed by the ballads exalts his position as ultimate arbitrator, at the head of the judicial system. Indeed, these ballads go some way to demonstrating the extent to which the law of the realm was regarded as personal to the king. As the supreme lawgiver, the monarch played an active role at the head of the judicial system, and the king's subjects valued their right to appeal directly to him for judgement.

Of course, it is possible to read these portrayals of pardon in a critical light: from the point of view of the landowning classes, Robin Hood, Gamelyn and other outlaw heroes might be seen to typify those notorious criminals who were being let off their offences against landowners and officers of the crown by the lax dispensation of royal

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[57] See above, p. 160, n. 44.

[58] Ormrod and Musson, *Evolution*, p. 170.

pardons. However, whilst some members of the landowning class might have taken such a stance, others at times displayed a concern for men who might be forced into outlawry. In October 1382, those members of the gentry who made up the parliamentary Commons petitioned the king to extend the general pardon he had granted in the aftermath of the Peasants' Revolt to the poorest of his subjects, free of the obligation to pay a fee for the charter. They did so on the grounds that not all men accused of involvement in the recent insurrection had the ability to pay for a pardon. These men, they feared, would be forced to 'flee into the woods', and into outlawry.[59] Faced with insurrection on an unprecedented scale, royal justice needed to be flexible enough to adapt as the need arose.

For Langland, the king's justice, tempered by conscience and reason, could compensate for the failings in the judicial administration.[60] In passus IV of the B-text, the king presides over a hearing with Conscience and Reason in attendance. Peace, who petitions the king for justice, is an embodiment of the law and order for which the king held direct responsibility. His presence before the king in such a setting now demonstrates that the monarch's judicial system has failed to protect the interests of Peace. Langland perhaps intended the scene to allude to those petitions on the breakdown of law and order which had recently been aired in parliament.[61] The substance of Peace's petition echoed the concerns of the Commons:

> And thane com Pees into parlement and putte up a bille-
> How Wrong ayeins his wille hadde his wife taken,
> And how he ravysshede Rose, Reginaldes love,
> And Margrete of her maydenhede maugree hire chekes.
> 'Bothe my gees and my grys hise gadelynges feccheth;
> I dar noght for fere of hym fighte ne chide.
> He borwed of me bayard and broughte hym hom nevere,
> Ne no ferthyng therefore, for noght I koude plede.
> He maynteneth hise men to murthere myne hewen,
> Forstalleth my feires and fighteth in my chepyng,
> And breketh up my bernes dores and bereth awey my whete,

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[59] *RP*, vol. 3, pp. 139.

[60] See above, Chapter Four, pp. 140-42.

[61] See above, Chapter Four, p. 140.

And taketh me but a taille for ten quarters otes.
And yet he beteth me therto and lyth by my mayde;
I am noght hardy for hym unnethe to loke!'
The kyng knew he seide sooth, for Conscience hym tolde
That Wrong was a wikked luft and muche sorwe wroghte.[62]

Common petitions raised similar concerns, including the forming of confederacies and false alliances, maintenance, forestalling and the extortion of purveyance from the poor of the county with threats of reprisals if they dared to plead against them.[63] As Baldwin comments, Langland's description of a petitioner bringing a complaint before the king in a tribunal where Reason and Conscience hold sway suggests a genuine belief in the equity of the king's prerogative judgement.[64]

Indeed, right from the opening words on *pietas* quoted by the Angel in the Prologue, Langland has set out to promote a royal justice informed by notions of mercy and Christian forgiveness:

'"Sum Rex, sum Princeps"; neutrum fortasse deinceps!
O qui iura Regis Christi specialia Regis,
Hoc quod agas melius-iustus es, esto pius!
Nudum ius a te vestiri vult pietate.
Qualia vis metere, talia grana sere:
Si ius nudatur, nudo de iure metatur;
Si seritur pietas, de pietate metas'.[65]

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[62] B-text, passus IV, ll. 47-62; C-text, passus IV, ll. 45-65. The C-text version includes a section in the petition about the purveyor looking to rob him on the way to St. Gile's Down, near Winchester, where there was a famous fair (ll. 51-54).

[63] For example, *RP*, vol. 3, pp. 42-43, 44, 62-63, 139-40.

[64] Baldwin has contended that this is likely to represent a trial in the court of chancery. However, there is no explicit support for this theory in the text. Baldwin, *Government*, p. 43.

[65] B-text, Prologue, ll. 132-38: 'You say, "I am a king, I am a prince," – but in time you may be neither. It is your duty to administer the laws of Christ the King; the better to do this, be as mild as you are just. You should clothe naked justice with mercy, and sow those crops which you hope to reap. Strip justice of mercy, and you shall be judged by justice alone: sow mercy and you shall reap mercy.' The C-text gives the verses to Conscience and omits the penultimate line: 'Strip justice of mercy, and you shall be judged by justice alone.' C-text, prologue, ll. 152-57.

Langland makes it clear that it is the duty of earthly kings and princes to strive to imitate the ideal of divine justice. The Christian ruler must be merciful, mindful of the duty he owes to God. Mercy is not an arbitrary deflection of the strict enforcement of the law, rather, it lends to justice a sense of moral fairness and Christian forgiveness. '*Ius*' here is used to denote 'legal justice', rather than justice absolutely. In its moral tone and its emphasis on divine justice, this passage has clear parallels with late medieval sermons and works of advice.[66] While much of Langland's text uses a technical legal vocabulary to offer specific solutions to the contemporary evils he denounces, this passage is more closely allied to the didactic discourse of the advice literature. The same Latin verses in fact appear in an early fourteenth century sermon, illustrating the parallels which can be traced across different genres.[67] The texture and terminology of Langland's material here also points forward to the development of the contrast between *divine* justice and mercy in passus XVIII of the B-text.[68] This sense of the duty the king owed both to God and to his subjects to dispense justice wisely, and to temper his judgement with mercy, was brought to the fore by a number of medieval commentators. The differences in genre between the outlaw ballads, morality plays and visionary writers, lead to some differences in emphasis and in the use of legal vocabulary. The Towneley plays, for example, portray contemporary practices of granting royal pardon within a wider biblical narrative, drawing parallels between divine and royal mercy. Thus, in the *Killing of Abel,* Cain converts the divine protection he had been afforded by God into a proclamation of the king's peace, using precise legal terminology and conjuring allusions to the royal proclamations that would have been so familiar to the audience.[69] The outlaw ballads draw similar parallels between divine and royal mercy, but do so by highlighting the essentially moral and merciful nature of the

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[66] *Matthew* ch. 7, v. 1-2: 'Do not judge others lest you yourself be judged.' See: William Langland, *Piers Plowman: the prologue and passus I-VII of the B text as found in Bodleian MS. Laud. Misc. 581*, ed. J.A.W. Bennett (Oxford, 1972), pp. 98-99.

[67] Bennett relates the passage to the sermon *pro rege et pace regni* preached by Thomas Brinton, Bishop of Rochester, on the day after the coronation (17 July 1377), on the mutual duties of the lords and ecclesiastics. Bennett also notes that the verses are found in Lambeth MS. 61, f. 147v, where they were added by a scribe to the text of a sermon preached in 1315 by Henry Harclay, Chancellor of Oxford. Langland, *Piers Plowman,* ed. Bennett, p. 99. M.A. Devlin also suggests that Langland may have regarded Thomas Brinton as a spiritual guide. Thomas Brinton, *The Sermons of Thomas Brinton, Bishop of Rochester (1373-1389)*, ed. M.A. Devlin, Camden Society, 3rd series 85 (1954), 1: xxi-xxxi, 194-200.

[68] B-text, passus XVIII, ll. 110-228. See below, p. 176.

[69] See above, Chapter Four, p. 139.

king's grace, sometimes by literally presenting the king in a religious guise.[70] The need for dramatic immediacy and fast-moving narrative often takes the outlaws straight to an audience with the king, rather than having them seek pardon through the more ponderous procedures of petitioning and intercession. What this does reveal, however, is the extent to which royal justice was perceived to be a personal attribute of the monarch.

III. Theories of Duty

This sense of a monarch's duty to bestow mercy was echoed in several of the legal and constitutional texts of the period, demonstrating the extent to which political debate and the literature of advice shared the same vocabulary of mercy. Indeed, the English coronation oath portrayed mercy as both a royal prerogative and a Christian duty the king owed to his subjects. The king was to vow that mercy would be part of the administration of justice:

> Sire, freez vous faire en touz voz judgementz ovele et droite justice et discrecion, et misericorde et verite, a vostre poer? Respons. Jeo le frai.[71]

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[70] See above, p. 160.

[71] 'Lord, will you make, in all your judgements, equal and right justice and discretion, and mercy and truth, as within your power. Responds: I will make it (so).' This is one of the three clauses of the French 'record' oath that was actually sworn by Edward II in 1308 and later by Edward III in 1327. It is attached to the close roll as an unofficial memorandum, see *Foedera*, vol. 2, p. 36; *CCR, 1307-1313*, p. 53. The Latin 'liturgical' version of the 1308 oath contained four clauses, including the same oath concerning justice: 'Facies fieri in omnibus iudiciis tuis equam et rectam iusticiam et discrecionem in misericordia et ueritate secundum uires tuas? Respondebit. Faciam.' 'Will you make to be done in all 'your judgements equal and right justice and discretion in mercy and truth according to your power(s)? He will respond. I will make (it so).' *Foedera*, vol. 2, pp. 33-36 (printed from the coronation roll); S.B. Chrimes and A.L. Brown (eds.), *Select Documents of English Constitutional History 1307-1485* (London, 1961), p. 4; L.G. Wickham Legg (ed.), *English Coronation Records* (Westminster, 1901), p. 21. The 1308 oath contained a new clause to observe the just laws chosen by the community of the realm, and in 1327 Edward III was reputedly told that if he did not also swear to this, he would not be crowned. See: Brown, *Governance,* pp. 12-13; J. Burden, 'Rituals of Royalty: Prescription, Politics and Practice in English Coronation and Royal Funeral Rituals, c. 1327-c. 1485' (DPhil thesis, University of York, 2000), p. 36; H.G. Richardson, 'The English Coronation Oath', *Speculum* 24 (1949), p. 65; H.G. Richardson, 'The Coronation in Medieval England', *Traditio* 16 (1960): 111-202; H.G. Richardson and G.O. Sayles, 'Early Coronation Records', *BIHR* 13 (1935-1936): 131-32. The investiture of the golden rod is delivered with the formula *Accipe uirgam virtutis* which describes the virtue and equity with which the king is to repress the proud and elevate the lowly: Burden, 'Rituals of Royalty', pp. 38-39.

As seen above, Langland expressed the same sentiment in the Latin verses of the Prologue to the B-text of *Piers Plowman*. Similarly Bracton, although writing a tract of legal theory, echoed this notion. Bracton again explains the king's role in the administration of the law and his obligation to act as judge by expanding upon the terms of this coronation oath, to emphasise the reciprocal nature of the duty:

> ut in omnibus iudiciis aequitatem praecipiat et misericordiam, ut indulgeat ei suam misericordiam Clemens et misericors deus, et ut per iustitiam suam firma pace gaudeant universi.[72]

Mercy, in the guise of compassion and temperance, is an essential part of royal justice; without it, the king's judgements might be unjust. This is understood as integral to the meaning of the most famous lines in *Bracton* on the king's power: the king must imitate Christ and the Blessed Virgin in choosing always to be subject to established laws. He is not under any man, but under God and the law, the law that makes him king and gives him power.[73] Unlike earlier treatises, *Bracton* provides a complex definition of justice, in God and the just man, and in the appropriate application of mercy. Royal justice is described by distinguishing it from equity, the latter, unusually, being used in the sense of strict adherence to the law:

> Et dicitur aequitas quasi aequalitas et vertitur in rebus, id est in dictis et factis hominum. Iustitia in mentibus iustorum quiescit.[74]

In the sections where Bracton discusses the element of intent in crime, he emphasises the practices of mitigation in court, and suggests that judges had a duty to err on the side of leniency:

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[72] 'he will cause all judgements to be given with equity and mercy, so that he may himself be shown the mercy of a clement and merciful God, in order that by his justice all men may enjoy unbroken peace.' *Bracton*, p. 304. For an example of how this in turn was used in later treatise, see *Fleta*, pp. 1-2.

[73] *Bracton*, p. 33. This reference to the Virgin could perhaps be behind some of the later references to the Virgin in the specific context of pity: See J. Gower, *Confessio Amantis* ed. R.A. Peck (New York, 1958), book VII, ll. 3103-17, and Richard of Maidstone, *Concordia* in Rigg (ed.), *Anglo-Latin Literature*, pp. 285-86. The Virgin is also depicted in real time and space as the subject of Caesar's wrath in the Towneley play, *Caesar Augustus*, ll. 163-5, 211-216. See also scholarship on the role of the queen as intercessor, above, n. 55. See also Appendix 5.

[74] 'equity is, so to speak, uniformity, and turns upon matters of fact, that is, the works and acts of men. Justice, on the other hand, lies in the minds of the just.' *Bracton*, pp. 23, 25.

> Respiciendum est iudicanti ne quid aut durius aut remissius constituatur quam causa deposcit, est, sed perpenso iudicio prout suaeque res expostulate statuendum. In levioribus causis proniores esse debent ad lenitatem. In gravioribus vero poenis severitatem legume cum aliquot temperamento benignitatis subsequi. Et poenae potius molliendae sunt quam exasperandae.[75]

The king's duty to be merciful was also described in the *Dialogus De Scaccario*, probably written between 1176 and 1179. It included two stories that described the merciful character of Henry II.[76] In both stories the king refrains from pushing his advantage and taking vengeance, whether over a conquered enemy or an encroacher on royal land.[77] Henry's clemency and largesse are defined by reference to the parable of the debtor servant: those whom the king forgives for debt are warned that they in turn should imitate his generosity: they must not make demands on their tenants, or they will be punished many times over.[78] Similarly the prologue of *Glanvill*, also written during the reign of Henry II, contains a formulation on mercy which states that the king ought to keep peace through a combination of arms, laws, and justice tempered with mercy.[79] Mercy is not to be shown indifferently. Successful rule involved:

> effrenatorum et indomitorum dextra fortitudinis elidendo superbiam et humilium et mansuetorum equitatis uirga moderando iusticiam.[80]

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[75] 'It is the duty of the judge to impose a sentence no more and no less severe than the case demands; he must seek a reputation neither for severity nor clemency, but, having weighed the circumstances, should determine as each case requires. In less serious cases they ought to be more inclined to leniency; in the imposition of the heavier penalties to temper the severity of the law with a degree of benignity. Punishments are rather to be mitigated than increased.' *Bracton*, p. 299.

[76] Richard Fitz Nigel, *Dialogus de Scaccario*, ed. C. Johnson (Oxford, 1983).

[77] Fitz Nigel, *Dialogus*, pp. 75-77, 93.

[78] Fitz Nigel, *Dialogus*, p. 48.

[79] Hall (ed.), *Glanvill*. It was probably composed between 1187 and 1189. According to Hall's introduction, the preface to Justinian's *Institutes* is the basis for the opening words of *Glanvill's* prologue; see Hall (ed.), *Glanvill*, p. 36.

[80] 'crushing the pride of the unbridled and ungovernable with the right hand of strength and tempering justice for the humble and meek with the rod of equity...' Hall (ed.), *Glanvill*, p. 1.

It is interesting that this passage from *Glanvill* echoes so closely the language of the Magnificat of Mary:

> Quia fecit mihi magna qui potens est, et sanctum nomen ejus, Et misericordia ejus a progenie in progenies timentibus eum. Fecit potentiam brachio suo; Dispersit superbos mente cordis sui. Deposuit potentes de sede, et exaltavit humiles. Esurientes implevit bonis, et divites dimisit inanes. Suscepit Israel, puerum suum, recordatus misericordiae suae . . .[81]

While *Glanvill* does not make this link between the Virgin and the quality of mercy explicitly, *Bracton,* as we have seen, does stipulate that royal justice must imitate that of Christ *and* the Blessed Virgin, in the passage discussed above.[82] Such texts emphasised the monarch's duty to be merciful, but were clear that the recipient of mercy was required to be merciful in return. Indeed, an act of mercy entailed mutual obligations on the benefactor and the recipient.

These reciprocal obligations were emphasised by religious authorities who asserted that it was legitimate for acts of mercy to be motivated not only by altruism but by the desire for reward, ultimately in the attainment of eternal salvation. Exempla featuring those who despaired of God's mercy and those who were not properly or timely repentant were intended to instil the dread of God's judgement and urged counterbalancing sins with mercy. *The Pricke of Conscience,* for example, concludes a vivid description of the horrors of Judgement Day, with the reminder that those who show mercy will be saved.[83] The most frequent approach was simply to draw the parallel between merciful treatment of one's neighbours and God's gift of salvation. The *Book of Vices and Virtues*, for example, provided a discussion of things that move man to mercy, followed by the fruits of mercy, the forgiveness of sins and unfailing

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[81] 'For He who is mighty has done great things for me, and holy is His name. And His mercy is on those who fear Him from generation to generation. He has shown strength with His arm: He has scattered the proud in the imagination of their hearts. He has put down the mighty from their thrones, and exalted those of low degree. He has filled the hungry with good things; and the rich He has sent empty away. He has helped His servant Israel, in remembrance of His mercy . . .' *Luke* ch. 1, v. 46-55.

[82] See above, p. 167, and n. 73.

[83] Richard Rolle, *The Pricke of Conscience*, ed. R. Morris, *Philological Society* 6 (Berlin, 1863), ll. 6293-6305.

profit.[84] Later medieval sermons similarly used exempla to show the rewards of mercy, in the light of the self-analysis required by the sacrament of penance.[85]

The legal, didactic and theological overtones of this emphasis on mercy and Christian forgiveness were brought together in the rubric of certain fourteenth century general pardons. Again they also included the intimation that the king's subjects should offer their monarch a favour in return. Richard II made the point more forcefully than usual in 1381:

> A quoy fuist autrefoitz repliez depar le roi qe ce n'ad mye este custume de parlement devaunt ceste heure, d'avoir general pardoun, et tielle grace . . . de roi, quant la commune riens ne voet au roi granter.[86]

The announcement of the 1377 general pardon conveyed the same message in more exalted terms.[87] The chancellor, Bishop Houghton of St. Davids, introduced the idea of the pardon in his opening sermon.[88] The speech dwelt on the theme of the reciprocal obligation between Edward III and his subjects. According to Houghton, the successful completion of Edward's jubilee year signalled a renewal and spiritual cleansing, from which the king derived new moral strength. A new state of grace was thus bestowed on the king:

> Issint est ores nostre dit seignur le roy resuscitez et purifiez de toute ordure de pecchie, si nul y fust, et si Dieux plest, il est, et toutdys mais serra, le vessel de grace, ou le vessel de eleccion Dieu.[89]

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[84] Francis (ed.), *Vices and Virtues.*

[85] T.J. Heffernan, 'Sermon Literature', in A.S.G. Edwards (ed.), *Middle English Prose* (New Brunswick, 1984); L.J. Bataillon, 'Approaches to the Study of Medieval Sermons', *Leeds Studies in English,* NS 11 (1980): 19-35; S. Wenzel, 'Medieval Sermons and the Study of Literature', in P. Boitani and A. Torti (eds.), *Medieval and Pseudo-Medieval Literature* (Cambridge, 1984).

