

## PETITIONS FROM THE CHANNEL ISLANDS IN THE THIRTEENTH AND FOURTEENTH CENTURIES

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*This article analyses a relatively neglected source for the history of the Channel Islands in the Middle Ages: the petitions presented to the English Crown. The process of invoking the direct intervention of the king in a range of local issues from the late 13th century onwards forms an important part of Jersey and Guernsey's constitutional development. It was a process used by individuals, interest groups, whole communities, and even the Channel Islands as a whole, which showed some degree of collective consciousness. Petitions must also be seen in the larger context of the contest to establish the boundaries of authority and control between the king and the Channel Islands. This was largely resolved to the advantage of the Islanders and culminated with the 1341 Charter, which confirmed their privileges and customs, and allowed them to continue to use and develop their own law and administrative and judicial institutions.*

1 This article offers a new analysis of a relatively neglected source for the history of the Channel Islands in the Middle Ages: the petitions presented to the English Crown. By contrast, other official records produced by the English government have been closely studied. The royal charters of liberties issued to the Channel Islands are, for instance, a familiar part of the Islands' constitutional landscape.<sup>1</sup> Over the centuries, the charters have been invoked periodically when the Islands have considered their rights and privileges threatened by an overzealous English Crown, British government and even, on occasion in the modern era, by Parliament. The first such royal charter is that granted by Edward III in 1341. It can be viewed as a hard-earned bundle confirming rights, achieved as an outcome of a period of

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<sup>1</sup> For recent discussions of the importance of the charters see T Thornton, *The Charters of Guernsey* (St Peter Port; Guernsey, 2004); "Jersey's Royal Charters of Liberties", (2009) 13 *Jersey & Guernsey Law Review* 186; "The Channel Islands and the Courts of Westminster from the Fourteenth to the Sixteenth Centuries", Eleventh Joan Stevens Memorial Lecture, *Société Jersiaise* (2017), pp 1–28.

challenge by the Crown as to the boundaries of royal power and extent of its rights in the Islands together with the pushback accomplished by a strong and determined elite intent on recognition of their interests and the advantages their loyalty gave to the Crown in the face of the territorial ambitions of the kingdom of France. Similarly, the role played by the *quo warranto* proceedings, initiated in 1299 and lasting until 1331, in this process is reasonably well traversed by historians. It is, however, illuminating to view the 1341 Charter in the larger context of the activities of the kings of England in the late 13th and early 14th centuries, seeking to expand and centralise their administrative and judicial power in England and their wider “dominions”.<sup>2</sup> As part of that exercise, it should also be noted that the Islands were also subject to *extentes* and the introduction of the English general eyre from 1299–1331, invariably conducted by itinerant justices from England.<sup>3</sup> The process also took place against the important backdrop of the depredations suffered by the Islanders during the troubled Lordship of Otto de Grandison (1277–1328).<sup>4</sup>

2 By contrast the process of petitioning has been neglected for this important period in Jersey and Guernsey’s constitutional development. This was a relatively new process in the late 13th century, invoking the direct intervention of the king in a range of local issues. From the reign of Edward I (r. 1272–1307) onwards, the ability of the king’s subjects

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<sup>2</sup> J Le Patourel, the well-known medieval historian and native Guernseyman, defines “dominion” as “signifying political units, distinct in law and administration, ruled together by one monarch”. J Le Patourel, “The Plantagenet Dominions”, *History*, I (1965), reprinted in *Feudal Empires: Norman and Plantagenet*, edited by M Jones (London, 1984), chap VIII, pp 289–308. For discussion of the expansive ambitions of the kings of England in this period see especially: RR Davies, *The First English Empire: Power and Identities in the British Isles 1093–1343* (Oxford, 2000); P Crooks, D Green, WM Ormrod (eds), *The Plantagenet Empire, 1259–1453, Proceedings of the 2014 Harlaxton Symposium* (Shaun Tyas, 2016).

<sup>3</sup> *Extentes* were lists of Crown Rights and Revenues in Jersey. An eyre is a modern term for a circuit court in medieval England, presided over by itinerant justices. The eyre seems to have absorbed almost all other forms of judicial visitation in the Islands, with the exception of a few separate commissions in 1302, 1315, and 1328. Le Patourel, *The Medieval Administration of the Channel Islands* (London, 1937), p 54. On itinerant justices and their activity in the Islands, see J Havet, *Les Cours Royales des Iles Normandes* (Paris, 1878) pp 43–48.

<sup>4</sup> RL Kingsford, “Otto de Grandison 1238?–1328”, *Transactions of the Royal Historical Society*, 3 (1909), pp 125–195.

to seek justice, recognition of rights, and material advantage by presenting a petition to the King and Council sitting in Parliament, constituted a significant judicial and administrative development linked to the evolution of Parliament as a judicial institution in the later 13th century, and the increasingly formidable reach of royal government.<sup>5</sup> Dating between the end of the reign of Henry III (r. 1216–1272) and 1453, some 233 petitions are extant which emanated from the Channel Islands.<sup>6</sup> These petitions form a fascinating and rich body of source material that evidence the administrative and judicial integration of the Islands within the wider realm of the Plantagenet kings of England in the late 13th and early 14th centuries. For our constitutional history, they form part of a developmental period for the Islands' judicial and administrative systems, as well as their political status *vis-à-vis* the English Crown, a period in which John Le Patourel considered to lie the "origins of our self-government".<sup>7</sup>

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<sup>5</sup> In this period, the Council of the king may be said to be composed of the king's officers of state and magnates at court. Parliament, having evolved from larger sessions of the King's Council during Henry III's reign (1216–1272), had an important role as a superior court in the mid to late 13th century but it was not until Edward I's reign that it operated regularly and on a large scale. In the late 13th and 14th centuries, the function of parliament shifted to primarily political and fiscal activity and it became an increasingly distinct institution from the King and Council. Nonetheless, it is difficult to draw a clear line of distinction between the activities of the King and Council and Parliament, especially, as will be seen, in the process of hearing petitions from the king's wider dominions. G Dodd, *Justice and Grace: Private Petitioning and the English Parliament in the Late Middle Ages* (Oxford, 2007), pp 2–7, 19–25. For a very useful explanation of the development of Parliament in this period see A Musson and WM Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke; Hampshire, 1999), pp 25–28.

<sup>6</sup> This is only a provisional figure based on the petitions found in the SC 8 collection and the 1305 petitions of the Lent Parliament in the *Bibliothèque Nationale* in Paris. Ascertaining a complete total is problematic due to the presence of duplicates and to the fact that many petitions are scattered across a number of archives and collections. Moreover, some documents that have been categorised as petitions display the appearance of other records, such as writs, which are typically responses to a petition.