[86] 'To which it was replied on the king's behalf that it had not been customary in parliaments in the past, for a general pardon and such grace to be had from the king, when the commons wished to grant the king nothing' *RP*, vol. 3, p. 104.

[87] See above, Chapter Three, pp. 83-90, for discussion of the political context of this pardon.

[88] The official record contains an extended summary of the text. *RP*, vol. 2, pp. 361-62.

[89] '. . . our said lord the king [is] now revived and purified from all filth of sin, if there was any, and if God pleases, he is, and always will be, the vessel of grace or the vessel of God's choosing.' *RP*, vol. 2, p. 362.

The king was willing to bestow this state of grace on his subjects, but they, for their part, were duty bound to cleanse themselves of their own sin through due penance:

> Mais si einsi soit qe nous ses subgitz disirons et vorrions avoir sa grace en cest an jubile, et trereconfort de luy qi issint est vessel de grace ou de eleccion Dieu, il nous covient a fyne force de nous conformer d'estre hables par bones vertuz de resceivre grace de mesme le vessel, et lesser toutes vices.[90]

The allusions to sin and forgiveness in Houghton's speech were intended for the specific purpose of addressing the recent political crisis of the Good Parliament.[91] However, these ideas of spiritual redemption were clearly informed by church doctrine, and were expressed in a vocabulary more usually associated with literary works of advice.

The power of mercy and forgiveness had a crucial function in law and government. Tracing the language of mercy demonstrates the importance of the dialectic between crown and community that took place in parliament and in the royal courts.[92] This dialectic was clearly echoed in the discussions of mercy found in many different forms of literature. An analysis of mercy's place in judgement, as represented in such sources, enables us to see the complexity of exchange between crown and community about pardon and punishment, and their role in governance. Mercy was clearly an obligation owed to the people, but also a prerogative of generosity and part of the power of royal majesty.

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[90] 'But if we, his subjects, desire and would have his grace in this jubilee year, and great comfort from him who thus is the vessel of God's grace or choosing, we must of sheer necessity undertake through good virtues to be fit to receive the grace of the same vessel, and to abandon all vices.' *RP*, vol. 2, p. 362.

[91] See above Chapter Three, pp. 83-90.

[92] Green, 'A Retrospective' , pp. 366-83.

Balancing the Demands of Justice and Mercy

While several writers urged the king to lean at all times to mercy rather than to the strict enforcement of the law, the notion of maintaining a balance between justice and mercy was a recurrent theme of advice. For Bracton, mercy bestowed upon the incorrigible was unjust, and encouraged regression instead of reform:

> Sic ergo misereatur indigno ut semper homini condoleat. Item pauperis non misereatur quis in iudicio, misericordia scilicet remissionis, cui tam misericordia compassionis est sicut et omnibus miserendum. Et quibus et qualiter sit miserendum, eum doceant merita vel demerita personarum.[93]

Although Bracton expressed such ideas in a specifically legal vocabulary and context, the issue of balancing the demands of justice and mercy was debated in texts across a wide range of genres. Not all texts gave an optimistic assessment of a monarch's ability to bestow mercy appropriately and administer the law. Gower, for example, makes clear in *Confessio Amantis* that the excessive use of mercy posed a real danger to the proper execution of justice throughout the realm. In Book Seven he discusses the relationship of justice to mercy in the context of the virtues a king must have to rule properly. Justice is presented in terms of equity. Gower claims that five principal points of policy for a king are truth (claimed to be most important, though treated briefly), largess, justice, pity and chastity.[94] The confessor explains that the king must not go against the law for love nor for hate. However, throughout the discussion of pity, the real subject is the danger of excessive mercy. Gower insists that the king is righteous if he slays in the cause of justice. Indeed, the king is obliged, in the interests of justice, to slay those who deserve it:

> Bot above alle in his noblesse
> Between the reddour and pite

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[93] 'Let him therefore be merciful to the unworthy in this way, as always to feel compassion for the man. And let him not in judgement show mercy to the poor man, that is, the mercy of remission, though to him there ought to be shown, as to all men, the mercy of compassion. And to whom and in what fashion a judge should be merciful, the merits or demerits of persons shall instruct him.' *Bracton*, p. 306. For a comparison, see Richardson and Sayles (eds.), *Fleta*, pp. 37-38.

[94] *Confessio*, book 7, ll. 1782-84. Instead of the virtues of the Four Daughters, largesse as an aspect of mercy has displaced peace, and chastity is joined on.

A king schal do such equite
And sette the balance in evene.'[95]

The fact that mercy must be joined to justice indicates that it is not the virtue which must take precedence in royal rule:

And every governance is due
To Pite: thus I mai argue
That Pite is the foundement
Of every kinges regiment,
If it be medled with justice.
Thei tuo remuen alle vice,
And ben of vertu most vailable
To make a kinges regne stable.[96]

It seems likely that Gower reflected the anger engendered by Richard II's continued misuse of his prerogative of pardon and his failure to distribute the justice required of his office. The circumstances surrounding the use of the pardon in Richard's final, 'tyrannical' years certainly aroused the resentment of his political opponents: a resentment which they ultimately expressed in the charges presented against Richard at his deposition in 1399.[97] Mercy was valued and desirable, but not when it was used for selfish ends, or resulted in the failure to punish the wrongdoer. The king's use of his powers of mercy must be guided by more than a desire to demonstrate his majesty and power.

A more didactic representation of the king's dispensation of justice and mercy was evident in the Four Daughters of God allegory, which circulated in several versions

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[95] *Confessio,* book 7, ll. 3851-59; 3918-21. Gower does also make the link between the divine and royal mercy through the figure of the Virgin (op. *Bracton*).

[96] *Confessio*, book 7, ll. 4195-4202. A similar joining of justice with equity occurs in passus 19 of *Piers Plowman.* Here Spiritus Iusticie is the fourth seed that Grace gave Piers to sow, along with the other cardinal virtues. 'Spiritus Iusticie spareth noght to spille hem that ben gilty...He dide equyte to alle evenforth his power.' (ll. 299, 310).

[97] See above, Chapter Three, pp. 104-18.

throughout the Middle Ages.[98] The allegory attempted to explain that adhering to the absolute letter of the law was undesirable and that the ideal state resulted from balancing the demands of truth and justice, mercy and peace. The arguments presented by the four daughters are easily recognisable as the age-old problem of whether it is better to adhere to the letter of law and accept the possibility of its divisiveness or whether to seek reconciliation and compromise in principle. Ultimately the debate presented in the allegories represents the question in terms of the demand for revenge versus the need for atonement. It extols the belief that allowing the transgressor to make satisfaction and be reintegrated into the community is more important than exacting the justice encoded in the law.

Bernard of Clairvaux's version of the allegory, in his sermon *In Festo Annuntiationis Beatae Virginis,* is one that underlies versions referred to as the 'heaven' allegories.[99] Before his fall, man was given four Virtues as companions, but as a result of his disobedience he lost them all. In heaven strife then occurs between the virtues: Truth and Justice reject the pity that Mercy and Peace advocate. They all meet before the father but cannot see how Peace and Truth can both be maintained. The father sends for the son to give judgement and he declares: 'Let it be a good death and both have what they seek'. Peace understands that the son will become man and do penance for mankind. In the end, Justice and Peace are reconciled. The other version of the allegory, known as *Rex et Famulus,* gives the 'kingdom' version of the parable, setting the events in an earthly kingdom where Mercy, Justice, Peace and Truth are the king's four daughters.[100] The two versions were popularised in English translations of the

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[98] The allegory is based on an interpretation of *Psalm*s 83, 11 (Vulgate). It has a long and complex lineage in Judeo-Christian literature, but its popularity in medieval literature resulted from the dissemination of the allegory in Bernard of Clairvaux's *Annuntiatione Beati Mariae, Sancti Bernardi Opera,* [ed. J. Leclerc and H. Rochais, 8 vols. (Rome, 1957) 5.] and in the *Rex et Famulus* [Printed in: Sister Mary Immaculate C.S.C, 'The Four Daughters of God in the Gesta Romanorum and the Court of Sapience', *PMLA* 57 (1942): 951-65.] Their influence was felt by means of two other works based on them: *Meditationes Vitae Christi* and *Chasteau d'Amour*. Both were translated into English, and served as sources for a number of works. [John of Caulibus, *Meditationes Vitae Christi*, ed. and trans, F.X. Taney, A. Miller and C.M. Stallings-Taney (Asheville, N.C., 2000); Robert Grosseteste, Le *Chateau d'Amour*, ed. and trans. J. Murray (Paris, 1918).] See also: Sister Mary Immaculate, 'The Four Daughters of God', pp. 951-65; K. Sajavaara, (ed.), *The Middle English Translations of Robert Grosseteste's Chasteau d'Amour*, Memoires de la Société Néophilologique de Helsinki 32 (Helsinki, Société Néophilologique, 1967); H. Traver, 'The Four Daughters of God: A Mirror of Changing Doctrine', *PMLA* 40 (1925): 44-92; H. Traver, The *Four Daughters of God* (Philadelphia, 1907); T.J. Janecek, 'The Parliament of Heaven' (PhD thesis, University of Illinois, 1975).

[99] Bernard of Clairvaux, *Annuntiatione Beati Mariae*, p. 5.

[100] Sister Mary Immaculate, 'The Four Daughters of God', pp. 955-56, analyses the differences between the *Rex et Famulus* and Bernard's version, and the possible influence of another version by Stephen of Tourney.

Meditationes Vitae Christi and the *Chasteau d'Amour.* [101] The substance of the four daughters' pleas touches on matters of salvation, yet essentially they are concerned with who shall have dominance in their father's court, and the effect that their sister's requests would have on the kingdom as a whole. The subtext of the allegory rests in the extension of the sisters' arguments beyond the sphere of religion. This concerns the need to secure peace in the realm and for the transgressor to achieve atonement so that the community may enjoy peace. The demands of Justice and Truth are not presented in the end as righteous, but destructive. The king realises that to protect peace he must show mercy and pardon the wrongdoer.

The versions of the allegory given by Lydgate and Langland infused the poem with contemporary legal terminology. When the sisters first begin to argue in the *Life of Our Lady*, Peace insists they proceed 'affore the high Iuge' in the 'high hevenly consistory'.[102] When the father gives his verdict, he explains how the son will be sent to Mary:

> And Right shall leve, al his sturdinesse
> And Trouthes sworde, shall no more manace
> And finally, mercy shall purchace
> A Chartour of pardon.[103]

In *Piers Plowman,* Peace explains to Justice that she is going to welcome all those who are being released from Hell because:

> Love, that is my lemman, swiche lettres he me sente
> That Mercy, my suster, and I mankynde sholde save,
> And that God hath forgiven and graunted me, Pees, and Mercy

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[101] Sources of the heaven allegories are found in the following texts: *Piers Plowman,* B-text, passus XVIII, ll. 112-228; N. Love, *The Mirour of the Blessed Lyf of Jesu Christ*, ed. L. R. Powell (Oxford, 1908), pp. 14-19; F. Holthausen (ed.), *Vices and Virtues: A Soul's Confession of its Sins with the Reason's Description of the Virtues*, EETS, OS 89, 159 (London, 1888, 1921); pp. 111-21; *The Life of Christ and the Virgin Mary* in R.A. Klinefelter (ed.), 'The Four Daughters of God: A New Version', *Journal of English and German Philology* 52 (1953): 90-95; C. Horstman (ed.), *Charter of the Abbey of the Holy Ghost, Yorkshire Writers* (London, 1895), 1: 337-62; Eccles (ed.), *Castle of Perseverence,* ll. 3129-3649. For kingdom allegories, see: S.J.H. Herrtage (ed.), *The Early English Versions of the Gesta Romanorum*, EETS, ES 33 (London, 1879), pp. 132-35; E.R. Harvey (ed.), *Court of Sapience* (London, 1984), ll. 176-903.

[102] John Lydgate, *Life of Our Lady,* ed. J.A. Lauritis, R.A. Klinefelter, and V.F. Gallagher, Philological Series 2 (Pittsburgh, 1961), ll. 185-91.

[103] *Life of Our Lady,* ll. 332-35.

To be mannes meynpernour for evermore after.[104]

She then shows the appropriate patent. The licence that Love has given to Peace to be man's mainpernor is represented as a formal legal document. This passage again employs the specific legal terminology of the king's courts in its use of the word 'meynpernour' (meaning guarantor, literally to 'hold your hand'). It also emphasises the iconic significance of the written, sealed text, prompting parallels with pardon charters discussed above in the context of the outlaw literature.[105] Furthermore, the metaphorical references to such charters were echoed in other contexts. For example they appear in the 'charters of Christ' theme, in which the New Covenant made by Christ at the Last Supper is etched as a sealed document onto his own crucified body.[106] While the simple parchment of a royal letter of pardon might seem a token and very fragile means of effecting the king's word and enforcing the king's peace, the special symbolic qualities attributed to charters in late medieval political culture indicate the manner in which they denoted a unique kind of surrogate royal presence. These allusions testify to a late medieval preoccupation with the iconography of politics represented in the king's letters patent of pardon.

Langland's most striking equation between the earthly and heavenly king is made in a passage in which Christ refers to hanging felons. He points out that on earth a felon is not hanged more than once if the first attempt fails, even if he is a traitor. If the king were present, he had the royal prerogative to grant pardon. Christ, calling himself King of kings, compares a king's pardon to his own pardon, and discusses his ability to 'do mercy thorough rightwisnesse.'[107] Such contemporary allusions emphasise the relevance of the allegory's message about the tension between the demand for justice and mercy, and the notions of how this ought to be remedied by pardoning the transgressor in order to reconcile the parties in dispute. It also poses questions concerning human nature: how people would behave if they knew mercy was always available to them; to what extent men should be held responsible for their actions; and whether influences and circumstances should be taken into account in judgement.

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[104] B-text, Passus XVIII, ll. 181-84.

[105] See above, p. 162.

[106] See: C.W. Bynum, *The resurrection of the body in western Christianity, 200-1336* (New York, 1995); J.A. Keen, *The Charters of Christ and Piers Plowman: Documenting Salvation* (Oxford, 2002).

[107] B-text, passus XVIII, ll. 380-90. See above, Chapter Two, pp. 41-43.

Truth and Justice refuse to see any benefit in granting forgiveness to man after a life of sin. They insist the ability of reprieve would encourage misdeeds. In the *Castle of Perseverance*, Truth exclaims:

> Late repentaunce if man saue scholde,
> Wheyþyr he wrouth wel or wychydnesse,
> Þann euery man wolde be bolde
> To trespass in trost of foryevenesse.
> For synne in hope is dampnyd, I holde;
> Forgevyn is neuere hys trespasse.[108]

Justice questions what would happen if men did no good all their lives, but knowing the possibility of mercy still caused grief and strife. In her opinion:

> Whoso in hope dothe any dedly synne
> To hys lyvys ende, and wyl not blynne,
> Rytfully þanne schal he wynne
> Chrystis gret vengaunse.[109]

Justice in *Vices and Virtues* claims that it is right that Adam suffers, since he was disobedient and allowed God's adversary to overcome him by force. Truth says she warned him that if he broke the commandment, he would die.[110] Peace and Mercy offer the defence that man was not completely responsible for his own actions. Responding to the accusation that man was given the Virtues but cast them off, Peace claims that he was corrupted by his enemies when the four daughters left him alone. Mercy says that he offended more out of ignorance than malice, and that Truth and Justice were absent when he was betrayed.[111] Motivation for God's judgement is explicitly stated in *Vices and Virtues*: Truth states that God's mercy should always be set higher than his right

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[108] Eccles (ed.), *Castle of Perseverence*, ll. 3275-80.

[109] Eccles (ed.), *Castle of Perseverence*, ll. 3173-76.

[110] Holthausen (ed.), *Vices and Virtues*, p. 113.

[111] *Life of Our Lady*, ll. 316-17. See the arguments of mercy in both *Vision of Piers Plowman* B-text, passus XVIII, ll. 158-61, 334-39 and in Eccles (ed.), *Castle of Perseverence*, ll. 3335-78.

judgement.[112] The father's favouritism and reasoning is more explicit in the *Castle of Perseverance*. He announces:

> Ego cogito cogitaciones pacis, non afflicciones.
> Fayre falle þe, Pes, my dowtry dere!
> On þe I þynke and on Mercy…
> To make my blysse perfyth
> I menge with my most myth
> Alle pes, sum treuthe, and sum ryth,
> And most of my mercy.
> Misericordia Domini plena est terra. Amen![113]

In the kingdom allegories, concerns for the prisoner tend to assume secondary significance, and the pleas of the sisters focus on their roles in kingdom. Peace's plea centres on the need to consider the well-being of the entire kingdom before the individual claims of priority and propriety. These allegories express a far greater concern about the need for the king to secure peace and order for his people. Justice and Truth are seeking destructive vengeance, and the sources attempt to describe the true object of judgement. Justice and Truth blatantly seek revenge and decide to carry out their own punishment by visiting the world with a flood so terrible that Noah and his family are the only survivors.[114] At this point Peace plays the pivotal role. Her flight or threatened exile causes the king and son to act decisively to end the dispute. The Son chooses Mercy, for the sake of Peace. Concord is sought between the sisters, but for this to be possible Peace must return and satisfaction must be provided for Truth and Justice. The allegory is concerned with maintaining the unity of a kingdom through right rule, yet it also expresses the need for a system of judgement which allows for flexibility in dealing with transgressions of law.

These sources present the theology of salvation and atonement through the use of scriptural references and allegorical figures. They are imbued with traditional notions about the character and value of Christian mercy. Yet this does not obscure the subtext: the language of law and contemporary social relationships indicate that the allegories

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[112] Holthausen (ed.), *Vices and Virtues*, p. 114.

[113] Eccles (ed.), *Castle of Perseverence*, ll. 3560-62, 3570-74.

[114] *Four Daughters* (ed.), Sajavaara, ll. 349-56, 361-62.

were also concerned with the fate of the transgressor in the earthly realm. The daughters consider the question of extenuating circumstances: a certain degree of blame may be attributed to the enemy lord who has beguiled the wrongdoer with false promises.[115] Mercy and Peace seek to find an acceptable reason why the felon should be pardoned and given the opportunity to serve the king once again and to rejoin the community. Truth and Justice focus their objections on the threat that such forgiveness would pose to the king's power: the disregard for established law would undermine respect for and fear of the king's authority. The allegories seem to reflect a contemporary opinion that royal power would be weakened if it lacked the ability to be merciful and exercise the prerogative to pardon. Yet still the fear persisted that the king would eventually be seen as impotent if he did not rule consistently under the terms of the established law. The rationalisation for the ultimate choice of mercy is given by Peace: Justice's most fundamental obligation is to ensure order in the realm. Therefore the demands of both sides are met when the king turns to pardon as a means for maintaining the integrity of society. Peace voices the most eloquent statement of this ideology:

> Woo worth debate that never may have pees!
> Woo worth penaunce that asketh no pyte!
> Woo worth vengeaunce that mercy may not cees!
> Wo worth jugement that hath none equyte!
> Wo worth that trouth that hath no charyte!
> Woo worth that juge that may no guilt save!
> And wo wirth right that may no favour have![116]

The allegory, while commenting on the Christian plan of salvation, also provides a discourse on the function of mercy in the law and place of punishment in governance. In *Piers Plowman*, Christ's pardoning is justified over the course of the Harrowing of Hell episode.[117] Here the argument between the four daughters introduces a debate

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[115] B-text, passus XVIII, ll. 158-61, 334-39.

[116] *Sapience*, ll. 463-69.

[117] B-text, passus XVIII, ll. 260-433. See C.W. Marx, *The Devil's Parliament ed. from London, British Library, MS Add. 379492 and Lambeth Palace Library, MS 853 and The Harrowing of Hell and the Destruction of Jerusalem ed. from Cambridge, St. John's College, MS B.6* (Hiedelberg, 1993), pp. 115-47.

between various devils about whether Christ will actually come to take back Adam's children. Lucifer claims that if Christ does, he deprives the Devil of his rights, because Adam broke the laws given to him by God:

> For hymself seide, that sire is of hevene,
> That if Adam ete the appul, alle sholde deye,
> And dwelle [in deol] with us develes--this thretynge he made.
> And [sithen] he that Soothnesse is seide thise wordes,
> And I sithen iseised sevene [thousand] wynter,
> I leeve that lawe nyl noght lete hym the leeste.[118]

But Satan doubts this, reminding Lucifer, 'For thow gete hem with gile, and his gardyn breke . . . And toldest hire a tale-of treson were the wordes; And so thou haddest hem out and hider at the laste. It is noght graithly geten, ther gile is the roote!'[119] Another devil, Gobelyn, reminds them, 'We have no trewe title to hem, for thorough treson were thei dampned.'[120] Christ's speech to Satan, and his enactment of pardon, follows this discussion. Upon his entry into Hell, Christ announces himself as 'lord of myhte and mayne…the kynges sone of hevene,' and explains why his claim for the man is just. He will overcome the beguilers:

> So leve it noght, Lucifer, ayein the lawe I fecche hem,
> But by right and by reson raunsone here my liges: *Non veni solvere legem set adimplere.*[121]

Christ has justified the pardoning of those in Hell with the argument that his suffering has paid the price to redeem all men. This reasoning, Christ makes clear, follows the strict dictates of the law. He ransoms men through right and reason, and has won them back through an act of grace.

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[118] B-text, passus XVIII, ll. 279-84.

[119] B-text, passus XVIII, ll. 286-91.

[120] B-text, passus XVIII, l. 293.

[121] B-text, passus XVIII, ll. 349-50.

Mercy as Majesty: The Performance of Pardon

Clearly, each pardon made a public statement about the relationship between sovereign and subject and the links between mercy and deference. In most cases, recipients generally returned to the court that had indicted or convicted them, recited their offence, and entered a plea for their pardon. They presented sureties for their future good behaviour and the court crier then announced the pardon and proclaimed the offender's restoration to the protection of the law.[122] Some pardons, of course, made more spectacular statements than others. Medieval monarchs recognised the need to appear merciful and accordingly crafted public demonstrations of their princely clemency. The performance involved in the act of pardoning political opponents emphasised the majesty and magnanimity of the monarch. Chronicle accounts of these scenes often centred on the physical display of remorse and forgiveness which preceded reconciliation. The act of reconciliation between Edward I and Llywelyn ap Gruffydd in 1277, for example, involved both a renewal of fealty by Llwelyn, in order to assuage his defiance of Edward's lordship, and the grant of a pardon to forgive him his act of treason against the crown. According to the Bury St. Edmunds chronicler, Llywelyn 'submitted unconditionally his life, limbs, worldly honours and everything else to the will and judgement of the king', who 'gave Llywelyn the kiss of peace and brought him to London to negotiate the terms of the peace and its confirmation.'[123] Knighton, writing at the end of the fourteenth century, suggests that the pardon was presented in a ceremony in which Llwelyn prostrated himself at the king's feet and submitted to Edward's authority. The word Knighton uses here is 'pardonavit', although he is perhaps employing the precise and legalistic terminology of the later fourteenth century.[124] On this occasion Edward's victory had given him a dominant position and the public display of reconciliation reinforced his status as the ultimate arbitrator and fount of royal justice.

In some instances, a prescribed sequence of gestures and symbols are apparently employed by both the supplicant and the monarch. In several of the outlaw ballads referred to above, the pardon scenes give specific details of the performance. In *Adam*

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[122] See above, Chapter Four, p. 138.

[123] *Knighton's Chronicle*, p. 272; *Bury St. Edmunds*, p. 64.

[124] While the chronicle accounts might be expected to dwell on the dramatic and ceremonial events, rather than the legal aspect of granting a pardon, they were, in 1313 and in 1382 giving a more prominent role to the charter of pardon itself. Phrases such as 'remisimus et condonavimus' or 'remisimus et perdonavimus' were occasionally in the thirteenth and early fourteenth century, most notably in the amnesty of Magna Carta, but less specific terms such as the 'king's peace' seem to have been favoured.

Bell, for example, the outlaws seem to know what actions to perform without any instruction:

> And whan they came before our kynge,
> As it was the lawe of the lande,
> They kneled downe without lettynge,
> And eche helde up his hande.
>
> They sayd, 'Lorde, we beseche you here,
> That ye wyll graunte us grace,
> For we have slayne your fatte falowe dere,
> In many a sondry place.'[125]

The physical actions of the supplicant were clearly intended to reinforce the message of their remorse and penance.

Public pardons served both instrumental and expressive ends: general pardons, for example, not only had practical, bureaucratic advantages for the crown, but their proclamation also provided a forum for powerful public statements about the benevolence of the sovereign and the duties of the subject.[126] Intended as instructional and didactic, these spectacles also comprised a form of social and political interaction. Richard of Maidstone's *Concordia*, for example, describes the pageantry and display of mercy which celebrated Richard II's reconciliation with the city of London in August 1392.[127] As part of the procession, the king accepted the keys and sword of the city and its surrender. The entourage then passed through Southwark, and the king stopped to pardon a criminal. Further on, the king and queen were presented with gold tablets representing the crucifixion, to promote a sense of mercy. At Westminster, the queen fulfilled an earlier promise to intercede with the king. King Richard then warned the Londoners of the dangers of pride in their wealth, but pardoned them, restoring their keys and ancient privileges, to which the crowd, in response, cried 'Long live the king'.

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[125] Knight and Ohlgren (eds.), *Robin Hood*, ll. 471-78.

[126] For discussion of proclamations see: Doig, 'Political propaganda and royal proclamations', pp. 253-80; J.A. Doig, 'Propaganda and truth: Henry V's royal progress in 1421', *Nottingham Mediaeval Studies* 40 (1996): 167-79. See above, Chapter Four, p. 137.

[127] Rigg, *Anglo-Latin Literature*, pp. 285-86.

The crown clearly recognised the value of aligning itself with widespread concepts of mercy in public displays of pardon and reconciliation.[128]

A wide range of texts, elite and popular, discussed mercy as a potent sign and tool of power; they described it as a gift that depended on the relationship between the monarchs and their subjects. Pardons communicated their messages about royal authority, but public expectations of pardon and mercy also shaped the exercise of that authority. Commentators sometimes criticised particular uses of the pardon, and on occasion redistributed the weight they gave to each side of the balance between justice and mercy, but they always insisted that a just ruler showed clemency. Royal pardons were a practical manifestation of the theory that mercy constituted an essential royal virtue. Their role and use in the context of late medieval society, however, was also informed by the practicalities and constraints of the common law and by the demands of immediate political necessity.

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[128] B.A. Hanawalt and K.L. Reyerson (eds.), *City and spectacle in medieval Europe* (Minneapolis, 1994); G. Kipling, *Enter the king: theatre, liturgy, and ritual in the medieval civic triumph* (Oxford, 1998); G. Kipling, 'Richard II's sumptuous pageants and the idea of the civic triumph', in D.M. Bergeron (ed.), *Pageantry in the Shakespearian theatre* (Athens, Ga., 1985), pp. 83-103; G. Kipling, 'The London pageants for Margaret of Anjou : a medieval script restored', *Medieval English Theatre* 4 (1982): 5-27.

Chapter Six

Conclusion

The fundamental contention of this study has been that the royal prerogative of mercy played a pivotal role in later medieval society, both in influencing the day-to-day application of the law in the royal courts, and, equally importantly, in shaping relations within the political community. Historians have often struggled to explain the motivation behind dramatic moments of political crisis and reconciliation, for example in the wake of the so-called Good Parliament of 1376 or the final, tyrannical years of Richard II's reign, and this is in part because the role of the royal pardon has been overlooked. The intention of this thesis has been to suggest that one vital element of later medieval political culture has been neglected, namely, the prevailing views of the role and significance of royal mercy. Whilst the work of Edward Powell, in particular, has gone some way towards emphasising the importance of this neglected field of research, medieval notions of mercy and royal pardon deserve a more thorough and nuanced appraisal than they have so far received.[1] This is particularly important in the light of the recent scholarship on political culture, produced since Powell first made his call for a 'new constitutional history', which has done so much to further our understanding of the context surrounding the evolution of law and politics in the later middle ages.[2] Accordingly, the aim of the thesis has been to establish the central role played by the royal pardon in the life of the medieval English populace, and, in so doing, to demonstrate the value of new methodological approaches in pushing forward the boundaries of research into medieval political culture. The purpose of this concluding chapter is to return to the historiographical controversies and methodological problems highlighted in the introduction, with the in-depth analysis of the foregoing chapters in mind, and to assess the role of this thesis in taking forward the study of medieval mercy and pardon.

As the introductory chapter made clear, the role of the royal prerogative of mercy has until recently been largely neglected by historians and literary critics alike.[3] This has in part been due to the disciplinary boundaries which have fragmented the study of medieval political culture. The result has been that particular elements of the prerogative power have been examined in isolation, and have not, therefore, been

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[1] Powell, 'Restoration of Law and Order'; Powell, *Kingship, Law and Society*, pp. 188-94.

[2] Powell, 'After "After McFarlane"', p. 10. See above, Chapter One, pp. 7-8.

[3] See above, Chapter One, pp. 1-6.

accorded due significance. Several of the eminent constitutional historians of the nineteenth century, for example, examined the role of the royal pardon in the context of the development of the common law. Not surprisingly, Bishop Stubbs dismissed the pardon as a defect in the medieval processes of justice, and saw little need to investigate this prerogative any further. Similarly, historians of late medieval law and order have seized on another particular aspect of the prerogative - namely its use as an incentive for military recruitment - and have accordingly asserted that the role of the royal pardon amounted to nothing more than a corrupt method of bolstering the ranks of royal armies, while allowing the crown to ignore its obligation to punish criminals. Meanwhile, literary critics have engaged with the medieval discourse of mercy articulated in works of advice, but this work has yet to be assimilated with any study of the practical use of the royal pardon in the political or legal spheres.[4] To provide a more comprehensive picture of the prerogative of mercy it is necessary to turn to new methodological approaches and ideas.

Neither the Stubbsian emphasis on governmental institutions and bureaucracy, nor McFarlane's focus on patronage, were conducive to a comprehensive study of the royal pardon. As Edward Powell made clear when he put forward his proposal for a 'new constitutional history', the lack of interest in monarchical ideology and in the workings of the law as part of the structure of power, was a serious omission in post-McFarlane historiography. However, Powell's proposals for a more inclusive form of constitutional history, and John Watt's more recent work in the area, have done much to promote scholarship which unites the study of monarchical ideology and principle with work on personal connection, affinity, and patronage.[5] As the introductory chapter of this thesis made clear, this approach has revitalised the study of the medieval polity, and has brought the concept of medieval 'political culture' to the fore. Such ideas provide a new and receptive forum for this present study of royal prerogative power. This thesis has drawn on the foundations which Powell and Watts have provided, but has also recognised that, in certain respects, revisions need to be made to this approach in order to continue to move forward. Gwilym Dodd has demonstrated that Powell's proposals were geared specifically to the Lancastrian polity, and, as such, marginalised the role of governmental institutions such as parliament in the fourteenth century. This also led Powell to focus on questions of law and property, which obscured some of the

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[4] For a more detailed survey of this scholarship, see above, Chapter One, pp. 1-13.

[5] Powell, *Kingship, Law and Society*, pp. 1-9; Powell, 'After "After McFarlane"', *passim*; Watts, *Henry VI*, pp. 1-80.

alternative political principles at work. John Watts' study, too, demonstrated the importance of monarchical ideology and advice literature in fifteenth-century politics, but did not give equal attention to alternative ideas based on common law theory, or the practical constraints imposed by the workings of the king's courts.[6] This thesis has sought to develop the study of medieval political culture by examining the role of the royal pardon across a whole range of institutions and models of political thought. Medieval perceptions of pardoning were influenced by legal theory, but also by the dictates of an evolving common law and by the role of patronage and affinity. Such a study elucidates the legal and cultural context in which political debates developed and were articulated. The aim of this thesis has been to examine the whole range of political principles and practical constraints which shaped attitudes towards prerogative rights such as the royal pardon. This approach not only allows the full importance of this prerogative to be realised, but also, in a broader sense, demonstrates that this 'new constitutional history' can usefully be taken forward and adapted for future scholarship.

This thesis has dealt with several different facets of the royal pardon: its place in the legal system as a safeguard against inequitable judgements at common law; its role in reconciling the polity with the crown at moments of political crisis; and the discussion it provoked among legal theorists, literary authors, jurors and supplicants for mercy. While it is not practical to summarise the conclusions of the foregoing discussion in this final chapter, it is essential at this stage to draw these various aspects of pardoning together, so as not to leave the impression that the role of pardoning in medieval society can be easily compartmentalised in such a way.

Each parliamentary debate or textual discourse on the issue of pardoning reinforces the impression that this was not a process perceived to be exclusive to the law and to the lawyers and legal theorists who dealt with it in the king's courts. It is true that one of the primary functions of the pardon was to provide a degree of flexibility within the common law, in order to recognise mitigating circumstances such as insanity, mischance or self-defence. However, the royal prerogative of mercy had a far wider remit than this, and came to possess a resonance in medieval society which went far beyond legal classifications. Even within the judicial sphere, it was recognised that the pardon stood for more than a method of mitigating prescribed sanctions in certain cases. While *Bracton* criticised the effect of the pardon on the authority and status of the common law, for example, he recognised that the royal prerogative of mercy also

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[6] See above, Chapter One, p. 9.

embodied the king's moral duty to provide equitable justice, and even advocated that subjects should be able to bring an appeal to the monarch himself. Accordingly, texts such as *Bracton, Fleta* and the 1278 Statute of Gloucester, sought to clarify the procedure of pardoning, but continued to express an underlying belief in the value of the prerogative.[7]

For petitioners, too, the pardon was more than merely a mechanism of the law, confined in importance to the courtroom. It represented their right to appeal to the king as the head of the judicial system, for a judgement of grace. The physical object of the letter patent of pardon had a symbolic resonance as their personal promise of protection from the crown.[8] These ideas were part of the wider notion that the legal system itself was not a discrete and self-governing entity. The processes of the law could be moderated from above by the dictates of the monarch or from below by juries and local communities, or by the church through the ecclesiastical privileges of sanctuary and benefit of clergy.[9] The notion that informal standards would be applied in passing judgement, and that the process of personal arbitration worked to offset the rigidity of legal categories, was clearly entrenched in medieval thought.[10]

Indeed, the very system of pardoning was never entirely confined to official legal channels.[11] On the one hand the procedure of receiving pardon after due process of the law had become a recognised part of the judicial system. But, despite the efforts of the Commons in parliament, and of legal theorists, the pardon was never exclusively limited to this role. The 'patron-broker-client' ties of patronage to which Powell refers were used throughout the fourteenth century, by those seeking pardon outside the judicial system.[12] Not all supplicants seeking pardon felt restricted to bringing their appeal through the king's courts. Royal mercy was above the law, and was in an important sense a moral judgement of conscience rather than a legal verdict.[13] The expectations of petitioners, therefore, were not defined in terms of learned

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[7] See above, Chapter Four, pp. 126-32.

[8] See, for example, the use of the physical charter of pardon in the Townley Corpus Christi pageant: Chapter Four, pp. 135-39.

[9] See above, Chapter One, pp. 14-19.

[10] See above, Chapter Five, pp. 152-57.

[11] See above, Chapter Two, pp. 32-40.

[12] Powell, 'After "After McFarlane"', p. 12. See also: Powell, 'Criminal Justice'.

[13] See above, Chapter Five, pp. 167-81.

jurisprudence, but rather in their understanding of conscience and mercy. Accordingly, it was access to the monarch, or, increasingly to the chancellor as the king's representative, that was of paramount importance, whether through the services of a powerful patron, through parliamentary petition or through the recommendation of a justice. The very system of pardoning demonstrates the extent to which a letter of pardon was regarded as a personal contract between the king and the individual supplicant. In suing out and receiving the letter, the supplicant had a personal assurance of protection from the crown. In issuing a pardon, the royal government was extending its influence to those outside the immediate circle of the polity, and, in taking them back into the king's peace, it was giving them a vested interest in upholding the working of the law.

The evolution of the general pardon also signalled that the royal prerogative of mercy was to occupy a permanent position in the political sphere. Grants of amnesty to opponents of the crown had long occupied a less official political role in reconciling disaffected factions to the regime.[14] The general pardon now supplanted these amnesties, and allowed the government to portray the use of the prerogative as an unforced act of mercy, rather than merely a reaction to a political crisis on the scale of the Good Parliament or the Peasants' Revolt. These pardons were formulated as a statement of royal authority rather than an admission of weakness. Henry V's pardon to the Lollards after the revolt of 1414, for example, was presented as an unforced act of mercy issuing from the king himself. The terms of the pardon explicitly stated that it was issued purely as an act of royal clemency, in order to show pity on those who had erred.[15] This point has important implications for our understanding of the king's own exercise of his prerogative rights during the later fourteenth century and beyond. While the monarch consented to issue a general pardon, he always did so of his own free grace. He could, therefore, rescind the grant by another assertion of the royal will. Importantly, this protected the feudal rights of the crown in-tact, and did not allow parliament to assume any power over future grants of pardon.[16] In one very real sense, then, the continued exercise of the royal prerogative of mercy represented the unilateral capacity of the crown to take decisions and to issue orders on its own authority. This

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[14] See above, Chapter Three, pp. 82-117.