<sup>7</sup> This was most evident in the growing independence of local judicial offices in the form of the Bailiff, as a senior civil administrator distinct from the warden, and the Jurats as local judges of fact and law. Le Patourel, *Medieval Administration*, pp 104–120. Le Patourel, "The Origins of the Channel

3 One reason for this neglect originates in the much wider problem created by a series of unfortunate reorganisations in the Public Record Office in the 19th century of what were known as the “Parliamentary Petitions”. The reorganisations saw the contents of the Parliamentary Petitions, held in the form in which they had been created at the time, broken up and dispersed into other collections, depriving the petitions of their original context. As an example of but one of the problems created by these reorganisations, the warrants that often accompanied the petitions, which were a key way of dating them, were removed.<sup>8</sup> The petitions can now be found in the National Archives Series “Special Collections: Ancient Petitions” (SC 8), a broad category of miscellanea and in a form and order quite different from the originals.<sup>9</sup> Recent work has done much to correct these problems, most notably a project directed by the late WM Ormrod (d. 2020) and Gwilym Dodd, which has provided an accessible and searchable online catalogue of the SC 8 series in the National Archives UK.<sup>10</sup>

4 While the majority of Channel Islands petitions are to be found in SC 8, this is not the only relevant collection. There are also 19 petitions belonging to the 1305 Lent Parliament which have ended up in the *Bibliothèque Nationale* in Paris as part of BN. MS Latin 9215.<sup>11</sup>

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Islands Legal System”, *Solicitor Quarterly*, I (1962), and *Feudal Empires*, chap II, pp 193–210.

<sup>8</sup> G Dodd, “Parliamentary Petitions? The Origins and Provenance of the ‘Ancient Petitions’ (SC 8) in the National Archives”, in WM Ormrod, G Dodd and A Musson (eds), *Medieval Petitions: Grace and Grievance* (Suffolk, 2009), pp 12–46; G Dodd, *Justice and Grace*, pp 8–9.

<sup>9</sup> A total of 17,600 documents exist in the SC 8 collection. G Dodd, *Justice and Grace*, p 8. For information on this collection, see The National Archives (TNA), Special Collections: Ancient Petitions (SC 8): (<https://discovery.nationalarchives.gov.uk/browse/t/t/C13526>).

<sup>10</sup> For commentary on the project, see “Medieval Petitions: A Catalogue of the ‘Ancient Petitions’ in the Public Record Office” and a collection of essays arising out of it see WM Ormrod, G Dodd and A Musson (eds), *Medieval Petitions: Grace and Grievance*.

<sup>11</sup> It has been suggested that the membrane of the Latin summaries of these Channel Islands petitions ended up in Paris due to the fact that many of them relate to the Abbey of Mont-St-Michel. The membrane may have been separated from the original parliament roll and sent to the abbot as evidence for the disputes arising out of these petitions. See RL Atkinson, “The Channel Islands Petitions of 1305”, *The English Historical Review*, vol 36 (1921), pp 554–556; more recently, see P Brand, “Petitions and Parliament in the Reign of Edward I”, in L Clark (ed), *Parchment and People: Parliament in the*

Searching the National Archives online catalogue using keywords reveals a total of 214 petitions relating to the Channel Islands in SC 8 across a period running from the end of the reign of Henry III to 1453, with the majority of the petitions belonging to the reigns of Edward I, Edward II (r. 1307–1327), and the early years of Edward III (r. 1327–1377). Many of these have been digitised for online viewing. Each entry for a petition comes with a useful summary of its contents, a suggested date, and identification of individuals and places named in the petition. Valuably, the entries provide references to other records related to each petition, such as writs to officials to carry out orders relating to a petition, which provide a more complete picture of the context, as well as the outcome of the petitions if they were endorsed.

5 Many of the Channel Islands petitions were compiled and translated into English and published by the Société Jersiaise as “Ancient Petitions of the Chancery and the Exchequer”, in 1902, using SC 8 as its main source.<sup>12</sup> This was an admirable endeavour, part of a larger process in the period to preserve and transcribe medieval material from a host of archives in England and France.<sup>13</sup> However, there are number of problems associated with this publication which are potentially harmful to accurate research. Le Patourel viewed it as a “regrettable publication in every respect”, an unduly harsh and unexplained statement.<sup>14</sup> In part his misgivings were likely due to the compilers’ reliance on the SC 8 series without reference to the problems associated with the artificiality of how this collection was organised. This meant that many of the methodological problems created by the

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*Middle Ages* (Edinburgh, 2004), pp 14–38, 18–20. These petitions are transcribed in full in Havet’s *Les Cours Royale des Iles Normandes*, pp 197–205, and also *Jersey Prison Board*, vol II (London, 1891–1894), pp 108–109.

<sup>12</sup> Of the 214 petitions in SC 8, 123 of them were collected and translated in the *Société* publication. An *Ancient Petitions* reference to each petition has been provided where possible. “Ancient Petitions of the Chancery and the Exchequer”, “Ayant trait aux Iles de la Manche conserves au ‘Public Record Office’ à Londres”, ET Nicolle (trans and ed), *Société Jersiaise* (St Helier; Jersey, 1902).

<sup>13</sup> The founding aim of the *Société Jersiaise* was “L’étude de l’Histoire et de la Langue du Pays, la conservation des antiquités de l’Ile et la publication de documents historiques”. *Bulletin Annuel Société Jersiaise (ABSJ)*, vol I (1875). For a full list of *Société Jersiaise* and *Société Guernsiaisie* publications in the late 19th and early 20th centuries relevant to the medieval period, see Le Patourel, *Medieval Administration of the Channel Islands*, pp 2–3.

<sup>14</sup> Le Patourel, *The Medieval Administration of the Channel Islands*, p 20.

reorganisations were transmitted to the *Société Jersiaise* publication. Even accepting the limitations of the times, the publication also has disappointingly few cross references to other records. It does not include the original Latin and French transcriptions, and documentary provenance is often not given. There are also errors in the translations, duplicated documents, and a haphazard dating process. Many of the dates are at odds with the more recent and reliable National Archives' catalogue. Ultimately, the "Ancient Petitions of the Chancery and the Exchequer" is now an outdated publication and it is more prudent to rely upon the National Archives summaries as an instructional aid to the petitions, though the keener researcher will never be fully satisfied unless by reference to the original records themselves.

### **Wider history of the petitions, political ambitions of the Crown**

6 The very existence of petitions from the Channel Islands in SC 8 reflects the extent of the Islands' judicial and administrative integration into the wider realm of the Plantagenet kings of England in the 13th and 14th centuries. The Islands, as the only remnant of the duchy of Normandy still in the hands of King John following the loss of Normandy in 1204, were a privileged community in this context: they had retained their Norman laws and customs and, though ruled by the king of England, had not been integrated into the kingdom of England itself.<sup>15</sup> Nonetheless, as Le Patourel concluded, their

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<sup>15</sup> In 1254, the Islands were included in an appanage granted by Henry III to his eldest son Edward, along with Gascony, Ireland and the Island of Oléron. Henry III stated that they were granted in such a way that they may "never be separated from the crown of England . . . that they should remain to the kings of England in their entirety for ever". Le Patourel and, more recently, Darryl Ogier, have described the effect of this grant as an annexation by which the kings of England became the Islands' legitimate rulers, but notably there was no attempt to incorporate the islands into the kingdom of England itself. *Calendar of Patent Rolls (CPR), Henry III: 1247–1258*, vol 4 (London, 1908), p 270. D Ogier, *The Government and Law of Guernsey* (2nd edn; St Peter Port; Guernsey, 2012), pp 205–207. Le Patourel, "The Plantagenet Dominions", *Feudal Empires*, pp 301–302. AC Ruddick, "Gascony and the Limits of Medieval British Isles History", in B Smith (ed), *Ireland and the English World in the Late Middle Ages* (Basingstoke; Hampshire, 2009), pp 68–88, 75. For discussion of the immediate circumstances following the loss of Normandy see JA Everard and JC Holt, *Jersey 1204: The Forging of an Island Community* (London, 2004); WB Stevenson, "England, France and the Channel Islands, 1204–1259", *Reports and Transactions of La Société Guernsiaisie (RTSG)*, vol XIX, Part 5 (1975), pp 569–576; "English rule in

administration was the king's administration, save for when they were infrequently farmed out to members of the nobility: the king controlled all major administrative and judicial appointments, officials acted in the king's name, and all revenue collected from the Islands was expended on the local administration or went to the English Exchequer.<sup>16</sup> In terms of judicial structure, although there were five separate and somewhat overlapping legal jurisdictions in the Islands—the King and Council in parliament; the direct exercise of the king's jurisdiction in the Islands in the form of assizes; the locally established Royal Courts; the local seigneurial courts; and the ecclesiastical court of the bishop of Coutances—ultimate judicial power very clearly rested with the king.<sup>17</sup>