[15] 'not at the request of any supplicant, but from the pure impulse of royal clemency, because we chose rather to pity and spare those who have erred, rather than to punish and destroy the righteous with the unrighteous, the innocent with the guilty.' *Foedera* [first edition], vol. 9, pp. 119-20.

[16] This point has been made by Mark Ormrod in relation to the 1362 statute of Purveyors. See: *PROME,* parliament of 1362, introduction.

survival serves to qualify, rather than support, any notion of the development of consensual government in parliaments of the later fourteenth-century. The grants of royal mercy offered by the crown in 1362 or 1377, for example, represented the development of a reciprocal relationship between king and Commons, but not one in which the Commons encroached, in any sense, on the feudal and prerogative rights of the crown. Furthermore, it must be emphasised that these grants of mercy were connected with real political events and trends, such as the crisis of the 1376 Good Parliament, or the tyrannical actions taken by Richard II in the final years of his reign, rather than existing as abstract concepts of mercy and justice.[17]

It is important to view these conclusions in the light of scholarship on the role of mercy in other periods. The work of historians such as Krista Kesselring and Douglas Hay on the sixteenth and eighteenth centuries respectively, for example, has done much to point the way forward for research into the later middle ages. Krista Kesselring has elucidated the role which mercy played in the exaction of deference and obedience for the Tudor monarchs, while Douglas Hay's work on royal pardons in eighteenth-century England stimulated interest in a 'new legal history' that sought to shift the emphasis from the inefficiencies of past legal systems to a broader understanding of Hanoverian perceptions of mercy.[18] However, this thesis serves to suggest that a new study of mercy in the later middle ages also has something of relevance to contribute to research in other periods. Fundamentally, it serves to highlight the need to investigate the personalised nature of the royal prerogative powers. While much work has been done on the development of government under the Tudor monarchs, for example, it is clear that the crown continued to view mercy as part of its prerogative power. The standard phrasing of indictments still sought to convey medieval notions of the personal nature of the 'king's peace', and of crimes being committed against the dignity of the monarch.[19] Indeed, there has been little real attempt to examine the whole context of prerogative

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[17] See above, Chapter Three, pp. 82-117.

[18] Kesselring, *Mercy and Authority*; D. Hay, 'Property, Authority and the Criminal Law', in D. Hay, P. Linebaugh, J. Rule, E.P. Thompson, E. Palmer, C. Winslow (eds.), *Albion's fatal tree: crime and society in eighteenth century England* (New York, 1975) pp. 17-64. P. Linebaugh has since qualified some of this work's overtly Marxist conclusions, see: P. Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (London, 1991), p. xix. See also: J.A. Sharpe, *Crime in Early Modern England, 1550-1750*, 2nd edn (London, 1998); J. Innes and J. Styles, 'The Crime Wave: Recent Writing on Crime and Criminal Justice in Eighteenth-Century England', in A. Wilson (ed.), *Rethinking Social History* (Manchester, 1993), pp. 201-65; C. Herrup, 'Crime, Law and Society: A Review Article', *Comparative Studies in Society and History* 27 (1985): 159-70; P. King, 'Decision-Makers and Decision Making in the English Criminal Law, 1750-1800', *Historical Journal* 27 (1984): 25-58.

[19] See, for example, Kesselring, 'To Pardon and to Punish', p. 293.

rights in practice and in theory. In the field of later medieval history these 'constitutional' questions were cast aside in favour of the McFarlanist emphasis on patronage, which, until relatively recently, dominated much work on medieval politics.[20] However, work which has been carried out, primarily in a seventeenth-century context, on the role of the prerogative and on different models or languages of political thought, perhaps suggests that a re-examination of the role of the prerogative in the later middle ages might reveal valuable new insight into the practices of government.[21] Whilst the work of John Watts, in particular, has done much to examine one of those models or languages for political ideas in the 'mirrors for princes' genre, it is true to say that we need also to consider other ways of thinking about politics, particularly in light of the common law and of prerogative rights. While it is vital to examine ideas about the virtue of mercy, it is equally important to develop our practical understanding of that quality in the form of prerogative rights and their legal status. In comparing normative models of mercy from literature, chronicles and advice books against legal conceptions of mercy from year books, court cases and pardons, it is hoped that this thesis has demonstrated the value of such an approach.

An examination of the general pardons issued in the aftermath of a political crisis inevitably emphasises the more sympathetic and moderate measures taken by the crown, and steers discussion towards issues of reconciliation and inclusivity. In so doing, however, it is important not to give the impression that these pardons can be portrayed in purely functionalist terms as evidence of the restoration of a perceived norm of social relations.[22] It was suggested in Chapter Three that pardons were in part intended to re-awaken the sense of obligation among the king's subjects and reconcile them to their public duties.[23] This would seem to support the argument that towards the end of the fourteenth century the governing classes were united in a desire to impress

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[20] See above, Chapter One, p. 7.

[21] G. Burgess, *The Politics of the Ancient Constitution: an introduction to English political thought, 1603-1642* (Basingstoke, 1992); G.L. Harriss, 'Medieval doctrines in the debates on supply 1610-1629', in K.M. Sharpe (ed.), *Faction and Parliament: Essays on Early Stuart History* (Oxford, 1978), pp. 73-104; G. Harrison, 'Prerogative Revolution and Glorious Revolution: political proscription and parliamentary undertaking, 1687-1688', *Parliaments, Estates & Representation* 10 (1990): 29-43; V. Morgan, 'Whose prerogative in late sixteenth and early seventeenth century England?', *Journal of Legal History* 5 (1984): 39-64; D.E.C. Yale (ed.), *Sir Matthew Hale's The Prerogatives of the King*, Selden Society 92 (1976).

[22] Rigby, *English Society*, pp. 124-44; E.B. Fryde, *Peasants and Landlords in Later Medieval England c.1380-c.1525* (Stroud, 1996), pp. 113-35; Ormrod, 'Government', pp. 19-30.

[23] See above, Chapter Three, p. 102.

upon the commonalty a renewed sense of obedience and obligation.[24] However, there is less to suggest that the pardons testify to the social exclusivity with which the judicial system was apparently riven.[25] Instead, it was a measure that included the lesser landholders and greater peasants and relied on their co-operation. Those among them who sued out a pardon bought into the judicial system and presumably sought a guarantee recognised in the courts. In their petitions for general pardons, the parliamentary Commons also expressed concern for the various hardships faced by the community of the realm. Indeed, they long sustained the argument that they had put forward in the wake of the Black Death: that the king's courts should be fully accessible to the less prosperous. They petitioned on several occasions for a reduction in the cost of common law writs to safeguard full and free access to the judicial system and their stance over access to the general pardon suggests that they increasingly saw charters of pardon in the same light.[26]

It is clear, however, that attitudes towards royal pardons were far from uniform. Opinions surrounding pardoning did not follow a clear trajectory from exclusive support for the exercise of mercy, to increasing disillusionment and criticism of royal pardons as the fourteenth-century wore on. It is true, for example, that the parliamentary Commons attacked the use of pardons for military service in the middle years of Edward III's reign, but they also requested the issue of comprehensive pardons to all the king's subjects on several occasions from the 1360s to the end of the century and beyond. It is clear that the debates on pardoning cannot be viewed in isolation: they influenced, and were in turn informed by, the views of a variety of commentators, whether they were legal theorists, theologians or writers of satire or advice. The purpose of this thesis has been to present a more subtle exposition of such perceptions in the context of the judicial and political developments which occurred throughout the fourteenth century. At the centre of such an analysis must be the fundamental contemporary concern with the king's position in relation to the law. This concern motivated efforts to define the authority of the king's prerogative of mercy over the jurisdiction of the common law courts. On the one hand, legal theorists and members of the polity were anxious to limit

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[24] In the October 1383 parliament Sir Michael de la Pole's address emphasised the subject's duty of obedience. Tuck suggests this echoed a view dominant among the king's advisors in the early 1380s. Tuck, 'Nobles, Commons', pp. 206-07.

[25] The structural thesis advocated by Putnam and others suggests the county gentry appropriated the machinery of local justice. Putnam, 'Transformation'; Harriss, *Public Finance,* pp. 354-55, 516-17; Kaeuper, *War, Justice and Public Order*, pp. 386-87.

[26] See above, Chapter Three, pp. 98-102.

the potential for a monarch to abuse such a prerogative by pardoning undeserving felons. On the other, commentators praised the equitable justice dispensed by the monarch, and many acknowledged the right of his subjects to have access to such a process of appeal. Indeed, by the end of the century courts of conscience had developed to formalise the process of an appeal to equity which had persisted in the royal judicial system, providing a defined and quick method of access to the king's discretionary justice. Within this context, it is important to recognise that while the use of military pardons for a time generated intense debate among the political community, preoccupation with this aspect of pardoning was relatively short-lived, and protest largely confined to the sixteen year period between 1337 and 1353. Discussion of the role of pardoning, however, had been initiated at least a century earlier, and was to endure throughout the later middle ages.

The royal prerogative rights were perceived to be an integral part of the judicial system. To most people, the common law and the prerogative powers were both aspects of the king's law, dispensed in the royal courts. Even for the lawyers well versed in the evolving common law procedures, the king's pardon was a necessary safeguard. Some attempts were made to ensure that individuals stood trial before receiving pardon, but as the century progressed, efforts became focused on eliminating abuse of pardoning, both by the monarch in his use of military pardons, and by petitioners who sought to gain pardon through unofficial channels. The monarch's ability to bypass the legal system and to use the privy seal to issue orders on his own authority became a cause for concern when he was thought to be abusing this power. Texts such as *Mum and the Sothsegger* and *Richard the Redeless* challenged Richard II's abuse of his prerogative powers, exemplified in his controversial policy of retaining and in the pervasive influence of maintenance in the judicial system.[27] Such literature reinforced the message of *Piers Plowman* that those in judicial office must maintain high standards in administering the law. Abuse of other prerogative powers, such as rights to purveyance, to feudal aids, and to the profits of judicial fines, were also subjects of parliamentary debate. Whilst the legality of the king's right to exercise them was unchallengeable, the manner in which he did so was a cause for concern, and increasingly became associated with an intrusive form of central government control. However, despite the abuse of pardoning by the king and by petitioners for his mercy, many individuals, when confronted with a problem in the legal process, valued their right to appeal to the equitable justice of the king.

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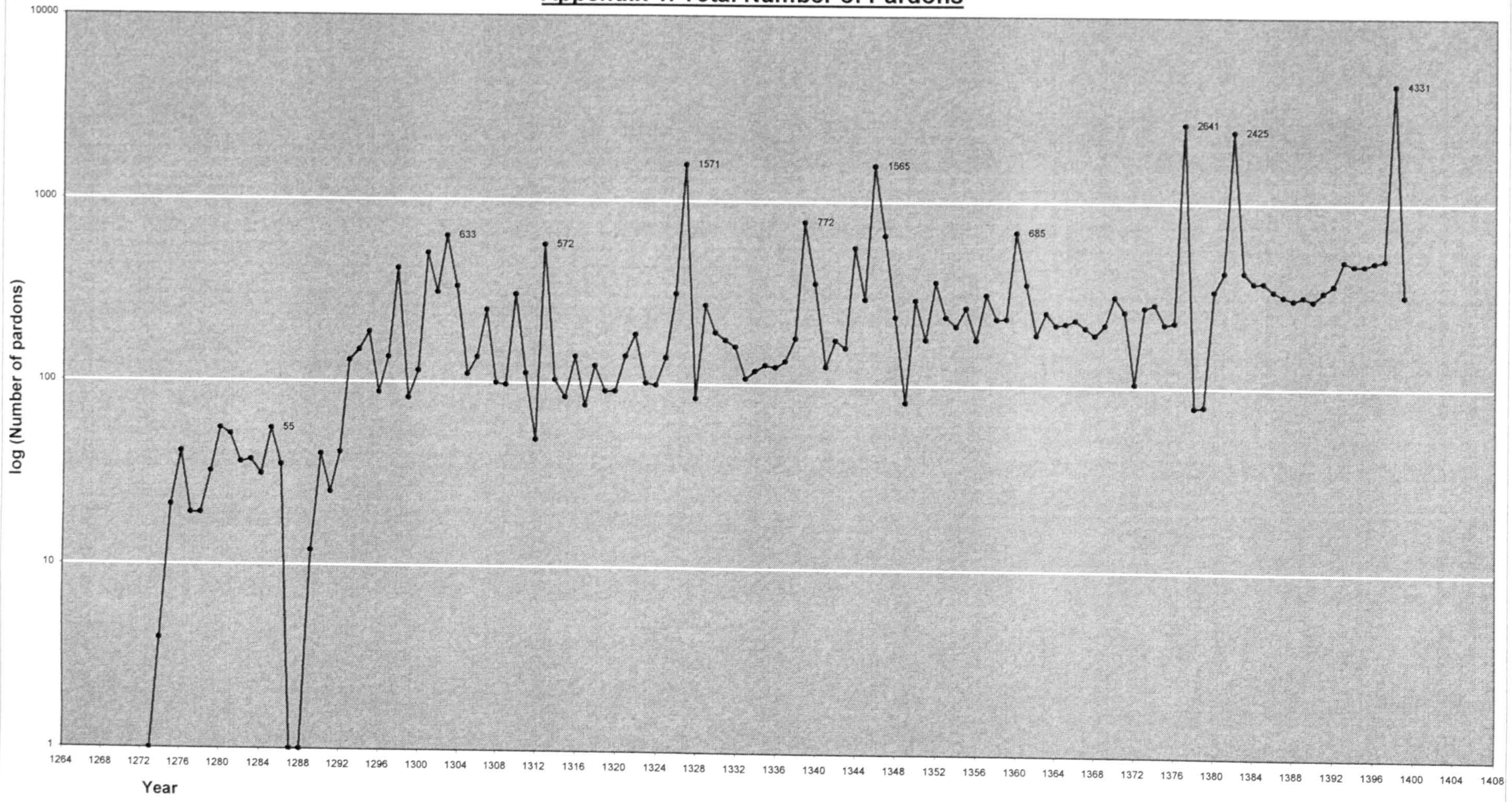
[27] See above, Chapter Four, p. 146.

The royal pardon occupied a unique place in medieval society. Its role was variously criticised, extolled and debated by the authors of legal texts, parliamentary petitions and statutes, and literary works of advice or protest. It was a pragmatic means of mitigating the severity of the law, but also stood as a symbol of royal mercy, and of the crown's obligation to provide effective justice. Access to this ultimate form of appeal embodied the reciprocal relationship between crown and commonalty: one which had come to occupy such a vital place in medieval society. In this sense, the role of the royal pardon has a vital part to play in our considerations of the nature of later medieval political culture.

Appendix 1. Total Number of Pardons



Sources: The National Archives C 67/26-31; *Calendar of Patent Rolls, 1272-1399*.

Appendix 2. Supplementary Patent Rolls

Roll (C 67/26-31)	Date	Description	Sub-total	Total pardons
26	1294-98	Military pardons: Wales, Gascony, Scotland		316
27	1297-98	Military pardons: Flanders		162
28A	1342-44	Military pardons: Vannes, Brittany		26
28B	1377	General pardon, Jubilee: shorter form	438	
		General pardon, Jubilee: great form	2001	
		General pardon, Jubilee: total		2439
29	1381-98	Peasants' Revolt: Pardons for Rebels	547	
		Peasants' Revolt: General Pardons	2294	
		Peasants' Revolt: Total		2841
30-31	1397-98	Revenge Parliament: Appellants	596	
		Revenge Parliament: General Pardon	3600	
		Revenge Parliament: Total		4196
32	1399	General Pardon, Coronation of Henry IV		1999
33-35	1404-09	General Pardon, Glendower Revolt		1722
36	1413-15	General Pardon, Coronation of Henry V		766
37	1414-18	General Pardon, Oldcastle's Revolt		4801
				19268

Appendix 3.i. Table of Group Pardons: 1266-1327

Date	Recipients	References
31 Oct 1266	Kenilworth: King's Pardon to offenders.	*SR*, vol.1, pp.13, 17; *E*. p. 36.
Nov 1277	Llewellyn and others.	*K*. p. 272; *E*. p. 64.
12 June 1294	Military service pardon.	*Rôles gascons*, nos. 3032-33.
12 Oct 1297	Outlaws for offences of the forest only.	*SR*, vol. 1, p. 121.
5 Nov 1297	Humphrey de Bohun and others.	*SR*, vol. 1, pp. 124-25; *E*. p. 141.
12 Dec 1298	Military service pardons.	*CPR, 1292-1301*, p. 293.
2 Apr 1299	Outlaws for offences of the forest only.	*SR*, vol. 1, p. 128.
16 Oct 1313	Thomas of Lancaster and his adherents, for the death of Piers Gaveston.	*SR*, vol. 1, p. 169; *CPR, 1313-1317*, p. 21-25; *W*. p. 136.
5 Aug 1316	The people of the realm for all amercements to the beginning of the year 1291.	*CPR, 1313-1317*, p. 532.
31 Jul 1318	Adherents of Thomas earl of Lancaster.	*CPR, 1317-1321*, pp. 199, 227.
20 May 1322	Revocation of pardon granted to the pursuers of the Despensers (pardon of 20 Aug 1321).	*CPR, 1321-1324*, p. 15; *SR*, vol. 1, pp. 181, 185, 188.
Feb-Dec 1322	Adherents of the rebels: Thomas of Lancaster, Roger Damory.	*CPR, 1321-1324*, p. 64; *CPR, 1327-1330*, p. 498.

Abbreviations:

AC. Anonimalle Chronicle; *E*. Bury St. Edmunds; *F*. Froissart; *G*. Geoffrey le Baker; *K*. Knighton; *U*. Adam of Usk; *Vita. Vita Ricardi secundi*; *W*. Walsingham; *West. Westminster Chronicle*.

Appendix 3.ii. Table of Group Pardons: 1327-1377

Date	Recipients	References
7 Mar 1327	Those who took part with the king and his mother in the deposition of Edward II.	*SR*, vol. 1, p. 252; *CPR, 1327-1330*, p. 59.
7 Mar 1327	The people of the realm for all issues and amercements.	*SR*, vol. 1, p. 255; *RP*, vol. 2, 57.
3 Feb 1330	The people of the realm for all issues and amercements.	*SR*, vol. 1, p. 263.
16 Apr 1340	The people of the realm for all issues and amercements.	*SR*, vol. 1, pp. 281-82, 290-91.
1 Aug 1357	The people of the realm for all issues and amercements.	*SR*, vol. 1, p. 352.
20 Nov 1362	The people of the realm for all issues and amercements.	*SR*, vol. 1, pp. 376-78; *W*. p. 297.
1 May 1368	Confirmation of the 1362 pardon.	*SR*, vol. 1, p. 388.
11 Jun 1369	Outlaws for offences of the forests only.	*SR*, vol. 1, p. 392.
22 Feb 1377	The king's pardon to the people, in the year of the Jubilee.	*SR*, vol. 1, pp. 396-98; *RP*, vol. 2, p.364, (24, II-VI).

Abbreviations:

AC. Anonimalle Chronicle; *E.* Bury St. Edmunds; *F.* Froissart; *G.* Geoffrey le Baker; *K.* Knighton; *U.* Adam of Usk; *Vita. Vita Ricardi secundi*; *W.* Walsingham; *West. Westminster Chronicle.*

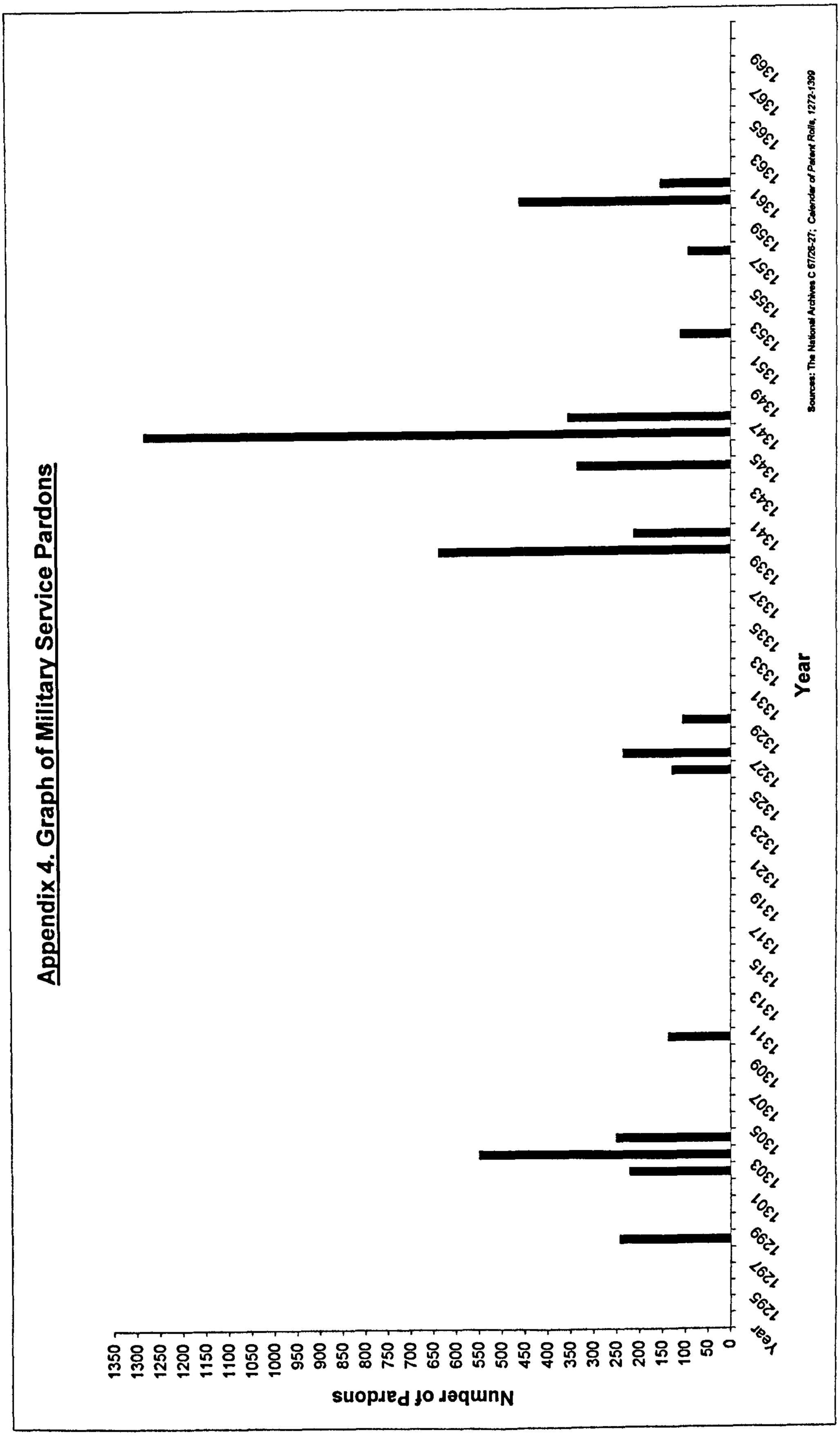
Appendix 3.iii. Table of Group Pardons: 1377-1399

Date	Recipients	References
1 Feb 1378	The people of the realm, confirmation of the 1377 general pardon.	*RP*, vol. 3, 24 (99); *SR*, vol. 2, p. 4.
4 Nov 1380	The people of the realm for all amercements.	*SR*, vol. 2, p. 16.
15 Jun 1381	Those involved in the Peasants' Revolt: declaration of pardon.	*K.* p. 213; *W.* pp. 462, 466-67, 479; *W.* vol. 2, p. 13, 20-1; *AC.* p. 161; *West.* pp. 7, 13, 19; *F.* pp. 219, 224, 228, 229; *Vita.* p. 65.
13 Dec 1381	Those involved in the Peasants' Revolt: ordinance of pardon.	*RP*, vol. 3, p. 102; *CCR, 1381-85*, pp. 105, 109.
17 May 1382	Those who repressed or punished the rebels.	*SR*, vol. 2, p. 20; *K.* p. 242-43.
24 Oct 1382	Rebels and general pardon to all subjects.	*SR*, vol. 2, pp. 29-30; *RP*, vol. 3, p. 140; *CCR, 1381-85*, p. 30.
23 Feb 1383	Rebels and general pardon to all subjects (extension of 24 Oct 1382 pardon).	*RP* vol. 3, p. 147 (17).
13 May 1383	Rebels and general pardon to all subjects (extension of 24 Oct 1382 pardon).	*CCR, 1381-85*, p. 308; *SR*, vol. 2, pp. 30-31.
3 Feb 1388	The Lords Appellant and their followers.	*SR*, vol. 2, pp. 47-48; *K.* p. 504-05; *West.* pp. 296-306; *U.* pp. 9-10.
18 Jul 1392	Londoners.	*West.* p. 503.
27 Jan 1398	Followers of Appellants and general pardon to all subjects.	*W.* p. 224; *U.* p. 21; C 81/517/11819; *SR*, vol. 2, pp. 106-07; *RP*, vol. 3, pp. 347-85; *Vita*, pp. 137-51.
27 Feb 1399	Followers of Appellants and general pardon to all subjects. (Pardon of 27 Jan 1398 extended).	*CCR, 1396-99*, p. 438.

Abbreviations:

AC. Anonimalle Chronicle; *E.* Bury St. Edmunds; *F.* Froissart; *G.* Geoffrey le Baker; *K.* Knighton; *U.* Adam of Usk; *Vita. Vita Ricardi secundi*; *W.* Walsingham; *West. Westminster Chronicle.*

Appendix 4. Graph of Military Service Pardons



5.i. Intercessors for Pardon: 1307-1327

Intercessor	Sub-total for year	Total
Archer, Thomas le, Prior of the Hospital St. John of Jerusalem	(1) 1322	1
Argenteym, Giles de	(1) 1307	1
Audeley, James de, knight	(1) 1312	1
Audley, Hugh de	(1) 1318	1
Ayremynne, William de, king's clerk	(1) 1322	1
Baddlesmere, Bartholomew de	(1) 1314	4
	(1) 1317	
	(1) 1318	
	(1) 1319	
Baldock, Robert de	(1) 1322	1
Beaumont, Henry	(1) 1308	8
	(1) 1309	
	(3) 1310	
	(1) 1313	
	(1) 1314	
	(1) 1316	
Bek, Anthony, Bishop of Durham	(1) 1309	1
Bigod, Alice, wife of Roger	(1) 1316	1
Brittania, John de, Earl of Richmond	(1) 1307	3
	(1) 1321	
	(1) 1322	
Brotherton, Thomas, Earl of Norfolk	(1) 1321	2
	(1) 1323	
Bykenore, Lex de, king's clerk and treasurer of Ireland	(1) 1311	1
Certain persons in parliament	(1) 1322	1
Clare, Gilbert de, Earl of Gloucester	(1) 1309	1
Clifford, Robert de	(3) 1307	4
	(1) 1310	
Crombewelle, John de	(2) 1307	2
Damory, Roger	(1) 1317	3
	(1) 1318	
	(1) 1320	
Darcy, Robert	(1) 1312	1
Despenser, Hugh, elder, Earl of Winchester	(3) 1308	7
	(2) 1309	
	(1) 1313	
	(1) 1322	
Despenser, Hugh, younger	(4) 1322	6
	(2) 1324	
Dublin, Archbishop of	(1) 1313	1
Echingham, Robert de	(1) 1323	1
Felton, Roger de	(1) 1314	1
Feraria, John de & Gaillard de Gazaco, papal nuncios	(1) 1307	1
Fitzalan, Edmund, Earl of Arundel	(1) 1321	3
	(1) 1323	
	(1) 1324	
Foxton, Robert de	(1) 1313	1
Frescobaldi, Amerigo dei, Italian banker	(1) 1308	1
Gaveston, Piers de, Earl of Cornwall	(1) 1308	4
	(1) 1309	
	(1) 1310	
	(1) 1311	
Gray, Thomas de, knight	(1) 1322	2
	(1) 1323	

Greenfield, William, Archbishop of York	(1) 1314	1
Grendon, Robert de	(3) 1323	3
Harcla, Andrew de, Earl of Carlisle	(1) 1322	1
Hastings, John de	(4) 1307	4
Isabella, Queen	(5) 1308	18
	(1) 1309	
	(1) 1310	
	(1) 1311	
	(4) 1313	
	(2) 1314	
	(1) 1316	
	(1) 1317	
	(1) 1319	
	(1) 1320	
John, son of Thomas & other magnates of Ireland	(1) 1316	1
Kendale, Robert de	(1) 1313	2
	(1) 1322	
Lacy, Henry de, Earl of Lincoln	(1) 1307	4
	(1) 1309	
	(2) 1310	
Lancaster, Thomas de, Earl of Lancaster	(2) 1307	4
	(1) 1315	
	(1) 1316	
Lestrange, Fulk	(1) 1322	1
Lucy, Anthony de, knight	(3) 1313	6
	(1) 1315	
	(2) 1323	
Marmyoun, William	(1) 1310	1
Martyn, William	(1) 1310	1
Mauleverer, John	(1) 1314	1
Merlawe, Drogo de	(1) 1314	1
Middelton, Gilbert de, king's clerk	(2) 1322	2
Monthermer, Ralph de	(1) 1314	1
Mortimer, Roger	(1) 1308	1
Payn, Robert, son of Payn	(1) 1310	2
	(1) 1311	
Percy, Eleanor de, king's kinswoman	(1) 1322	1
Ralph, son of William	(1) 1314	1
Raundes, Eleanor de	(1) 1311	1
Reynolds, Walter, Bishop of Worcester	(1) 1307	2
	(1) 1311	
Salmon, John, Bishop of Norwich	(1) 1322	1
Sandale, John de, Bishop of Winchester, treasurer	(1) 1310	2
	(1) 1311	
Sapy, John de, king's yeoman	(1) 1309	1
Scrop, Geoffrey le, knight	(1) 1323	1
Segrave, John de	(1) 1308	1
Somery, John de	(1) 1310	3
	(1) 1311	
	(1) 1314	
Stapledon, Walter, Bishop of Exeter, treasurer	(1) 1324	1
Stratford, John de, Bishop of Winchester	(1) 1320	3
	(2) 1322	
Swynnerton, Roger de	(1) 1317	1
Touney, Robert de	(1) 1309	1
Tybetot, Payn	(2) 1307	2
Valence, Aymer de, Earl of Pembroke	(1) 1307	17
	(2) 1313	
	(1) 1315	

	(6) 1318	
	(4) 1319	
	(1) 1321	
	(1) 1322	
	(1) 1323	
Veer, Robert de, Earl of Oxford	(1) 1308	1
Verdun, Nicholas de	(2) 1322	2
Walewayn, John de	(2) 1321	2
Warenne, John de, Earl of Surrey	(2) 1310	3
	(1) 1322	
Watevill, Robert de	(1) 1323	1
Welle, Robert de	(2) 1322	2
West, Thomas	(1) 1323	1
Weston, John de	(1) 1321	1
Worcester, Bishop of	(3) 1314	3
		176

Appendix 5.ii. Intercessors for Pardon: 1327-1377

Intercessor (s)	Sub-total for year	Total
Alisandre, John	(1) 1357	1
Antwerp, Lionel de, Duke of Clarence, Earl of Ulster	(1) 1346	2
	(1) 1361	
Aquitaine, princess of	(1) 1372	1
Armes Richard atte, King's yeoman	(1) 1361	1
Arundel, John de	(1) 1372	2
	(1) 1373	
Ask, Richard de, king's yeoman	(1) 1366	1
Asshehurst, Adam de	(4) 1347	6
	(1) 1348	
	(1) 1355	
Assheton, Matthew de, king's clerk	(1) 1350	1
Assheton, Robert de	(1) 1368	2
	(1) 1371	
Atheles, Aymer de	(1) 1346	1
Audele, Eva de	(1) 1369	1
Audele, Hugh de	(1) 1331	1
Aumarle, William de	(1) 1346	1
Aunsel, Alexander	(1) 1351	1
Bacon, Adam	(1) 1346	1
Baddeby, Thomas	(4) 1346	4
Balliol, Edward, King of Scotland	(1) 1334	11
	(1) 1346	
	(2) 1354	
	(3) 1356	
	(3) 1358	
	(1) 1370	
Barlyngs, Abbot of	(1) 1367	1
Barnet, John, Bishop of Ely	(1) 1370	1
Barry, Ralph, esquire	(1) 1372	1
Bateman, William, Bishop of Norwich	(1) 1354	1
Battle, Abbot of	(1) 1364	1
Bavaria, duke of, king's nephew	(1) 1352	1
Beauchamp, Giles de	(1) 1338	2
	(1) 1348	
Beauchamp, John de	(2) 1370	2
Beauchamp, John de, of Somerset	(1) 1347	1
Beauchamp, Peter de, King's yeoman	(1) 1347	1
Beauchamp, Robert de	(1) 1372	1
Beauchamp, Roger de	(1) 1373	1
Beauchamp, Thomas de, Earl of Warwick	(1) 1342	20
	(2) 1344	
	(7) 1345	
	(2) 1350	
	(2) 1366	
	(1) 1369	
	(1) 1371	
	(1) 1372	
	(2) 1373	
	(1) 1374	
Beaumont, Eleanor, wife of John	(1) 1338	3
	(2) 1343	
Beaumont, Henry de, Earl of Buchan	(1) 1327	3
	(1) 1333	

	(1) 1334	
Bentele, Walter de, captain of Brittany	(4) 1352	6
	(1) 1355	
	(1) 1358	
Berkele, Maurice de	(1) 1338	14
	(1) 1339	
	(1) 1341	
	(1) 1342	
	(10) 1346	
Berle, John	(1) 1359	1
Berle, Thomas de	(1) 1351	2
	(1) 1352	
Beverle, John de, king's esquire	(1) 1368	6
	(2) 1372	
	(1) 1373	
	(2) 1374	
Beverle, Robert de	(1) 1346	1
Blankouster, John	(1) 1372	1
Bohun, Eleanor de	(1) 1327	1
Bohun, Humphrey de, Earl of Hereford	(1) 1368	5
	(1) 1369	
	(3) 1371	
Bohun, William de, & Thomas de Beauchamp	(1) 1346	1
Bohun, William de, Earl of Northampton	(2) 1338	74
	(1) 1333	
	(13) 1344	
	(34) 1345	
	(7) 1346	
	(3) 1347	
	(1) 1350	
	(3) 1351	
	(1) 1353	
	(6) 1355	
	(3) 1356	
Bosvyle, John de	(1) 1364	3
	(1) 1372	
	(1) 1374	
Bourne, Thomas de	(1) 1345	1
Boxhill, Alan de	(1) 1367	6
	(3) 1369	
	(2) 1372	
Bradestone, Thomas de	(2) 1345	3
	(1) 1351	
Brembre, Thomas de, king's clerk	(1) 1346	3
	(1) 1347	
	(1) 1359	
Brewes, Peter de, King's yeoman	(1) 1345	6
	(3) 1346	
	(1) 1352	
	(1) 1367	
Brian, Guy de	(1) 1346	4
	(1) 1348	
	(1) 1352	
	(1) 1353	
Brocas, Bernard	(1) 1372	1
Brocas, John	(14) 1346	15
	(1) 1347	
Bruce, David, King of Scotland	(1) 1329	4

	(1) 1363	
	(1) 1369	
	(1) 1370	
Brugge, Peter de	(1) 1355	1
Buckingham, John de, Bishop of Lincoln	(1) 1366	2
	(1) 1368	
Burghersh, Bartholomew	(1) 1329	12
	(1) 1344	
	(4) 1345	
	(5) 1346	
	(1) 1347	
Burghersh, Henry, Bishop of Lincoln	(1) 1329	2
	(1) 1338	
Burgo, Elizabeth de	(1) 1348	1
Bury, Richard, Bishop of Durham	(2) 1334	7
	(2) 1335	
	(1) 1336	
	(1) 1341	
	(1) 1345	
Cantilupo, William de	(1) 1346	1
Caourz, Ralph le	(1) 1348	1
Carbonel, William	(1) 1346	1
Cardinals, Cardinal P. of St. Praxeds & B. of St. Marys in Aquiro	(1) 1338	1
Careswelle, William de	(1) 1346	1
Chandos, Robert, yeoman	(1) 1349	1
Chevereston, John de	(1) 1346	1
Clynton, William de, Earl of Huntingdon	(1) 1327	6
	(1) 1340	
	(1) 1341	
	(1) 1344	
	(1) 1345	
	(1) 1347	
Cobham, Reginald de	(1) 1346	1
Cokeham, John de, clerk	(1) 1335	1
Coupland, John de, king's yeoman	(1) 1347	1
Courteney, Maud, lady	(1) 1373	2
	(1) 1374	
Crabbe, John	(1) 1346	1
Crull, Robert, king's clerk	(1) 1369	3
	(1) 1373	
	(1) 1374	
Dabrichecourt, Nicholas, esquire	(4) 1372	5
	(1) 1374	
Dagworth, Thomas de	(1) 1346	1
Dale, Thomas de	(1) 1368	1
Dallyng, Roger de	(1) 1346	1
Dalton, Robert de	(1) 1346	1
Darcy, John, Steward of household	(1) 1337	16
	(13) 1346	
	(1) 1347	
	(1) 1348	
Dautre, James	(1) 1346	1
David, Roger	(1) 1354	1
Dayncourt, John	(1) 1348	1
Denton, Richard de	(1) 1362	1
Despenser, Edward le	(1) 1372	1
Despenser, Hugh le	(1) 1344	9
	(8)1346	
Driby, John de, King's yeoman	(1) 1342	1