7 The king of England, as suzerain, was the ultimate source of justice and political power in the Plantagenet realm. From the early reign of Edward I (r.1272–1307), all the king's subjects both in England and the king's wider dominions theoretically had the right to petition the king and council in parliament directly to air their grievances with a view to redress or to seek special favour.<sup>18</sup> The motivation for the introduction of the petitionary process in England, and the extension of this system to the dominions, has been simply described by Gwilym Dodd as one of pressure and incentive.<sup>19</sup> The immediate circumstances

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the Channel Islands in a period of transition, 1204–1259", *RTSG*, vol XX, Part 2 (1977), pp 234–258.

<sup>16</sup> The Islands were held in a variety of forms of tenure, and wardens of the Islands can be divided between those who held the Islands in the king's name as a fee-farm, were employed on a salary, or as Lord of the Islands (*Dominus Insularum*). Le Patourel, *Medieval Administration of the Channel Islands*, pp 38–40, 104, 121–130.

<sup>17</sup> The local seigneurial courts, although they are not pertinent for the purposes of this article, were held by the *seigneurs* in possession of lands in the Islands who were entitled to hold courts over their tenants. Their jurisdiction was limited to civil infractions and minor criminal matters, subject to the superior jurisdiction of the Royal Courts. GFB de Gruchy, *Medieval Land Tenures in Jersey* (St Helier; Jersey, 1957), pp 131–134. Havet, *Les Cours Royales des Iles Normandes*, p 150.

<sup>18</sup> The year 1275 is generally agreed as the year when petitions were heard in parliament in some numbers. Notably, Brand states that one of the earliest petitions to be referenced on the chancery rolls relates to a petition from Guernsey. Brand, "Petitions and Parliament in the Reign of Edward I", in Clark (ed), *Parchment and People*, p 15. Dodd, *Justice and Grace*, pp 2–7, 19–25.

<sup>19</sup> For much of what follows, Dodd, *Justice and Grace*, pp 26–48.

upon Edward I's return to England in 1274 from crusading, where he found the local judicial systems afflicted by corruption of officials and serious and widespread discontent, necessitated reforms and the overhaul of the judicial machinery.<sup>20</sup> The petition, alongside other administrative reforms, was introduced as an effective way to ensure that individuals could have their grievances heard and judged at the highest level. As Dodd has observed, allowing people to seek redress without using local judicial structures that could be dominated by the local elite, provided an effective way of making these structures more accountable to the central institutions of royal government. It also offered the king an alternative link with the localities rather than simply relying upon information sent to his administration from local officials and the elite. The ability of a citizen to overreach local officials was particularly important in matters where officials were themselves accused of misconduct or corruption.<sup>21</sup>

8 Whilst Edward I genuinely desired reform and took seriously his responsibility as king to provide effective justice, the introduction of petitioning was also used as an opportunity to strengthen royal control outside its traditional heartlands in south-east England and into other areas of the country and the king's wider dominions.<sup>22</sup> During his reign, Edward I engaged in an ambitious, though ultimately unrealistic, programme of administrative reform that sought to expand the reach of the increasingly bureaucratised and sophisticated royal government.<sup>23</sup> The programme was a response to developments during the political crises of the later reign of Henry III, where royal rights were believed to have been usurped by the magnates and local communities, and a number of asserted privileges and liberties had "just grown" without

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<sup>20</sup> M Prestwich, *Edward I* (London, 1997), pp 92–98, 258–291.

<sup>21</sup> Dodd, *Justice and Grace*, pp 32–35. R Frame, *The Political Development of the British Isles, 1100–1400* (2nd edn, Oxford, 1995), p 74.

<sup>22</sup> In many ways, medieval England was "more federal than unitary", Prestwich, *Plantagenet England, 1225–1360* (Oxford, 2005), p 68, 55–77.

<sup>23</sup> M Brown, *Disunited Kingdoms: Peoples and Politics in the British Isles, 1280–1460* (Harlow, 2013), pp 1–27. It has been argued by that such efforts at administrative and judicial centralisation continued till the 1360s. Ormrod, "The English State and the Plantagenet Empire, 1259–1360: A Fiscal Perspective", in JR Maddicott and DM Palliser (eds), *The Medieval State: Essays Presented to James Campbell* (London, 2000), pp 197–215, 197–198, 206–208, 214–215.

royal approval.<sup>24</sup> In order to restore royal rights, Edward I enacted numerous reforms to improve royal oversight in the localities, such as reforms to the shrieval office, which had become notoriously corrupt. Most notable was the process known as the Hundred Roll enquiries from 1274–1275; commissions whose investigations were fundamentally about restoring to the Crown certain rights, the usurpation of which “encroached[ed]” upon “the royal dignity”. Their findings on the necessary judicial and administrative reforms were cemented in the Statute of Westminster in 1275.<sup>25</sup> Reflecting Edward’s efforts in England to push back these developments, in 1274, a major *extente* was carried out in the Islands to identify the rights and revenues of the Crown there.<sup>26</sup> Some twenty years later, the attempt to strengthen royal control could also be seen in the introduction of the English general eyre to the Islands from 1299–1331, an indication of the growing influence of English institutions on the Islands’ local institutions. These were conducted by itinerant justices from England, who engaged in a series of provocative *quo warranto* (“by what authority?”) proceedings, which sought to ensure royal rights had not been usurped by the local elite by challenging their provenance, mirroring similar proceedings which had been used earlier in England.<sup>27</sup> The mechanism of petitioning supported these activities to a certain extent for it sought to place an additional form of oversight

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<sup>24</sup> Frame, *The Political Development of the British Isles*, pp 145–149, quote at p 147. Dodd, *Justice and Grace*, pp 27–29. Prestwich, *Edward I*, pp 92–98, 258–291.

<sup>25</sup> C Burt, *Edward I and the Governance of England, 1272–1307* (Cambridge, 2013), pp 83–114, quote at p 88.

<sup>26</sup> The royal officials conducting this inquiry, Ralph Broughton and John Wyger, were also instructed to hear any grievances and losses inflicted on the Abbot of Mont-St-Michel and other Islanders and remedy them according to the laws and customs of the Islands. This aspect of their commission may possibly have been in response to petitions by Islanders. *Extentes de Iles de Jersey, Guernsey, Aurigny et Serk: suivie des Inquisitions dans les Jersey et Guernsey, 1274*, edited by C. Le Feuvre (St Helier; Jersey, 1877), pp 2–3. CPR, *Edward I: 1272–1281*, vol I (London, 1901), p 70. Le Patourel, *Medieval Administration of the Channel Islands*, p 13.

<sup>27</sup> Le Patourel, *Medieval Administration*, pp 57–59. Prestwich, *Edward I*, p 98, pp 259–264. Brown, *Disunited Kingdoms*, pp 23–24. Itinerant justices were appointed to conduct the assizes in 1282 and 1285, but we do not possess the records of these proceedings. Havet, *Le Cours Royales des Iles Normandes*, p 112. Edward I’s reforms, including *quo warranto* inquiries, have received significant historiographical discussion. For a summary see Burt, *Edward I and The Governance of Medieval England*, pp 1–12.

on the activities of the local officials and the elite. Moreover, the very act of petitioning was an express recognition of the superior and legitimate jurisdictional authority of the king by his subjects.<sup>28</sup> Thus, petitioning sought to provide an alternative mechanism for the Crown to project its authority in England and its outlying territories.

9 In the case of the king's continental dominions, such as the Duchy of Aquitaine and County of Ponthieu, petitioning to the king and council in parliament served the additionally important purpose of challenging the growing threat of the appellate jurisdiction of the Paris *Parlement* to the king of England's authority in these regions. The Treaty of Paris in 1259 saw Henry III abandon his title as duke of Normandy and accept liege homage to the king of France for the duchy of Aquitaine and most likely the Channel Islands.<sup>29</sup> This entailed recognition of the Paris *Parlement* as the court of "last resort" for these territories. As the king of France sought thereafter to extend his jurisdictional authority, the *Parlement* accepted appeals from inhabitants of the duchy of Aquitaine. This did much to undermine the ducal authority of the king of England there.<sup>30</sup> After the 1294 Anglo-French war, which above all revealed the unworkability of the Treaty of Paris, the Plantagenet kings of England recurrently sought to deny that their continental possessions, including the Channel Islands, lay within the jurisdiction of the king of France.<sup>31</sup> Allowing Gascons to

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<sup>28</sup> Dodd, *Justice and Grace*, p 41. Dodd, "Petitions from the King's Dominions: Wales, Ireland and Gascony, c.1290–1350", in Crooks, Green and Ormrod (eds), *The Plantagenet Empire*, pp 187–215, 187–189, 199.

<sup>29</sup> The territorial terms of the Treaty of the Paris which referred to "Islands, if there were any" in the possession of the king of England stated that they would now be held by the king in his capacity as "a peer of France and as duke of Aquitaine". The Channel Islands were not expressly mentioned in the Treaty, and there may have been reservations on the English side to including the Islands in this provision. H Rothwell (ed), *English Historical Documents, 1189–1327*, vol III (London, 1975), pp 376–379, p 377; Le Patourel, "The Origins of the Channel Islands Legal System", *Feudal Empires*, pp 201–202.

<sup>30</sup> M Vale, *The Origins of the Hundred Years War: The Angevin Legacy, 1250–1340* (Oxford, 1996), esp pp 49–78. Dodd, "Petitions from the King's Dominions", in Crooks, Green and Ormrod (eds), *The Plantagenet Empire*, pp 203–205.

<sup>31</sup> Le Patourel states, for example, that after 1303, the kings of England forced Islanders to make their appeals to courts in England rather than France. He is vague on which courts he is referring to. The only courts the Islanders occasionally used outside the Islands or England were the ecclesiastical courts of the major Norman churches which held lands in the

petition the king and council in Parliament was one way to deny the jurisdictional authority of the king of France in the duchy.<sup>32</sup> There is no evidence thus far discovered to suggest that Channel Islanders attempted to use the Paris *Parlement* as a remedy for grievances. Nonetheless, the risk existed, and as tensions increased between the kings of England and France, assertions of royal authority in the Islands, such as through strengthening appellate and jurisdictional control, were necessary further to draw the Islands into the orbit of the English Crown.

10 In a similar vein to the appellate jurisdiction of the Paris *Parlement*, the Court Christian of the bishop of Coutances posed a threat to royal jurisdictional authority. Despite the Islands' separation from the duchy of Normandy, they remained within the diocese of Coutances, and a number of ecclesiastical institutions primarily based in Normandy remained major landholders in the Islands. Jurisdiction over ecclesiastical matters in the Islands lay with the Diocese of Coutances.<sup>33</sup> That the mother houses of these ecclesiastical institutions

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Islands. Although most references regard the Court at Coutances, there are some references in the 1309 assize to a court at La Haye du Puits, presumably an ecclesiastical court, and it is possible other ecclesiastical courts were used. Le Patourel, "Guernsey, Jersey and their Environment in the Middle Ages, *RTSG* (1975), *Feudal Empires*, chap IV, pp 435–461, 455. *Rolls of the Assizes held in the Channel Islands in the Second Year of the Reign of King Edward II, A.D. 1309*, Translated by EM Walford, Société Jersiaise (St Helier; Jersey, 1903), pp 256, 282–283, 284, 286–287, 294; TNA JUST 1/1160, 1/1161, 1/1170. Ruddick, "Gascony and the Limits of Medieval British Isles History", in Smith (ed), *Ireland and the English World*, p 70. GP Cuttino, *English Medieval Diplomacy* (Bloomington; Indiana, 1985), pp 62–63.

<sup>32</sup> Dodd, "Petitions from the King's Dominions", in Crooks, Green and Ormrod (eds), *The Plantagenet Empire*, pp 200–206.

<sup>33</sup> The Islands, with the exception of a few brief periods, remained within the Diocese of Coutances until 1568, when they were incorporated into the Diocese of Winchester. The main ecclesiastical landholders in the Islands were the abbots of Mont-St-Michel, Marmoutier (Touraine), and Saint Sauveur-le-Vicomte, the abbess of Holy Trinity, Caen, and the bishops of Coutances and Avranches. All of these were Norman except Marmoutier. Ogier, *The Government and Law of Guernsey*, pp 19–21. For an indispensable and vast collection of medieval manuscripts relating to the Norman ecclesiastical establishments that is testament to their influence in the Islands see *Cartulaire des Iles Normandes: Recueil de documents*

lay within the kingdom of France, yet were well-established in the Islands, contributed to jurisdictional issues and was a regular source of tension between the Crown and the Church. Islanders intermittently used the ecclesiastical courts as an alternative source of remedy for their own cases: Drogo de Barentin, the Seigneur of Rozel, was fined during the 1299 assize for wrongly suing Guillaume Payn in the Court Christian at Coutances on pleas that were claimed to lie in the exclusive jurisdiction of the king's court.<sup>34</sup> Indeed, the wrongful use of this court was often a source of complaint expressed in petitions by Islanders.<sup>35</sup> The threat to the jurisdiction of the English Crown was such that, in 1305, the Crown went to the considerable effort of securing a special indulgence from the Papal Curia that prohibited Islanders being summoned to a court outside the Islands, though this failed to put a complete stop to Islanders suing other Islanders in the Court Christian of Coutances.<sup>36</sup> Thus, like the duchy of Gascony, the problematic position of the Channel Islands sitting literally and constitutionally between two kingdoms that were both expanding the reach of their power, presented Islanders with opportunities for alternative sources of justice. The process of petitioning allowed its development as one of many tools to stress the superior jurisdiction of the king of England and to deny possible competitors.

### **How petitioning worked, and its effectiveness**

11 Petitioning quickly proved to be a popular tool across the Plantagenet realm. In response, a system to receive and process petitions was developed to avoid overburdening the king and council and allow them to attend only to petitions that required the king's direct attention. From 1290, there were receivers appointed in

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*concernant L'Histoire de ces Iles*, edited by GFB de Gruchy, RR Marrett and ET Nicolle, Société Jersiaise (St Helier; Jersey, 1924).