Duro Forti, Arnold de	(1) 1336	1
Dynant, masters, burgesses, consuls and jurats	(1) 1339	1
Edington, William, Bishop of Winchester	(1) 1359	1
Edmund, Prince, Earl of March	(1) 1371	2
	(1) 1374	
Eltham, John de, Earl of Cornwall, & Lancaster, Montacue, Ferciis	(1) 1335	1
Erchebaud, Richard, esquire	(1) 1370	1
Felton, William de	(2) 1364	2
Ferariis, Henry de	(4) 1338	5
	(1) 1339	
Ferariis, Ralph de	(1) 1360	1
Ferariis, Robert de	(1) 1344	2
	(1) 1346	
Ferrers, Ralph de	(1) 1346	2
	(1) 1373	
Ferrers, Robert de	(1) 1345	1
Fitzalan, Richard, Earl of Arundel and Earl of Stafford	(1) 1358	41
	(1) 1337	
	(1) 1338	
	(1) 1341	
	(3) 1344	
	(3) 1345	
	(12) 1346	
	(2) 1347	
	(1) 1350	
	(1) 1351	
	(1) 1355	
	(1) 1356	
	(1) 1357	
	(1) 1360	
	(1) 1364	
	(1) 1365	
	(1) 1369	
	(1) 1370	
	(1) 1371	
	(1) 1372	
	(3) 1373	
	(1) 1374	
	(2) 1357	
Fitzalan, Richard & Geoffrey de Say	(1) 1351	2
Fitzalan, Richard & John, esquire	(1) 1369	1
Fitzalan, Richard & Walter de Mauny	(1) 1344	1
Fitzwarin, William le	(2) 1346	2
Flanders, Count of, Lewis	(1) 1364	1
Foljambe, Geoffrey	(1) 1366	1
Fournivalle, Thomas de	(4) 1346	4
Foxle, John de	(1) 1368	5
	(1) 1370	
	(1) 1372	
	(1) 1373	
	(1) 1374	
Gaunt, John de, Earl of Lancaster	(1) 1365	16
	(1) 1367	
	(1) 1368	
	(2) 1369	
	(2) 1370	
	(8) 1371	
	(1) 1374	
Giffard, Gilbert	(3) 1373	3
Gildesbrugh, Peter de	(1) 1346	1

Grantson, Thomas de, knight	(2) 1370	2
Grey, John de	(1) 1346	2
	(1) 1351	
Griffith, Rees	(4) 1346	4
Grosmont, Henry de & Earl of Northampton & Earl of March	(1) 1356	1
Grosmont, Henry de, Earl of Derby, Earl of Lancaster	(2) 1341	291
	(2) 1344	
	(98) 1345	
	(37) 1346	
	(88) 1347	
	(11) 1348	
	(1) 1349	
	(25) 1350	
	(7) 1351	
	(5) 1352	
	(1) 1354	
	(6) 1355	
	(2) 1357	
	(2) 1358	
	(3) 1359	
	(1) 1360	
Guelders, duchess of	(1) 1349	1
Gybourn, John	(1) 1355	1
Harewell, John, Bishop of Bath and Wells	(1) 1373	2
	(1) 1374	
Hastings, John, Earl of Pembroke	(1) 1362	1
Hatfield, Thomas, Bishop of Durham	(20) 1346	20
Hauteyn, Thomas	(1) 1369	1
Herlyng, John, esquire	(1) 1369	1
Hethe, Thomas de	(1) 1347	1
Holand, John de, earl	(1) 1361	1
Huntingdon, countess	(1) 1366	1
Huntingdon, earl of	(1) 1363	1
Husse, James	(1) 1358	1
Huwet, Walter	(3) 1369	26
	(20) 1370	
	(1) 1371	
	(2) 1373	
Ingelby, Henry de, clerk	(1) 1346	2
	(1) 1350	
Ingham, Oliver de	(3) 1342	3
Insula, John de	(1) 1351	1
Isabel, king's daughter	(2) 1352	10
	(1) 1353	
	(3) 1355	
	(2) 1356	
	(1) 1357	
	(1) 1358	
Isabella, Queen	(4) 1327	22
	(1) 1328	
	(1) 1329	
	(1) 1337	
	(1) 1341	
	(2) 1343	
	(1) 1344	
	(1) 1350	
	(3) 1351	
	(1) 1352	
	(1) 1353	
	(1) 1354	

	(2) 1355	
	(2) 1356	
Islip, Simon, Archbishop of Canterbury	(4) 1351	6
	(1) 1352	
	(1) 1358	
Ivo, son of Warin	(1) 1346	1
Joan, king's daughter	(1) 1361	1
Johan, Edward	(1) 1365	1
John, King of France	(1) 1361	1
John III, Duke of Brabant	(1) 1340	1
John, son of Walter	(7) 1346	7
Kendale, Edmund de	(1) 1342	2
	(1) 1343	
Kent, Margaret, Countess of	(1) 1340	1
Kildesby, William de	(7) 1346	7
Kilmessan, Ralph de, Bishop of Down, Ireland	(1) 1342	1
King's leiges	(4) 1344	6
	(1) 1347	
	(1) 1359	
Kirkby, John, Bishop of Carlisle	(1) 1336	1
Knolles, Robert de	(61) 1370	63
	(1) 1371	
	(1) 1373	
Lacy Peter de	(1) 1367	1
Lancaster, duchess, king's daughter	(1) 1367	1
Lancaster, Henry de & Henry de Grosmont, his son, earl of Derby	(2) 1338	6
	(1) 1341	
	(1) 1342	
	(2) 1344	
Lancaster, Henry de, Earl of Leicester	(1) 1330	2
	(1) 1341	
Lancaster, Maud de	(1) 1358	1
Lancaster, Thomas de	(1) 1346	1
Latymer, William de, steward of household	(1) 1355	12
	(4) 1362	
	(3) 1369	
	(2) 1370	
	(1) 1371	
	(1) 1372	
Leek, John de, chaplain	(1) 1353	1
Leicester, abbot of	(1) 1370	1
Lenglis, William, king's yeoman	(1) 1344	1
Lenton, prior of	(3) 1355	3
Lescrope, Henry, governor of Calais	(2) 1368	7
	(3) 1370	
	(2) 1371	
Lovaigne, Nicholas de	(1) 1364	1
Lovel, William	(5) 1346	5
Lucy, Anthony de	(1) 1333	2
	(1) 1355	
Lucy, lady of, kinswoman	(1) 1359	1
Lucy, Thomas de	(1) 1346	3
	(1) 1363	
	(1) 1365	
Ludeford, William de, master	(1) 1346	1
Lumley, Marmaduke de	(5) 1346	5
Lusteshull, Margaret	(1) 1373	1
Magnates	(1) 1337	16
	(1) 1347	

	(14) 1348	
Magnates, and cardinals	(3) 1337	3
Maltravers, John	(1) 1329	
Mareshal, Margaret, Kinswoman	(1) 1372	2
	(1) 1374	
Mauleye, Robert, de	(1) 1350	1
Mauny, Walter, de	(1) 1341	5
	(2) 1344	
	(1) 1345	
	(1) 1355	
Melton, William, Archbishop of York	(1) 1333	1
Mobray, Wife of John, kinswoman	(1) 1338	1
Mohun, lady	(1) 1363	1
Moigne, Thomas	(1) 1362	1
Molyns, John de	(1) 1339	1
Montacute, Edward de	(3) 1346	3
Montacute, William de, Earl of Salisbury	(1) 1334	16
	(4) 1338	
	(2) 1339	
	(1) 1341	
	(1) 1342	
	(2) 1353	
	(1) 1369	
	(1) 1370	
	(2) 1371	
	(1) 1373	
Montfort, John de, Duke of Brittany	(1) 1364	2
	(1) 1373	
Montgomery, John de	(1) 1346	1
Morle, Robert de	(2) 1346	2
Mortimer, Geoffrey	(1) 1330	1
Mortimer, Roger, Earl of March	(6) 1327	10
	(1) 1330	
	(1) 1354	
	(1) 1355	
	(1) 1356	
Mosdale, Thomas	(1) 1368	1
Mugge, William, dean St. George, Windsor	(1) 1369	2
	(1) 1371	
Munstreworth, John de	(1) 1370	1
Neville, John, steward of household	(2) 1333	8
	(3) 1340	
	(2) 1371	
	(1) 1372	
Neville, Ralph, steward of household	(2) 1333	5
	(3) 1340	
Neville, Robert de	(2) 1372	3
	(1) 1373	
Norfolk, Mary, countess of, king's aunt	(3) 1356	3
Northbrugh, Michael de	(2) 1346	2
Norwich, Richard de, clerk	(1) 1357	1
Offord, John, Archdeacon of Ely	(1) 1340	1
Pembrigg, Richard de	(1) 1352	2
	(1) 1370	
Pembroke, Agnes, countess of	(1) 1359	2
	(1) 1365	
	(4) 1371	
Pembroke, Earl of	(1) 1372	5
Pembrugge, Richard de, chamberlain	(1) 1363	2

	(1) 1371	
Percy, Henry de, son of Henry Percy	(3) 1363	11
	(3) 1366	
	(2) 1368	
	(1) 1369	
	(1) 1372	
	(1) 1374	
Percy, Thomas de	(1) 1368	1
Philippa, Queen	(1) 1328	42
	(3) 1333	
	(3) 1337	
	(5) 1338	
	(1) 1339	
	(1) 1340	
	(1) 1341	
	(1) 1345	
	(1) 1346	
	(5) 1348	
	(3) 1351	
	(1) 1352	
	(2) 1356	
	(1) 1358	
	(1) 1361	
	(1) 1362	
	(1) 1363	
	(4) 1364	
	(2) 1367	
	(1) 1368	
	(3) 1369	
Philippa, Queen and Edmund, Earl of Cambridge	(1) 1367	1
Philippa, Queen, and Isabel, Lancaster and Northam	(1) 1355	1
Prelates, clerical	(4) 1342	4
Princess	(1) 1373	2
	(1) 1374	
Pulteneye, John de	(1) 1333	2
	(1) 1338	
Purchas, Thomas, yeoman	(1) 1353	1
Pycard, Henry, king's merchant	(2) 1360	2
Pyk, Nicholas	(1) 1338	1
Redeman, Matthew	(2) 1370	5
	(3) 1373	
Restwold, Ralph, esquire	(1) 1373	1
Richard, grandson	(1) 1371	1
Richard, son of Simon	(2) 1346	2
Risseby, William de, yeoman	(1) 1366	1
Rokeby, Thomas de	(1) 1343	2
	(1) 1347	
Roos, Geoffrey de	(1) 1371	2
	(1) 1372	
Roos, John de, steward	(1) 1327	4
	(3) 1353	
Roos, Peter de	(1) 1374	1
Routhe, Peter de, yeoman	(1) 1361	2
	(1) 1370	
Saint John, Edward	(1) 1371	1
Saint Pol, Mary, Countess Pembroke	(1) 1374	1
Salle, Robert	(1) 1374	1
Say, Geoffrey de	(1) 1350	1
Scrope, le, Geoffrey	(1) 1334	2

	(1) 1338	
Seymor, Robert, yeoman	(1) 1353	1
Shrewsbury, Ralph Bishop of Bath and Wells	(1) 1346	1
Sleford, William de	(1) 1374	1
Spygernel, Thomas, esquire	(1) 1366	2
	(1) 1372	
Stafford, Hugh, Earl of Stafford	(2) 1373	2
Stafford, Ralph, Earl of Stafford	(2) 1345	9
	(4) 1353	
	(3) 1356	
Stafford, Richard de	(1) 1366	1
Stoke, John de, clerk	(1) 1368	2
	(1) 1369	
Stotevill Joan	(1) 1348	1
Stratford, John, Archbishop of Canterbury, chancellor	(1) 1335	20
	(1) 1336	
	(14) 1343	
	(2) 1344	
	(1) 1345	
	(1) 1346	
Stratford, John, and Henry Grosmont and Henry de Lancaster	(1) 1339	1
Stratford, John, and Robert Dratford, Bishop of Chichester	(1) 1345	1
Strauley, Henry	(1) 1373	1
Straunge, Ebulo	(1) 1333	1
Strete, William, king's butler	(1) 1365	3
	(1) 1367	
	(1) 1369	
Stryveln, John	(1) 1337	1
Sturmy, Henry	(1) 1373	1
Sturmy, John, yeoman	(1) 1356	1
Stury, Richard, knight of chamber	(1) 1370	3
	(2) 1372	
Sully, Lord	(1) 1331	1
Swynnerton, Thomas	(1) 1338	2
	(1) 1352	
Symon, Thomas	(1) 1372	1
Talbot, John	(1) 1374	1
Talbot, Richard, steward	(1) 1348	1
Tamworth, Nicholas, Captain of Calais	(1) 1362	11
	(1) 1366	
	(1) 1367	
	(8) 1371	
Thorpe, Robert de	(1) 1356	1
Thorpe, William de	(2) 1352	2
Tildesle, Ralph	(2) 1361	2
Trussel, William	(1) 1330	1
Turyngton, William de	(1) 1369	1
Twyford, Edward	(1) 1373	2
	(1) 1374	
Ufford, Ralph de	(1) 1339	1
Ufford, Robert Earl of Suffolk	(1) 1333	6
	(2) 1344	
	(2) 1345	
	(1) 1350	
	(1) 1370	
Ufford, William, Earl of Suffolk	(2) 1373	3
Ughtred, Thomas	(4) 1350	4
Ulvestre, Countess, king's daughter	(1) 1352	1

Urswyk, Robert	(1) 1370	1
Vache, Richard de la	(1) 1355	4
	(1) 1358	
	(1) 1360	
	(1) 1364	
Veer, Elizabeth	(1) 1359	1
Wake, Blanche, wife of Thomas	(1) 1352	2
	(1) 1355	
Wake, Thomas of Liddell	(1) 1327	1
Walsham, Robert	(1) 1369	1
Walssh, Walter, yeoman, king's esquire	(1) 1366	2
	(1) 1369	
Warde, Roger	(1) 1364	1
Warde, Simon	(1) 1368	1
Warenne, John, Earl of Surrey	(1) 1334	2
	(1) 1339	
Westminster, prior of	(1) 1359	1
Weston, Philip de, clerk	(1) 1346	2
	(1) 1347	
Wetewang, Walter de	(1) 1345	3
	(2) 1346	
Whitbergh, Robert	(1) 1357	1
Whithors, Isabel	(1) 1367	1
Whithors, Walter de, yeoman, esquire	(1) 1354	6
	(1) 1355	
	(1) 1363	
	(2) 1369	
Whitton, Philip, yeoman	(1) 1346	1
Windsor, William	(1) 1362	7
	(1) 1364	
	(1) 1366	
	(4) 1369	
Wode, Walter atte, sergeant at arms	(1) 1357	1
Wollore, David, clerk	(1) 1354	1
Woodstock, Edmund, Earl of Kent	(2) 1327	3
	(1) 1328	
Woodstock, Edward, king's son, Duke of Cornwall	(1) 1341	160
	(1) 1350	
	(1) 1351	
	(7) 1352	
	(1) 1353	
	(1) 1355	
	(3) 1356	
	(103) 1357	
	(26) 1358	
	(5) 1359	
	(1) 1360	
	(1) 1361	
	(1) 1366	
	(1) 1367	
	(2) 1368	
	(2)1370	
	(3) 1371	
Woodstock, Isabella, Countess of Bedford, king's daughter	(1) 1348	2
	(1) 1366	
Woodstock, Isabella & Joan, king's daughters	(1) 1346	1
Wykford, Robert	(1) 1373	1
Wyngefeld, John	(1) 1350	1
Wynklee, Richard, brother, king's confessor	(2) 1346	4

	(2) 1347	
Wynwyk, John	(1) 1348	1
Wyville, Robert, Bishop of Salisbury	(2) 1356	3
	(1) 1362	
Zouche, Alan de la	(4) 1346	4
Zouche, Richard de la	(1) 1364	1
Zouche, William la	(1) 1356	1
		1491

Appendix 5.iii. Intercessors for Pardon: 1377-1399

Intercessor (s)	Sub-total for year	Total
Abberbury, Richard	(1) 1386	1
Aire, Bishop of	(2) 1389	5
	(3) 1390	
Aire, Bishop of & Alphonso de Dene	(1) 1390	1
Almaly, Walter	(1) 1380	1
Alyngton, William	(1) 1394	1
Anne, Queen	(7) 1382	76
	(5) 1383	
	(11) 1384	
	(6) 1387	
	(1) 1388	
	(4) 1389	
	(5) 1390	
	(11) 1391	
	(7) 1392	
	(7) 1393	
	(2) 1394	
Anne, Queen, & citizens of London	(1) 1392	1
Appultrewyk, Thomas	(1) 1391	4
	(2) 1392	
	(1) 1393	
Armesthorp, John, chamberlain of exchequer	(1) 1384	1
Arundel, Earl of	(2) 1378	16
	(2) 1379	
	(1) 1382	
	(1) 1383	
	(6) 1384	
	(1) 1390	
	(1) 1392	
	(1) 1393	
	(1) 1396	
Ashburnham, John	(1) 1391	1
Asheton, William, clerk	(1) 1392	1
Aslak, John, serjeant at arms	(1) 1387	1
Aspal, John, esquire	(1) 1390	1
Aubill, John, parson	(1) 1390	1
Audeley, Lord	(1) 1389	1
Audyn, John	(1) 1381	1
Bache, Alexander, kings confessor	(1) 1389	5
	(4) 1390	
Badyngton, Baldwin de	(1) 1380	1
Bagot, William, knight	(3) 1388	3
Bakpuse, William	(1) 1391	1
Banastre, Thomas	(1) 1379	1
Bardolf, Robert & Edmund Noon esquire	(1) 1381	1
Barnolby, Thomas de, clerk	(1) 1379	2
	(1) 1380	
Barre, Thomas	(1) 1380	2
	(1) 1381	
Basset, Ralph	(1) 1380	1
Bath and Wells, Bishop of	(1) 1377	2
	(1) 1379	
Bayley, Laurance de, clerk	(1) 1390	2
	(1) 1391	
Beauchamp, Edward de	(1) 1378	1