<sup>34</sup> The de Barentin family seems to have done this on numerous occasions and continued to do so, no doubt seeking to gain some form of advantage. They were not alone in this activity. *The Jersey Assize Roll, 1299–1300*, edited and translated by Charles Stevens (unpublished, 1978), pp 3, 7, 18, 25, 87; TNA, JUST 1/1157 and 1/1158. For further examples: *Rolls of the Assizes 1309*, pp 195, 261, 263, 264, 273.

<sup>35</sup> For a few examples of this type of complaint: TNA SC 8/266/13250, SC 8/53/2642, SC 8/266/13252; *Ancient Petitions*, pp 27, 57.

<sup>36</sup> *Calendar of Close Rolls (CCR), Edward I: 1302–1307*, vol V (London, 1908), p 327; *CCR, Edward II: 1307–1313*, vol I (London, 1892), p 149. See TNA SC 8/114/5662 for a petition from Otto de Grandison's attorneys requesting the king to further enforce the papal bull against the bishop of Coutances.

parliament to analyse and sift petitions from England, Ireland, and Gascony and, at least by 1305, there was a separate enrolment of Channel Islands petitions, perhaps reflecting a recognition of the distinct political status of the Islands in the realm.<sup>37</sup> Petitions that could be resolved by adjuncts of government other than the King and Council, such as the Chancery or the Exchequer, were directed to these institutions.<sup>38</sup> Committees of triers were also appointed to oversee the resolution of petitions from Ireland, Gascony and the Channel Islands. These committees were typically made up of lords or prelates who were almost exclusively Englishmen, which could be problematic when they were handling petitions from areas where different laws and customs prevailed and where local knowledge was essential to the resolution of a case.<sup>39</sup>

12 Although the overall extent to which the King and Council actually adjudicated petitions themselves is difficult to assess, the role of parliament within this process is ill-defined.<sup>40</sup> In the case of the Channel Islands' petitions, it is noticeable that the King and Council rarely adjudicated upon them directly, but instead directed them to the king's officials in the Islands to report back; or, in certain cases, entrusted their consideration to specially appointed commissions sent to the Islands.<sup>41</sup> The investigation and adjudication of Channel Islands' petitions were then generally the responsibility of the warden of the Islands, who, until the introduction of itinerant justices from England from 1299–1331, was also responsible for conducting the assizes in

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<sup>37</sup> Brand, "Petitions and Parliament in the Reign of Edward I", in Clark (ed), *Parchment and People*, pp 32–34. Dodd, *Justice and Grace*, pp 11, 42.

<sup>38</sup> Musson and Ormrod, *The Evolution of English Justice*, pp 23–25.

<sup>39</sup> G Pépin, "Petitions from Gascony: Testimonies of a Special Relationship", in Ormrod, Dodd and Musson (eds), *Medieval Petitions*, pp 120–134, 131. Dodd, "Petitions from the King's Dominions", in Crooks, Green and Ormrod (eds), *The Plantagenet Empire*, pp 201–202.

<sup>40</sup> There is still a difficulty in determining the provenance of the sources, particularly with whether they can be assigned to a parliamentary context, a matter which has been addressed by G Dodd in "The Hidden Presence: Parliament and the Private Petition in the Fourteenth Century", in M Clanchy (ed), *Expectations of the Law in the Middle Ages* (Woodbridge; Suffolk, 2001), pp 135–150.

<sup>41</sup> A special commission appointed in direct response to petitions of the Islanders was a commission of oyer and terminer by R de Leysset in 1297 (see below for discussion). Records of his appointment: *CPR, Edward I: 1292–1301*, vol III (London, 1895), pp 301, 302; *CCR, Edward I: 1296–1302*, vol IV (London, 1906), p 51.

the Islands where many petitions were resolved.<sup>42</sup> In this sense, the role of the King and Council was primarily to facilitate the resolution of cases, and it rarely committed to a definitive statement on the contents of the petition. Many petitions seem to have been sent simply with the intention of asking the king to “spur local officials into action” on problems that should already have been resolved locally.<sup>43</sup>

13 Petitions, primarily addressed to the “King and Council”, or simply “the King”, “the lord the king” and other such variations, were initially written in Latin, but by the end of the reign of Edward I, almost all petitions were written in French.<sup>44</sup> The majority of petitioners were individuals from across the socio-economic strata but some were issued on behalf of particular interest groups.<sup>45</sup> As one example of the latter, there is a petition from the fishermen of Guernsey in c.1297, which sought a grant under the Great Seal of the King to allow them to sell their catch in English markets quit of paying foreign customs.<sup>46</sup> There are also petitions from clergymen and from whole ecclesiastical communities in the Islands.<sup>47</sup> A small but nonetheless significant

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<sup>42</sup> For an example of instructions to the warden to resolve a petition, see TNA SC 8/265/13233. As one example of petitions being resolved during an assize, see *Rolls of the Assizes 1309*, pp 3–5; and for the petition likely related to this, see TNA SC 8/309/15417; *Ancient Petitions*, p 52.

<sup>43</sup> Dodd, “Petitions from the King’s Dominions”, in Crooks, Green, Ormrod (eds), *The Plantagenet Empire*, p 210.

<sup>44</sup> Dodd, *Justice and Grace*, pp 279–302. Brand, “Petitions and Parliament in the Reign of Edward I”, in Clark (ed), *Parchment and People*, pp 24–25.

<sup>45</sup> For extensive discussion of individual petitioners, see Dodd, *Justice and Grace*, pp 199–232.

<sup>46</sup> Channel Islanders, although they were considered to be part of the king’s wider realm, were (like many Gascons) regularly treated as foreigners in England and forced to pay customs, and there exist numerous petitions requesting redress on this matter. In 1310, for example, the king instructed the customs collectors at Southampton to stop charging Island merchants as “the king consider the men of said Islands belong to his kingdom”. The above petition is dated to c.1297 as it makes mention of Nicholas de Cheny, who was appointed warden in July 1297. TNA SC 8/274/13674; *Ancient Petitions*, p 8. *CCR, Edward I: 1292–1301*, p 296. *CCR, Edward II: 1307–1313*, p 342. See also TNA SC 8/272/13589, SC 8/272/13590; *Ancient Petitions*, pp 48–51.

<sup>47</sup> Petitions from the clergy—

“reveal a striking contrast between, on the one hand, the autonomy and independence claimed for the Church by the clergy as a unified body,

number of petitions claimed to represent both the “communities” of Guernsey and Jersey, but unified petitioning by the Islands seems only to have been undertaken in exceptional circumstances (see below).<sup>48</sup>

14 Who exactly drafted the petitions and how this unified process was brought about is not easy to discern. It is likely, given the form and style of petitions as they evolved, that the drawing up of petitions for their presentation to the King and Council was dominated by a small circle of specialist scribes and clerks in England.<sup>49</sup> It also seems that petitions were often presented by attorneys who then appeared before the King and Council in parliament on behalf of their principals. For instance, Thomas de Estfeld, a Jurat in Guernsey, a keen petitioner on his own behalf, presented numerous petitions as a representative of the communities of Guernsey and Jersey, and appeared before the king in parliament as an attorney on a number of occasions in the late 13th and early 14th centuries.<sup>50</sup> The major secular and ecclesiastical landholders, such as the abbot of Mont-St-Michel, also regularly

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and, on the other hand, the readiness of ecclesiastics to seek royal interference in their individual affairs.”

Dodd, *Justice and Grace*, pp 243–254 quote at 244. For an example of a petition from the abbot and convent of Blanchelande, see TNA SC 8/265/131875. For a petition (though unfortunately badly damaged) which claims to represent almost all the major ecclesiastical establishments in the Islands, see TNA SC 8/169/8401.

<sup>48</sup> The “community” of each Island does not readily fit into discussions of petitions representing towns or counties. Perhaps the strongest comparison would be with other communities that had a close relationship to the Crown, especially in terms of a tenurial connection. How far these petitions represented the whole population of the Island, or simply individuals or interest groups claiming such representation, is a difficult but nonetheless interesting point of speculation. Dodd, *Justice and Grace*, pp 254–266, 275.

<sup>49</sup> Brand, “Petitions and Parliament in the Reign of Edward I”, in Clark (ed), *Parchment and People*, p 30. Dodd, *Justice and Grace*, pp 280–283, 302–314. Pépin, “Petitions from Gascony: Testimonies of a Special Relationship”, in Ormrod, Dodd and Musson (eds), *Medieval Petitions*, p 130. Musson and Ormrod, *The Evolution of English Justice*, pp 147–151.

<sup>50</sup> In some petitions, he is described as a proctor for the commonalty of the Islands, see. TNA SC 8/112/5592, SC 8/276/13765; SC 8/264/13171; *Ancient Petitions*, pp 33–34. *Rolls of the Assizes 1309*, pp 9–10. For de Estfeld to have gone to the considerable difficulty of travelling to appear before the King and Council in England suggests there was a perceived advantage in presenting petitions personally rather than using an attorney or other method. Dodd, *Justice and Grace*, pp 309–310.

employed attorneys in England to represent them in their affairs before parliament, and their attorney presumably handled all the necessary procedural formalities relating to petitions to the king and council.<sup>51</sup>

15 Petitions concerned a wide range of subjects and purposes. They included, but were not limited to: requests for assistance or remedy; royal favour; seeking confirmation and sometimes extension of privileges and rights granted to the Islands; and redress from misconduct by royal officials.<sup>52</sup> One of the more common types of petition was a request for a royal pardon, as the king possessed considerable discretionary power across his realm to relieve his subjects of culpability. In the Channel Islands, many individuals sought pardon for abjuration. Abjuration arose when an individual, after being suspected or adjudged guilty of a crime, took sanctuary in a Church, and, upon oath before a clergyman, agreed to quit the king's realm and never to return.<sup>53</sup> The proximity of the Islands to Normandy enabled a relatively easy physical exit from the scene of the crime and abjuration accounted for a significant amount of judicial business. That many of those who availed themselves of this means of escape subsequently sought a royal pardon, suggests that abjuration was viewed as an immediate respite from prosecution, thus buying time to assess the situation, after which the process might be alleviated by royal pardon. It appears to have been customary for individuals to abjure the Islands for all types of crime. For instance, in 1324 a man from Guernsey sought pardon after abjuring the Island for stealing two sheep. In a formulaic response, the warden of the Islands was ordered to verify to the king the circumstances of the abjuration before proceeding further and granting the pardon.<sup>54</sup> Even in fairly routine cases like this, it is clear that petitions were properly scrutinised before pardons were issued. Pardons were granted in most cases, but only for

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<sup>51</sup> Nominations of attorneys can be found throughout the Close and Patent Rolls records. For example, of the nomination of an attorney for the abbey of Saint-Sauveur-le-Vicomte, see *CPR, Edward III, 1327–1330*, vol I p 242; William de Barentin, *CPR, Edward III, 1327–1330*, vol I (London, 1891), p 389; the abbey of Mont-St-Michel, *CPR, Edward III: 1330–1334*, vol II (London, 1893), p 40.

<sup>52</sup> Dodd, *Justice and Grace*, pp 222–229.

<sup>53</sup> For a more serious albeit bizarre case involving abjuration, and a good explanation of the process of abjuration see Le Patourel, “The Murder on Lihou Island in 1302”, *The Quarterly Review of the Guernsey Society*, vol VII, No I (Spring, 1951), pp 3–6. Dodd, *Justice and Grace*, p 232.

<sup>54</sup> Notably, the writ of the warden of the Islands acknowledging the crime shows it had been committed three years previously. TNA SC 8/144/7184. For a similar petition with a formulaic endorsement, see SC 8/129/6432.

the abjuration rather than the original crime itself, and the pardon was often conditional on individuals answering for their crimes upon returning to the Islands.<sup>55</sup>

16 A number of petitions were used by the Islanders to convey to the King and the Council incidents of acute crisis and the need for assistance. From 1295, the people of the Islands of Jersey and Guernsey sent a number of petitions to the king about the serious devastation inflicted on the Islands as a result of an invasion by forces of the kingdom of France in 1294. They stated that 1,500 people had been killed during the attack and many properties (including the all-important king's mills) destroyed beyond repair. The Islanders requested compensation for the damage incurred, to the tune of £10,000 *tournois* or more, the money to be raised from the seizure and sale of the goods and merchandise of those who had adhered to the cause of the king of France. They also sought that the chattels of Islanders who died in the attack, the possession of which had been taken into the king's hand, should be fully restored to their heirs.<sup>56</sup> The king was moved to grant the request. However, reflecting how the effectiveness of overarching authority was only as good as the ability to enforce it, the warden, Henry de Cobham (Warden, 1294–1297), despite being ordered by a writ of the king to compensate the Islanders, was unmoved.<sup>57</sup> It was also alleged in other petitions that he had appropriated goods from deceased Islanders (although he was supposedly legally entitled to one-third of the property of war casualties, to his considerable profit) and kept the wages of the garrisons at Gorey Castle for himself.<sup>58</sup> The extent of de Cobham's culpability is clouded by the apparent hostility of the Islanders towards him and the lack of alternative sources of evidence. Whatever the case, de Cobham was dismissed in 1297. However, a further petition in the same year indicates that compensation had still not been made to the Islanders. The petition stated that de Cobham had been summoned to appear in parliament to address the complaints, and had claimed that all the assets that he had received had been spent on the defence of the

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<sup>55</sup> For instance, *Rolls of assize 1309*, pp 168–169.

<sup>56</sup> TNA SC 8/175/8719, SC 8/275/13731, SC 8/175/8717, SC 8/175/8716; *Ancient Petitions*, pp 5–6, 6–7, 7–8, 9. SC 8/175/8719 is a notably bad translation in the *Société Jersiaise* publication.

<sup>57</sup> A copy of the king's writ ordering de Cobham to compensate the Islanders is attached to TNA SC 8/275/13731, SC 8/175/8717; *Ancient Petitions*, pp 6–7, 7–8.

<sup>58</sup> TNA SC 8/175/8717, SC 8/175/8740, SC 8/31/1528; *Ancient Petitions*, pp 7–8, 9–10, 10.

Islands.<sup>59</sup> As a result, a senior royal clerk, Robert de Leysset, was sent to audit de Cobham's accounts as well as act as a justice in the 1299 assize in order to resolve the Islanders' complaints.<sup>60</sup> These steps seem to have been to little avail, as Henry de Cobham was again ordered to appear before the King and Council in 1302 to answer repeated complaints by the Islanders.<sup>61</sup> Although it is unclear whether the grievances of the Islanders were eventually remedied satisfactorily (the lack of further documented complaints may suggest that some form of compensation was received), it is clear that at the least the royal government took their petitions seriously. The case also reveals the often lengthy and complicated procedure in resolving the complaints made in petitions.