	(2) 1384	3
Beauchamp, John	(1) 1387	
Beauchamp, William de	(1) 1378	3
	(1) 1382	
	(1) 1383	
Beauford, John	(1) 1392	1
Beaumont, lord of, kinsman	(2) 1387	10
	(1) 1389	
	(4) 1390	
	(1) 1391	
	(2) 1394	
Becket, Richard, esquire	(1) 1379	1
Bedford, Thomas, friar	(1) 1393	1
Belle, John, clerk	(1) 1390	1
Bereford, Baldwin de	(1) 1379	16
	(2) 1380	
	(1) 1382	
	(1) 1383	
	(4) 1384	
	(1) 1387	
	(2) 1390	
	(4) 1391	
Berkele, Edward	(1) 1378	1
Berkhamstede, Henry	(1) 1392	1
Bernard, John, chaplain	(1) 1393	1
Berners, James	(2) 1385	2
Bernolby, John	(1) 1394	1
Bitterley, Walter, king's esquire	(1) 1392	2
	(1) 1393	
Blont, Walter	(1) 1379	1
Bokenham, Edmund de	(1) 1377	1
Bokton, Robert	(1) 1390	1
Boor, John, dean of king's chapel	(1) 1393	1
Botiller, Thomas	(1) 1379	1
Bracy, Guy, esquire	(1) 1395	1
Bradeston, Blanche	(2) 1394	3
	(1) 1395	
Brak, Thomas	(1) 1392	1
Brakenhull, Hugh, clerk	(1) 1390	8
	(7) 1391	
Brand, Roger, soldier of Calais	(1) 1386	1
Braybrook, Robert	(2) 1379	2
Brayton, Robert, clerk	(1) 1391	3
	(2) 1393	
Brian, Guy de	(4) 1379	4
Brittany, Duchess, king's sister	(1) 1383	1
Brittany, John, duke of	(1) 1378	3
	(1) 1379	
	(1) 1396	
Brocas, Bernard	(1) 1385	1
Bromwych, John de	(1) 1377	1
Bubwyth, Henry de, king's serjeant at arms	(1) 1389	1
Buckenhall, Hugh	(1) 1392	1
Buckingham, Thomas, earl of	(2) 1380	3
	(1) 1381	
Burgh, Richard, esquire	(1) 1389	3
	(1) 1391	
	(1) 1395	
Burgh, William de	(1) 1379	1

Burgundy, Duke of	(1) 1397	1
Burle, Richard de	(1) 1377	3
	(1) 1380	
	(1) 1383	
Burley, John de, knight	(2) 1380	3
	(1) 1381	
Burley, Simon de, king's knight	(4) 1384	7
	(2) 1383	
	(1) 1387	
Bury St Edmunds, Abbot and Convent of	(2) 1386	5
	(1) 1388	
	(1) 1389	
	(1) 1390	
Bury, Nicholas	(3) 1384	3
	(1) 1385	
	(1) 1394	
Cambridge, Edmund, Earl of	(2) 1378	7
	(1) 1381	
	(1) 1382	
	(1) 1383	
	(2) 1384	
Canteran, John	(1) 1391	1
Canterbury, Archbishop of	(1) 1382	13
	(1) 1389	
	(3) 1393	
	(8) 1397	
Canterbury, William, archbishop of & the council	(1) 1384	1
Cantira, John	(1) 1390	1
Carleton, Hugh	(1) 1390	1
Cary, Robert, esquire	(2) 1392	4
	(1) 1393	
	(1) 1397	
Caryngton, William de, knight	(1) 1381	1
Cavyley, Hugh de	(2) 1378	3
	(1) 1380	
Cays, Richard	(1) 1390	1
Champ, Stephen	(1) 1393	1
Chandos, John, king's servant	(1) 1393	1
Charles de Beaumond	(1) 1390	1
Chelmeswyk, Richard,esquire	(1) 1395	1
Cherleton, William de	(1) 1378	2
	(1) 1379	
Chetewyn, William, esquire	(1) 1379	1
Cheyne, Alan, knight	(1) 1379	1
Cheyne, John	(1) 1394	1
Chichester, Bishop of	(1) 1396	1
Chichester, Bishop of & Lady de Mohun	(1) 1394	1
Churche, William, chaplain	(1) 1393	1
Clanvou, John	(1) 1379	1
Clanvowe, Thomas, esquire	(1) 1394	1
Clare, John, knight	(1) 1379	1
Clederowe, John	(2) 1392	4
	(2) 1393	
Clifford, Lord de	(1) 1380	1
Clifford, Richard de	(1) 1387	1
Clifford, Thomas de	(1) 1379	5
	(1) 1382	
	(1) 1383	
	(2) 1385	

Clifton, Reginald de, chaplain	(1) 1389	1
Clinton, William de, knight	(2) 1380	2
Cobham, John	(1) 1380	1
Coghel, Roger, king's esquire	(2) 1381	2
Cokayn, John	(1) 1393	1
Colbrok, Richard	(1) 1396	1
Conyngeston, Robert de, Archbishop of York	(1) 1384	11
	(7) 1390	
	(1) 1391	
	(2) 1397	
Corbet, Robert, & Robert Braybrook, knights	(1) 1390	1
Corby, Agnes de, one of the damsels of the chamber	(2) 1380	2
Corby, William, esquire	(1) 1381	1
Cork, Mayor & Commonalty of City	(1) 1392	1
Corkeby, John	(1) 1391	1
Cotingham, Hugh de, clerk	(1) 1389	1
Courtenay, Lady de, King's sister,	(1) 1378	3
	(1) 1379	
	(1) 1380	
Courtenay, Peter de, knight	(1) 1383	1
Courteney, William, Archbishop of Canterbury	(1) 1395	1
Coventry & Lichfield, Bishop of, Richard	(1) 1391	1
Croft, John, esquire	(1) 1387	1
Croft, Richard de, earl marshal	(2) 1394	2
Crophull, Roger, esquire	(1) 1392	1
Crophull, Thomas, esquire	(1) 1379	1
Dacre, Lord of	(1) 1393	1
Dagworth, Nicholas de	(1) 1380	1
Dalyngrigge, Edward	(1) 1378	1
Dancastre, Richard	(1) 1392	1
Darcy, Lord	(1) 1389	1
Daubrichecourt, Nicholas	(1) 1380	1
Dengaine, Katherine, lady	(1) 1380	1
Denys, William, earl marshal	(1) 1395	1
Derby, Earl of, king's cousin	(1) 1380	22
	(1) 1387	
	(7) 1388	
	(6) 1389	
	(1) 1391	
	(2) 1392	
	(1) 1393	
	(1) 1394	
	(1) 1395	
	(1) 1397	
Despenser, lord	(12) 1393	12
Desseford, William, clerk of king's mother	(1) 1379	2
	(1) 1381	
Devereaux, John, steward	(3) 1378	7
	(1) 1382	
	(2) 1392	
	(1) 1393	
Disse, Walter & John of Gaunt	(1) 1381	1
Disse, Walter de	(1) 1381	1
Doley, Alexander, king's clerk	(1) 1390	1
Dorset, Marquess of	(1) 1399	1
Dotheley, Alexander, parson	(1) 1392	1
Dublin, Archbishop of	(1) 1391	3
	(1) 1392	
	(1) 1394	

Durham, Bishop of	(1) 1387	2
	(1) 1393	
Dyghton, William de, king's clerk	(1) 1380	1
Dymmok, Thomas de	(1) 1389	1
Dyneley, Robert	(1) 1380	1
Earl Marshal & Percy, Thomas de, steward of household	(2) 1393	2
Earl Marshall	(1) 1389	4
	(1) 1390	
	(1) 1393	
	(1) 1395	
Edmund, king's uncle	(1) 1377	
	(1) 1389	2
Edward, son of Duke of York	(1) 1389	1
Elmham, William, knight	(1) 1379	2
	(1) 1380	
Elvet, John	(1) 1391	1
Ely, Bishop of	(1) 1379	7
	(1) 1380	
	(1) 1383	
	(2) 1386	
	(2) 1394	
Elys, William, knight	(1) 1390	1
Erpyngton, Thomas knight	(1) 1394	
	(1) 1396	2
Exton, Nicholas de	(20) 1387	28
	(6) 1389	
	(1) 1390	
	(1) 1394	
Felbrigg, George de, esquire	(1) 1380	1
Felbrigg, Simon de, knight	(1) 1394	5
	(1) 1395	
	(2) 1396	
	(1) 1397	
Felbrigge, Robert	(1) 1396	2
	(1) 1397	
Felde, Richard de la, clerk & John Prophete	(1) 1395	1
Fermer, Lambert	(2) 1387	
	(1) 1392	3
Ferrers, Robert de	(3) 1379	5
	(2) 1380	
Folgame, John	(1) 1391	1
Foulmer, John	(1) 1390	1
Fremlyngton, John, esquire	(1) 1390	1
Frenton, John de	(1) 1379	1
Fulbourn, William de	(1) 1380	2
	(1) 1382	
Fulthorp, William	(1) 1393	1
Garton, Robert de, clerk	(1) 1391	1
Gaunt, John & Bishop of London	(1) 1382	1
Gaunt, John de, Duke of Lancaster	(1) 1377	44
	(3) 1378	
	(2) 1379	
	(6) 1380	
	(5) 1381	
	(1) 1383	
	(1) 1384	
	(2) 1390	
	(15) 1393	
	(5) 1396	

	(3) 1397	
Gaunt, John de & Bishop of Salisbury, treasurer	(1) 1393	1
Gisbourn, William de	(1) 1379	1
Gloucester, Duchess of, king's aunt	(7) 1394	11
	(2) 1395	
	(2) 1396	
Gloucester, Duke of	(1) 1386	2
	(1) 1397	
	(1) 1389	2
Goderiche, William	(1) 1394	
Godewyk, John	(1) 1379	1
Golafre, John	(2) 1387	8
	(2) 1389	
	(2) 1390	
	(2) 1391	
Gourney, Matthew de, knight	(2) 1379	2
Grene, Henry, knight	(1) 1380	1
Grene, William	(1) 1393	1
Grey, Lady de, Ruthyn	(1) 1381	1
Grey, Lord de	(1) 1380	1
Gueldres, Duke of	(3) 1392	4
	(1) 1393	
Haddam, John	(2) 1390	2
Hales, Edward	(1) 1386	1
Hampton, Richard, king's esquire	(1) 1379	4
	(1) 1380	
	(1) 1383	
	(1) 1384	
Harpele, William, esquire	(1) 1380	3
	(1) 1381	
	(1) 1382	
Harper, William le, king's minstrel	(1) 1397	1
Haryngton, Lord	(1) 1385	1
Hasting, Hugh de	(1) 1380	2
	(1) 1381	
Hastyng, Ralph	(1) 1394	1
Hauberk, Nicholas, king's knight	(1) 1391	2
	(1) 1393	
Haukwode, John	(1) 1379	1
Haverford, Friars Preachers of	(1) 1394	1
Hay, John de la	(1) 1380	1
Hemyngford, Nicholas, clerk	(1) 1395	1
Hereford, Countess of	(1) 1378	2
	(1) 1379	
Hereford, Duke of, king's cousin	(1) 1397	1
Hereford, John, Bishop of	(1) 1379	5
	(3) 1381	
	(1) 1385	
Herlyng, John	(1) 1378	2
	(1) 1380	
Hilton, John	(1) 1393	1
Hilton, Reginald de, clerk	(1) 1380	2
	(1) 1384	
	(3) 1379	6
Holand, John de	(3) 1381	
	(1) 1381	
	(1) 1382	
	(1) 1383	
Holand, Thomas	(3) 1380	5

	(1) 1382	
	(1) 1390	
Hoo, William, knight	(1) 1389	1
Horbury, William, clerk	(1) 1386	1
Hore, John	(1) 1395	1
Houghton, Henry, knight	(1) 1393	1
Hulton, Reginald de, controller of household	(1) 1379	1
Hungerford, Thomas	(1) 1380	1
Hunt, Laurence, groom of Chamber	(1) 1387	1
Hunt, William, yeoman	(1) 1391	1
Huntingdon, Countess of	(2) 1393	2
Huntyngdon, Countess of, king's sister & Lady Trivet	(1) 1393	1
Ikelyngton, John, parson of St. Andrews	(1) 1393	1
Ireland, duchess of	(1) 1391	6
	(1) 1393	
	(2) 1396	
	(1) 1397	
	(1) 1399	
Ireland, Duchess of & earl marshal, earl of Nottingham	(1) 1394	1
Ireland, Duke of	(4) 1387	4
Isalbella, King's aunt	(1) 1382	1
Isalbella, Queen consort	(1) 1396	3
	(1) 1397	
	(1) 1398	
Joce, John	(1) 1379	1
Joce, William, esquire	(1) 1383	1
John Baukewell, yeoman	(1) 1387	1
John Beauchamp, steward	(3) 1387	3
Kent, Countess of	(1) 1384	1
Kent, Earl of	(1) 1390	1
Kent, Joan de, king's mother	(2) 1377	31
	(7) 1378	
	(5) 1379	
	(3) 1380	
	(4) 1381	
	(5) 1383	
	(3) 1384	
	(1) 1385	
	(1) 1392	
King's aunt, Queen Spain	(1) 1380	1
King's sister	(1) 1380	2
	(1) 1389	
Kirkeby, John de, clerk	(1) 1396	1
Knolles, Robert	(1) 1379	1
Kyrkeby, John	(1) 1391	1
Kyrkestede, Henry	(1) 1384	1
Lakenheth, John, knight	(2) 1388	3
	(1) 1389	
Lambe, John, esquire	(1) 1379	1
Lancaster, Duchess of	(1) 1379	1
Langeley, prior of friars preachers	(1) 1393	1
Latymer, Thomas	(1) 1379	1
Latymer, William, Lord	(1) 1380	1
Launde, Prior of	(1) 1397	1
Lee, Walter atte, knight	(1) 1380	1
Legh, Peter de	(1) 1386	3
	(2) 1392	
Lescrope, Walter	(2) 1394	2

Lestrange, Lord	(1) 1391	1
Leycestre, Henry de	(1) 1390	1
Lincoln, John de, clerk	(1) 1390	2
	(1) 1394	
Litelbury, John, knight	(1) 1394	1
Llandaff, Bishop of	(2) 1385	2
Lodelawe, John de	(1) 1378	1
Lodewyk, Margery de, damsel of king's mother	(1) 1380	1
Lofwyk, John	(2) 1391	2
Lombard, Walter, clerk	(1) 1386	1
London, Bishop of	(1) 1380	5
	(2) 1385	
	(1) 1392	
	(1) 1393	
Loutrell , Hugh de, knight	(1) 1390	1
Lovel, John, baneret & William de Thorp, knight	(1) 1379	1
Ludengton, William	(1) 1391	1
Ludwyk, Margery, damsel of queen	(1) 1393	1
Lunde, Prior of	(1) 1392	1
Luttelton, Thomas de	(1) 1380	1
Lyngeyn, Ralph de	(1) 1379	1
Lyons, James	(1) 1380	1
Lyons, Richard	(1) 1380	1
Macclesfeld, John	(2) 1391	5
	(3) 1392	
Mallore, Antekin	(1) 1381	1
March, Countess of	(2) 1378	2
March, Earl of	(1) 1378	4
	(1) 1393	
	(1) 1393	
	(1) 1394	
March, Earl of & William Arundell	(1) 1394	1
Mareshall, Roger, esquire	(1) 1391	2
	(1) 1394	
Martyn, Thomas, clerk	(1) 1394	1
Maudeleyn, John, servant	(1) 1390	1
Maxfeld, John	(1) 1391	1
Meath, Bishop of & Archbishop of Dublin	(1) 1391	1
Menhir, John, clerk	(1) 1389	1
Mercer, Peter, notary	(1) 1391	1
Merston, Thomas de, prior	(1) 1389	1
Meyner, John, clerk	(1) 1385	1
Midelton, John, master, king's physician	(1) 1399	1
Mille, Walter atte	(1) 1381	1
Missenden, abbot of	(1) 1393	1
Mohon, Lady de	(1) 1384	1
Mohun, Lady de, kinswoman	(1) 1387	3
	(1) 1390	
	(1) 1393	
Molyns, Lady de	(1) 1392	1
Monketon, Nicholas, servant	(2) 1390	3
	(1) 1392	
More, Thomas, treasurer queen Anne	(1) 1390	1
Mortimer, Lady	(1) 1378	1
Moubray, Thomas	(1) 1383	1
Neuport, Andrew, serjeant	(1) 1389	2
	(1) 1391	

Nevill, Lady	(1) 1383	1
Nevill, William de, knight	(2) 1388	2
Nevill, William de, knight & William Walsham	(1) 1383	1
Neville, John	(1) 1378	1
Neville, Ralph son of John, Thomas son of Roger, Lord de Clyford,	(1) 1379	1
Non, Edmund , esquire	(1) 1383	1
Norfolk, Margaret, Countess of	(2) 1379	6
	(3) 1380	
	(1) 1381	
Norfolk, Thomas, late Duke of	(1) 1398	1
Northumberland, Earl of	(1) 1378	27
	(2) 1379	
	(3) 1381	
	(1) 1382	
	(2) 1383	
	(1) 1384	
	(4) 1386	
	(2) 1387	
	(2) 1388	
	(2) 1389	
	(1) 1390	
	(1) 1396	
	(5) 1397	
Norton, Henry, esquire	(1) 1391	1
Norwich, Bishop of	(1) 1380	9
	(5) 1383	
	(1) 1387	
	(1) 1389	
	(1) 1395	
Norwich, Bishop of & Lord Despenser	(1) 1394	1
Nottingham, Earl of	(1) 1383	8
	(1) 1384	
	(1) 1389	
	(2) 1391	
	(1) 1393	
	(2) 1394	
	(2) 1397	
Oudeby, John, clerk	(1) 1392	2
	(1) 1393	
Outeberd, Reymunda	(1) 1379	1
Overton, John, esquire	(2) 1393	2
Oxford, Countess	(1) 1385	1
Oxford, Earl of	(1) 1378	3
	(1) 1383	
	(1) 1384	
Paknglon, William de	(1) 1378	3
	(1) 1379	
	(1) 1384	
Par, William, knight	(1) 1380	4
	(1) 1390	
	(1) 1391	
	(1) 1393	
Parys, Eleanor de	(1) 1379	1
Parys, Robert de	(1) 1390	1
Pauyle, John, knight	(1) 1386	1
Payn, Richard	(1) 1392	2
	(1) 1393	
Paynel, Ralph	(1) 1379	1
Pembroke, Elizabeth, Countess, king's kinswoman	(2) 1383	2
Percy, Henry de, kinsman	(2) 1377	15

	(3) 1385	
	(1) 1388	
	(1) 1389	
	(2) 1390	
	(2) 1393	
	(1) 1395	
	(1) 1396	
	(2) 1399	
Percy, Hugh de	(1) 1380	1
Percy, Thomas de, knight	(2) 1377	11
	(1) 1379	
	(2) 1383	
	(1) 1384	
	(1) 1391	
	(4) 1393	
Petevyn, Thomas	(1) 1380	1
Peytevyn, John, esquire	(1) 1380	1
Ploufeld, Roger, esquire	(1) 1387	1
Pole, Michael de la	(1) 1381	3
	(2) 1382	
Pope, entreaty of	(1) 1380	1
Portugal, Queen of	(1) 1393	1
Poynings, Lady of	(1) 1388	6
	(1) 1390	
	(1) 1392	
	(3) 1393	
Prittlewell, John, esquire	(1) 1390	1
Prophete, John, clerk	(1) 1390	1
Pull, John, knight	(1) 1393	1
Pyle, John, esquire	(1) 1379	1
Radyngton, Baldwin, knight	(1) 1380	1
Radyngton, John	(1) 1395	2
	(1) 1397	
Ramesey, Ralph, esquire	(1) 1386	1
Rammesey, Adam, esquire	(1) 1379	5
	(2) 1380	
	(1) 1389	
	(1) 1391	
Rauf, Walter, esquire	(1) 1390	1
Redman, Matthew	(1) 1379	2
	(1) 1394	
Redman, Richard	(1) 1394	2
	(1) 1396	
Repyngton, Ralph, clerk of kitchen	(1) 1394	1
Rigmaydyn, William, esquire	(1) 1390	1
Roger, John	(1) 1392	1
Roos, John	(1) 1385	1
Roos, Robert	(1) 1379	1
Roos, Thomas de	(1) 1381	1
Roselyn, Nicholas	(1) 1391	1
	(1) 1384	2
Roughton, Thomas, friar minor	(1) 1386	
Russhok, Thomas	(1) 1379	3
	(1) 1380	
	(1) 1381	
Rutland, Earl of	(1) 1390	31
	(4) 1391	
	(4) 1392	
	(17) 1393	