17 Petitions were also used to seek rectification of legal documents. In the early 14th century, for example, Geoffrey de Carteret petitioned the King of England and his Council requesting a remedy regarding a letter of Privy Seal given by the king to his father, Master Renaud de Carteret, which had granted Renaud all the tithes belonging to the Abbot of Mont-St-Michel in the parish of St Ouen in Jersey. Unfortunately, the de Carterets had been unable to obtain these tithes owing to the fact that the letter had mistakenly written "Guernsey" instead of "Jersey" and, as a result, local officials, who were in possession of the abbot's lands and rights, owing to wartime confiscation, refused to act.<sup>62</sup> Petitions like these, seeking to undo minor errors with unfortunate consequences, do, however, reveal the often tedious and prolonged process of invoking a distant, centralised royal power and the drawbacks of relying upon documentation emanating from the central institutions of government rather than an agent with insular jurisdiction possessed of greater local knowledge.

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<sup>59</sup> The editors of *Ancient Petitions* state that this petition is dated c.1295 but this is improbable given that the petition was referred to in a commission of "oyer and terminer" to investigate de Cobham. Moreover, the petition states that the Islands had been returned to the custody of Otto de Grandison, which only occurred after de Cobham's dismissal in 1297. TNA SC 8/275/13731; *Ancient Petitions*, pp 6–7. *CPR, Edward II: 1292–1301*, p 301.

<sup>60</sup> TNA SC 8/275/13731; *Ancient Petitions*, pp 6–7. Regarding Master Robert de Leysset: *CCR, Edward I: 1296–1302*, vol IV (London, 1906), p 51–52, p 65. "*Comptes du Gardien Henry de Cobham pour l'annee, 1294–1294*", R Rouequette (ed and trans), *ABSJ*, vol XIII, Part 1 (1936), pp 19–32.

<sup>61</sup> *CCR Edward I: 1296–1302*, pp 591–592.

<sup>62</sup> Geoffrey de Carteret's petition can be dated to either 1306 or 1313 as it refers to the king's impending departure to Scotland. TNA SC 8/54/2693; *Ancient Petitions*, pp 27–28.

18 Petitioning was not always an effective tool in resolving grievances. Where the petition consistently faltered, if not failed, as an effective mechanism of judicial redress in the Channel Islands was in resolving complaints against the maladministration of officials, most notably during the troubled Lordship of Otto de Grandison (1277–1328). Otto was a “man of European importance”, entrusted with a number of delicate diplomatic missions on behalf of the king, including in Gascony and Paris, and was a personal friend of Edward I.<sup>63</sup> Such attributes must have given his activities a level of immunity from too close a scrutiny. In November 1275, he was granted the wardenship of the Islands, undoubtedly as a way of rewarding his royal service, providing him with the king’s revenues and rights in the Islands in exchange for an annual rent of 500 marks. In 1277, his package was improved: Otto was appointed *Dominus Insularum* (“Lord of the Islands”) and granted a usufruct over them for life, making him “practically supreme lord” in the Islands.<sup>64</sup>

19 Otto’s status as “Lord of the Islands” gave him considerable control of the administration. The right to the fruits and profits of the Islands meant he was not accountable to the English Exchequer.<sup>65</sup> He regularly appointed family or friends to the key positions of government. Otto’s brother, William de Grandison, and his close associate Henry de Bonvillars, the Prior of Wenlock, were intermittently sub-wardens and attorneys on behalf of Otto.<sup>66</sup> These officials, with no long-term interests in the Islands, sought to extract as much profit from them as possible, and generally abused their positions. Due to their stranglehold on the administration, it proved extraordinarily difficult to oust Otto’s officials from their positions, even though gross injustices had clearly been committed, including one accusation of torture and murder.<sup>67</sup> Notwithstanding numerous

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<sup>63</sup> Le Patourel, *Medieval Administration of the Channel Islands*, p 47. Kingsford, “Otto de Grandison”, pp 125–128. Prestwich, *Edward I*, p 54.

<sup>64</sup> The grant to Otto, though only for life, could be said to have contradicted the condition of the 1254 grant that the Islands may never be separated from the Crown. However, it would have been impossible for Edward I to have predicted Otto would live to the exceptional age of around 90, and that his tenure would be so troubled (c.1238–1328). *CPR, Edward I: 1272–1281*, vol I (London, 1901), pp 125, 188, 193. Kingsford, “Otto de Grandison 1238?–1328”, p 128–129, 161.

<sup>65</sup> Le Patourel, *Medieval Administration of the Channel Islands*, pp 38–40.

<sup>66</sup> *Ibid*, p 48, 124.

<sup>67</sup> Otto’s officials were accused of torturing Renouf Gautier to death in 1310. Three Islanders who sought justice for this matter, John du Vivier, Thomas de Esterfeld and Philip de Vincheles (Vincelez), petitioned the king in 1320 to

petitions from discontented Islanders and the fact that the Crown sent several commissions of inquiry to the Islands, in reality the Crown was either unable or unwilling (particularly during Edward I's kingship) to intervene effectively due to Otto's status and his proximity to the royal household. Often Otto's officials, and sometimes Otto himself, were required to appear before the King and Council in parliament to answer these accusations, but there is no evidence of any sanction being imposed.<sup>68</sup> When in 1292, the Bailiff of Guernsey, Guillaume de Saint Remy (Bailiff, 1288–1291 and 1292–1296), one of Otto's appointees, was ordered by a commission sent to investigate the Islanders' complaints to pay considerable sums of money in compensation to injured parties, Guillaume opted simply to abjure the Islands for France. Despite his obvious guilt as determined by the commission, he was pardoned by the king a year later, and his lands and chattels were restored to him by Otto de Grandison.<sup>69</sup> Ultimately, the Crown only fully and properly intervened when there was perceived to be a genuine risk that the Islands might be invaded by the kingdom of France, such as from 1294–1298 when the Islands were taken back into royal hands on account of the fact that Otto's officials had neglected their military responsibilities, or when royal rights were threatened by the influential Norman churches in the Islands.<sup>70</sup> The

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receive protection from Otto's officials after making the allegations. TNA SC 8/67/3333, SC 8/87/4345; *Ancient Petitions*, p 28. pp 28–9. *CPR, Edward II: 1317–1321*, vol III (London, 1903), p 515. For some examples of accusations against Henry, Prior of Wenlock, see *The Jersey Assize roll 1299–1300*, pp 1–3; JUST 1/1158, m 1. TNA SC 8/83/4148; *Ancient Petitions*, pp 36–37, *CPR, Edward I: 1292–1301*, vol III (London, 1895), p 296.

<sup>68</sup> In 1302, Otto de Grandison, Henry, Prior of Wenlock, Henry de Cobham, and other officials were required to appear before the king to respond to complaints that they had inflicted “diverse wrongs, damages and grievances” to the Islanders. *CCR, Edward I: 1296–1302*, pp 591–592.