	(7) 1393	
	(2) 1394	
	(2) 1395	
Ryther, Henry	(1) 1392	1
Ryvere, William, esquire	(1) 1390	1
Sake, Nicholas	(1) 1392	1
Salisbury, Bishop of	(1) 1384	1
Salisbury, Bishop of, Earl Marshal & Earl of Huntingdon	(1) 1391	1
Salisbury, Countess of	(1) 1380	2
	(1) 1397	
Salisbury, Earl of	(2) 1385	3
	(1) 1389	
Salle, Robert	(1) 1377	1
Sarnesfeld, Margaret	(2) 1391	
	(1) 1392	3
Sarnesfeld, Nicholas	(1) 1378	3
	(1) 1380	
	(1) 1381	
Segrave, Hugh de	(1) 1378	4
	(1) 1381	
	(1) 1383	
	(1) 1384	
Seintcler, Adam	(2) 1390	2
Seys, Diggory, knight	(1) 1388	1
Shaldeburne, Thomas de, servant of spicery	(1) 1387	1
Shawe, Richard, clerk	(1) 1396	1
Sheffeld, John, esquire	(1) 1389	2
	(1) 1390	
Shelle, Thomas	(1) 1391	1
Shepeye, John de, clerk	(1) 1384	1
Skernenge, John	(1) 1391	1
Skirlawe, Walter	(1) 1379	1
Sodor, Bishop of	(2) 1389	2
Spencer, Richard king's servant	(1) 1396	1
St. Asaph, Bishop of	(1) 1377	5
	(1) 1379	
	(1) 1391	
	(2) 1393	
St. Davids, Bishop of	(1) 1393	1
St. Pol, Count of	(1) 1390	4
	(2) 1391	
	(1) 1393	
St Pol. King's sister, Countess of	(1) 1390	1
St. Werburgh's, Abbot & Convent of	(1) 1397	1
Stacy, John	(1) 1379	2
	(1) 1380	
Stafford, Countess of	(1) 1379	1
Stafford, Ralph, Earl of	(3) 1378	14
	(1) 1379	
	(1) 1380	
	(2) 1384	
	(1) 1386	
	(2) 1388	
	(3) 1389	
	(1) 1390	
Stafford, Thomas, Earl of	(1) 1387	1
Stanhope, Elizabeth	(1) 1383	1
Stanley, John de	(1) 1391	3
	(1) 1392	

	(1) 1393	
Stapilton, Brian de	(1) 1384	2
	(1) 1389	
Stapulton, Alice de	(1) 1387	1
Stathum, Ralph	(1) 1392	1
Stathum, William de	(1) 1391	1
Stirkeland, William	(1) 1390	1
Stokes, Alan de, king's clerk	(2) 1382	2
Stout, Thomas, king's servant	(2) 1394	3
	(1) 1395	
Stratton, John de	(1) 1381	1
Strauley, Hugh de	(1) 1380	1
Stuklay, Thomas	(1) 1392	1
Suffolk, Earl of & Salisbury, Earl of	(1) 1380	1
Suffolk, Earl of	(1) 1379	3
	(1) 1387	
	(1) 1388	
Sully, John de	(1) 1379	2
	(1) 1381	
Surrey, Earl of, Thomas	(5) 1399	5
Swynbourn, Thomas	(1) 1391	1
Syglem, Roger, knight	(1) 1388	1
Talbot, Gilbert	(1) 1379	1
Thornebury, John, knight	(1) 1388	1
Tidmann, king's surgeon	(1) 1390	1
Tiryngton, William, king's servant	(1) 1395	1
Tresilian, Robert, knight	(1) 1382	2
	(1) 1385	
Treverbyn, John, esquire	(1) 1391	1
Trivet, Lady	(2) 1393	4
	(2) 1394	
Troubrugge, John	(1) 1392	1
Trumpyngton, Roger de	(1) 1379	1
Tryvet, Thomas knight	(1) 1379	4
	(2) 1385	
	(1) 1387	
Tudmann, Daniel	(1) 1390	1
Ufford, William de, Earl of Suffolk	(1) 1379	2
	(1) 1380	
Upton, Walter	(1) 1387	1
Ursewky, Robert de, knight	(1) 1390	1
Urswyk, Robert, knight	(1) 1386	2
	(1) 1390	
Vache, Philip la	(1) 1378	1
Veer, Aubrey de	(1) 1379	4
	(1) 1380	
	(1) 1381	
	(1)1384	
Veer, Richard de	(1) 1389	1
Verdon, John, esquire	(1) 1384	1
Vernon, Ralph de, knight	(1) 1387	1
Vienne, Irishmen of, abbot of	(1) 1395	1
Wake, Thomas	(1) 1378	1
Walden, Roger, king's secretary	(1) 1393	2
	(1) 1396	
Walleran, Alice, a poor woman	(1) 1383	1
Waltham, Abbot of	(1) 1379	1

Waltham, Adam	(1) 1379	1
Waltham, John de	(1) 1379	2
	(1) 1392	
Walton, Thomas, clerk	(1) 1379	2
	(1) 1384	
Walworth, William	(1) 1378	1
Warde, Henry	(1) 1379	1
Warwick, Earl of	(1) 1378	11
	(1) 1379	
	(4) 1380	
	(1) 1384	
	(2) 1385	
	(1) 1386	
	(1) 1388	
Warwick, John, esquire	(1) 1394	1
Waterford & Worcester, Bishops of	(1) 1394	1
Watford, Stephen, esquire	(1) 1392	1
Wetherlay, Thomas	(1) 1391	2
	(1) 1392	
Whenewell, John, gaoler	(1) 1388	1
Wilhughby, Lady de	(1) 1396	1
Wilteshire, John, knight	(1) 1387	3
	(2) 1389	
Wilton, John, yeoman of the chamber	(1) 1390	2
	(1) 1392	
Winchester, Bishop of, Bishop of St. Davids & Earl of Northumberland	(1) 1389	1
Wodecrofte, Thomas, yeoman	(1) 1387	1
Wodehous, John, chamberlain	(1) 1384	1
Wolforton, William	(1) 1393	1
Worcester, Bishop of	(1) 1384	5
	(1) 1392	
	(1) 1396	
	(2) 1397	
Worthe, John, knight	(1) 1379	2
	(1) 1389	
Wrotham, John	(1) 1392	1
Wrottesley, Henry de	(1) 1377	1
Wyke, John	(1) 1385	1
Wykmor, Roger, esquire	(1) 1390	1
Wyloughyby, Lord	(1) 1387	2
	(1) 1388	
Wylton, John, yeoman of chamber	(1) 1393	1
Yerdeburgh, John de, clerk	(1) 1377	1
York, Duke of & Gloucester	(1) 1391	1
York, Edmund, duke of, king's uncle	(9) 1396	13
	(4) 1397	
Zouche, Hugh de la	(1) 1397	1
Zouche, William la	(1) 1387	1
		1144

Appendix 6. Petitions for Pardon

i) Victimisation Cases

SC 8	Year	Petitioner	Reason for petition	Circumstances	Response	Further Instructions
67/3323	1307-1315	Barons of Pevensey	Fine	Convicted before Roger le Brabazon of trespass against the Abbot of Grestain. Sentenced to make fine, but, because they do not dare to come to court, they are in exigent and in danger of being outlawed.	Surrender to prison	Stand to right before Roger le Brabazon. Afterwards the king will give them grace if he wishes.
2/90	1315	Thomas Hastings	Fine	He is regularly distrained by the constable of Dover for the account and arrears of his grandfather Matthew de Hastings, despite his father having made fine with Edward I in the sum of 100 marks for a pardon of the same account and arrears. The treasurer and barons will not accept the fine and will not stop the distraints.	Further action	The treasurer and barons of the Exchequer are ordered that having viewed the acquittance, if they find it thus, then Hasting is to be quit just as it is by right and according to the form of the fine.
41/2026	1325	William Crok	Imprisonment and fine	False inquisition passed against him by writ of *formedon*. He has sued an attaint against this for 17 years. His wife and children are reduced to begging and he is threatened with imprisonment.	Pardon	Letters of the king's grace to conclude the suit. This is not to be made to the prejudice of the parties.
63/3133	1332-1334	People of the ancient demesne of Ogbourne	Imprisonment	The abbot has demolished their houses, seized their lands, beat many of them, indicted them of conspiracy and detained for 30 years the alms given by the king, which has been found by an inquisition of the justices.	Pardon	Let as much of the alms be given to the poor as pertains to them for their poverty [on recommendation of the council].
60/2979A	1338	Robert Martyn of Yeovilton	Indictment	Put in exigent in the trailbaston of the county, by a conspiracy between the sheriff, sub-sheriff and receiver. These officials have also released the man [John de Croucheston] he accuses of ravishing his wife.	Further action	Order to the justices of trailbaston for the record. Order to Martyn to answer to king at the day [he has found surety in Chancery]. Order to the sheriff to cease exigency. Order to Robert Selyman to hear the indictment. Writ to attach the sheriff to be before the king at the day. Writ to delay Croucheston.

ii) Malicious indictment cases

SC 8	Year	Petitioner	Reason for petition	Circumstances	Response	Further Instructions
72/3489	1300-1350	Matilda de Skeffynton, widow of John de Skeffington	Homicide	Her brother has been maliciously indicted before the sheriffs tourn at Leicester for the killing of a thief who was pursued, taken and beheaded by the people of the vill of Skeffington.	Pending	
2/88	1315	Robert Darmenters, valet.	Trespass	convicted of before Robert Brabazon by a false inquest procured in his absence at the suit of John de Abingdon.	Further action	Robert Brabazon is ordered to certify the king of the quantity of the fine and then he is to appear before the king.
52/2586	1330	Helen de Holgrave	Homicide	Her husband, John Frowe of Lincoln, was maliciously indicted of the death of Robert Mason of London,. He is not guilty.	Pending	The council does not assent to this thing being done.
67/3304	1330	Daniel ate Putte	Outlawry	maliciously indicted, without his knowledge and when he was out of the country, by Thomas le Archer. He wishes to answer to the King and all others at common law.	Pending	He is to clarify before which justices he was outlawed, and for what felonies.
33/1635	1331	Richard de Beverle	Outlawry	The abbot [of Bury St. Edmunds] was lately taken to London his enemies. The petitioner held a hostelry in the city. The king ordered to the mayor and sheriffs of London to enquire where the abbot received his goods, and the petitioner by hatred was indicted of receiving two horses of the abbot and was put in exigent.	Pardon	On condition that he surrender to the prison and answer to the law. The charter is not to be delivered until the court has been informed that he has surrendered to the prison.
25/1202	1426	Margaret Cornyssh, wife of Thomas Cornyssh of Uxbridge, Middlesex.	Theft	Her husband was maliciously indicted of stealing goods by the conspiracy of his enemies. The king has pardoned him, at the supplication of the queen, his mother, and this has been confirmed by the dukes of Bedford and Gloucester. She requests that the king and lords endorse the bill, and it be delivered to the privy seal for the making of a writ to the chancellor that he make a charter of pardon.	Pardon	By the advice of the lords spiritual and temporal, and also at the special request of the commons in his parliament held at Leicester, 18 February, moved out of pity to grant to him a pardon.

iii) Poverty Cases

SC 8	Year	Petitioner	Reason for Petition	Circumstances	Response	Further Instructions
31/1537	1320	Bishop of Bangor	Debt	He has been greatly impoverished by bad harvests, disease among his animals, by his continual stay at Bangor to provide aid and counsel to maintain the peace, and his church at Bangor is dilapidated, and its bell-tower burnt down.	Further action	Advice is to be taken on another solution, as the council is advised that this is not to be done.
41/2026	1325	William Crok	Imprison ment and fine	He has sued an attaint for 17 years against a false inquisition. His wife and children are reduced to begging and he is threatened with imprisonment.	Pardon	Letters of the king's grace to conclude the suit. This is not to be made to the prejudice of the parties.
17/821 A	1325	Prior and Convent of Brinkburn	Debt	They request that the king consider their great poverty, and confirm the rent to them, and pardon them the demand for the past.	Further action	He is to make fine in Chancery to have the charter emended, and the Chancellor is to do what seems to him to be done.
18/855	1331	Commons of Warwickshire	Fine	They request that they might be acquitted arrears of fine, as they are impoverished by nobles coming there, staying and mounting expeditions, both in the king's father's time and in his own.	Pardon	They are to be pardoned the arrears, for the king's soul.
47/2348	1333-4	Richard le Freman of Stanway	Fine	He is so poor that he cannot make fine, and fears that he will be arrested. He asks the king to take pity on him and to pardon him.	Pardon	Surrender himself before the justices. The said justices are to pardon him his fine because of his poverty.
20/994	1334	Abbot and convent of Holmcoltran	Debt	Ask to be pardoned because the Scottish raids before the battle of Berwick have left them very poor.	Further action	Respite until next Michaelmas. In the meantime they are to sue for the king's grace.
78/3856	1337	Walsoken, West Walton and Emneth	Debt	They are impoverished as a result of a storm and the incursions of the sea.	Further action	Certain people are to be assigned to enquire, and the demand is to cease until Pentecost next
13/602	1348	John de Crochille, clerk	Debt	He was so impoverished he couldn't pay for pardon and was imprisoned for a year. He requests from the king that he can have the charter of pardon so that he is able to come to law.	None	

iv) Attempts to Deny a Pardon

SC 8	Year	Petitioner	Circumstances	Response	Further Instructions
76/3756	1308-1318	Margery de Treverbin	Thomas de Gevely came with two friends to her lodgings in London, broke down the door and raped her daughter and robbed her. She sued again, and had him attached to come before the marshals but he appeared in the company of Henry de Beaumount, and no-one dared to accuse him, and he left without day. She raised the hue against him, but nobody dared to attach him.	Further action	They are to go to King's Bench and she is to have a writ of execution to whichever sheriff she wishes.
76/3780	1325-50	Nicholas Torny	William Pynder, who feloniously killed his brother on the Wednesday in Easter week last, and was captured and imprisoned for this death, first in York gaol, and then in the Marshalsea, has now purchased a charter of pardon, on the false claim that he was at Berwick, whereas he was in York gaol at the time.	Further Action	The justices are sufficiently advised as to what they ought to do in this case.
51/2516	1334	Queen Philippa's tenants of High Peak, Derbyshire	Roger de Wendesley robbed them, to the value of 200 marks and more. He was imprisoned but escaped, gathered together a band of robbers, and executed several robberies on the day of the king's victory at Berwick [Halidon Hill]. He tied Randolph de Lokwode up, naked, until he paid 80 marks. He then purchased a general pardon, contrary to the ordinance that such pardons are only to be available to those who were in the king's wars - which he never was. He is still laying ambushes for the tenants.	Further Action	With regard to the trespass, they are to have writs of oyer and terminer for a reasonable fine, if it please the Chancellor.
39/1937	1338-43	Isabel Cleterne, widow of Richard de Cleterne.	She was abducted from her manor by Culwen and others to Aykhurst castle and was held there until rescued by the power and aid of Antony de Lucy. Now the malefactors by their proctors are seeking charters of pardon. She requests that for the honour of women that this peace be denied them, because pardons are so commonly granted, regardless of the statute lately made so that the law is no longer feared especially on the March as they can flee to Scotland after committing their felonies.	Deny pardon	He does not wish them to have pardons.
55/2713	1381	Lettice Kiriell, wife of John de Kiriell, knight.	The offencer [Cornwaille] entered her castle in the habit of a friar and stripped her servants of their clothes and allowed into the castle 40 armed men who held the petitioner in torment for 4 hours until she paid him, and he has returned and assaulted her time after time. Then he came to the castle to reduce it with armed men and scaling ladders and pursued the petitioner into a river where she remained in fear for four hours until she was as good as dead. And then believing that she was dead he took goods worth £1000.	None	

v) Types of Petition

Reason for Petition	Granted	Denied	Further Action	Not endorsed	Total
Treason [claim restoration of lands]	7	0	1	0	8
Rebellion	1	0	0	1	2
Homicide	2	0	2	1	5
Various felonies	1	0	2	1	4
Theft	1	0	1	0	2
Outlawry	7	0	6	4	17
Trespass	3	0	9	0	12
Debt	21	2	21	3	47
Fine	3	0	10	1	14
Purchase/inheritance of lands without royal license	0	0	6	0	6
Infringement of royal rights land/forest	0	0	2	1	3
Indictment for papal provision	1	0	0	0	1
False inquisition	1	0	0	0	1
Arrest for disobedience of court order	0	0	1	0	1
Wrongful imprisonment	1	0	1	0	2
No surety for pardon	0	0	1	0	1
Neglect of duties	1	0	3	1	5
Request annul pardon	1	0	3	1	5
Forfeiture	1	0	0	0	1
Not specified	0	0	0	2	2
Total	52	2	69	16	139

Sources: *The National Archives,* C 1; C 47; C 49; SC 8.

vi) Mitigating Circumstances

Mitigating circumstances	No. petitions
Already been pardoned [have not received]	29
Destruction by Scottish/Irish raids	18
Poverty	16
False/malicious indictment	7
Military service	7
Abroad	5
Already pardoned, but lost/stolen/destroyed/improperly made	5
Malicious indictment	5
Loyal service	4
Offence committed under duress	3
Not guilty- legal technicality	3
Peasants Revolt	2
Self-defence/mischance	2
Custom	2
Burdened by the coming of the king's host	1
Infringed through ignorance	1
	110

Sources: *The National Archives,* C 1; C 47; C 49; SC 8.

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C 67/26-44	Chancery: Supplementary Patent Rolls.
C 71	Scotch Rolls.
C 81	Chancery: Warrants for the Great Seal.
C 237	Chancery: Bails on Special Pardons.
C 266	Chancery: Cancelled Letters Patent.
E 101	Exchequer: King's Remembrancer: Various Accounts.
E 401	Exchequer: Receipt Rolls.
JUST 1	Justices Itinerant, Assize and Gaol Delivery Justices.
KB 27	King's Bench: Coram Rege Rolls.
KB 145	Court of King's Bench: Crown and Plea Sides: Recorda and Precepta Recordorum Files.
SC 1	Special Collections: Ancient Correspondence.
SC 8	Special Collections: Ancient Petitions.

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