<sup>69</sup> More complaints were made against him and the king subsequently in 1297 ordered the warden, Nicholas de Cheny, to inquire about whether the injured parties had been compensated. It is important to recognise that it was Otto's right as Lord of the Islands to restore the lands and chattels of William, rather than the king, which made it difficult to ensure the Islanders were compensated using William's possessions. *CPR, Edward I: 1281–1292*, vol II (London, 1893), p 495. *CCR, Edward I: 1288–1296*, vol III (London, 1904), pp 319, 359. *CCR, Edward I: 1296–1302*, p 119. Le Patourel, *Medieval Administration of the Channel Islands*, pp 47–48.

<sup>70</sup> Even then the warden appointed, Henry de Cobham, was an old-time associate of Otto, likely selected in order to avoid displeasing Otto.

Islanders were not to be relieved of Otto and his officials until his death in 1328. Edward III (r. 1327–1377) would later admit, somewhat laconically, in a letter to the Islanders that Otto did not maintain “sufficient wardship”.<sup>71</sup>

20 The failure to resolve complaints against Otto’s administration was also due to the fact that the responsibility of investigation and adjudication of Channel Islands petitions was directed to the warden of the Islands or his officials, or directed to be resolved at the next assize in the Islands.<sup>72</sup> This understandably created a problem when many complaints were against the warden and his officials, and when the warden was responsible for conducting the assizes. One might anticipate that the introduction of itinerant justices from England to conduct the assizes from 1299–1331 would alleviate these problems. However, even the impartiality of the itinerant justices can be called into question. For example, John de Ditton, an itinerant justice in the Islands in 1309, was regularly employed as the attorney of Otto de Grandison in England and Ireland.<sup>73</sup> On the reverse side of the coin, justices could be suspected of bias towards their local communities. The Stonore-Bourne commission of 1320, sent to investigate the entire period of Otto’s Lordship, included amongst its justices Nicholas de Cheney and Jean de Carteret, two of the local elite known to be hostile towards Otto.<sup>74</sup> As a result, many of the commission’s judgments, heavily in favour of the Islanders, and affecting Otto’s landholdings

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Kingsford, “Otto de Grandison”, p 164. On the perceived threat to royal rights by the Norman Church: *CCR, Edward II: 1307–1313*, p 153.

<sup>71</sup> This is in fact a patent or close roll rather than a petition but can nevertheless be found in the SC 8 series. TNA SC 8/166/8296; *Ancient Petitions*, p 47.

<sup>72</sup> For example, TNA SC 8/265/13233.

<sup>73</sup> *CPR, Edward II: 1307–1313*, vol I (London, 1894), p 112 (for appointment), p 457 (as attorney), p 569 (attorney for John de Grandison); *CPR, Edward I, 1292–1301*, vol III, p 437 (appointment of Ditton), p 447 (service in Ireland for Otto); p 483 (suppling place of Otto in the Islands). Petition complaining of the conduct of the itinerant justices and acknowledging de Ditton is of Otto’s affinity: TNA SC 8/257/12822; *Ancient Petitions*, pp 18–19.

<sup>74</sup> *CCR, 1296–1302*, p 51. Le Patourel, *Medieval Administration*, p 58. Though it is important to recognise that the role of the John de Stonore and William de Bourne as itinerant justices appears to have been genuinely impartial, and the Crown carefully specified that no judgements could be made without at least one of them being present. TNA JUST 1/1163 (1320). *Jersey Prison Board*, vol II, pp 115–118.

and rights, were shortly afterwards overturned by the Crown, which recognised that they would ultimately serve to diminish royal revenue when the Islands were back in the king's direct possession.<sup>75</sup> Reliance on the assizes to resolve petitions then, ultimately seems to have accomplished little either as to the determination of the complaints of the Islanders or improving the impartiality of the judicial process.

21 Even the direct intervention of the king in the judgments of the 1321 eyre did not ensure impartiality. The Crown had its own interests and many of the justices were on the look-out to increase Crown revenue through judicial proceedings. At the same time as investigating complaints against Otto's administration, the itinerant justices engaged in a series of highly provocative *quo warranto* proceedings, beginning in the 1299 assize, in which the major seigneurs and clergy were summoned to show proof of their customary laws and of their rights to their landholdings. For instance, Pierre de Saumareis (Samarès) of Jersey was asked to provide proof of title to the manor of Samarès and to his rights, such as *varech* (wreck) and *éperquerie* (a right to dry fish on the foreshore), which were argued by the king's attorney to be reserved to the royal prerogative.<sup>76</sup> Unsurprisingly, the *quo warranto* proceedings were a source of contention for the Islanders, who resented their rights being questioned and were concerned they would lose the privilege of being adjudged according to their own laws. Moreover, the majority of these proceedings were subsequently adjourned to the King's Bench, where they largely remained unresolved.<sup>77</sup>

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<sup>75</sup> In a letter to Otto de Grandison shortly after the decisions of the Commission, the king stated that the Justices had muddled their task with the result that Crown lands have passed into unauthorised hands and that rulings were to be suspended. A new commission was appointed in 1323 to examine and correct errors of the previous commission. Otto appears to have played a role in influencing this decision. *Cartulaire des Iles Normandes*, Nos. 24 & 25, pp 36–39, 39–42. TNA SC 8/49/2412, SC 8/53/2648; *Ancient Petitions*, pp 30–32, pp 61–62. Le Patourel, *Medieval Administration*, p 58. *Prison Board*, vol II, pp 119–124.

<sup>76</sup> *Jersey Assize Roll, 1299–1300*, pp 64–65. Interestingly, Drogo de Barentin, Seigneur of Rozel, stated that the deeds for the manor of Rozel were stored in England for safe keeping, pp 58–59. On *éperquerie*, see B Bolton, "Esperkeria Congrorum", *RTSG*, vol XVIII, Part III (1968), pp 288–296.

<sup>77</sup> The King's Bench was a body of justices that moved about with the king. In the 14th century, it was the most powerful Royal Court. For a list of records of cases adjourned to the Court of King's Bench, see Le Patourel, *Medieval Administration of the Channel Islands*, pp 19–20. *Prison Board*, vol

22 This potential extension of the English legal system to the Islands—the adjudication of their disputes by an English court—was perceived by many as a serious threat to the Islanders’ privileges and customs, though, as Professor Tim Thornton has highlighted, Islanders themselves had a pragmatic tendency to bring cases before the King’s Bench.<sup>78</sup> For Channel Islanders, petitioning the King and Council could be said to be little different from appealing to the Duke of Normandy in his court. There is an obvious argument that engaging the King’s Bench was stepping beyond the bounds of jurisdiction. However, it is hard to see a difference between that and the use of petitions to the King and Council sitting in Parliament.<sup>79</sup> In the case of petitions from the duchy of Aquitaine, Guillaume Pépin has shown that the majority of these were treated directly by the king’s council with a more limited role played by Parliament due to the fact the king of England held the duchy of Aquitaine as duke and not in full sovereignty. This did not make Parliament ineligible to hear petitions, but it likely changed the process for hearing and adjudicating petitions from the duchy, and this may also have been the case for the Channel Islands.<sup>80</sup>

23 But if the king used the judicial process as a means to further his own interests, the Islands’ elites showed themselves to be particularly astute in using petitioning as a political tool to press the king to continue recognising their privileges and constitutional status within the realm. For instance, in an attempt to ensure their liberties and customs were respected, in 1328 the people of Jersey, in the midst of increasing hostilities between the Kingdoms of England and France, cleverly petitioned their “Prince Edward” to remind the king of the strategic importance of the Islands: that the Islands were the only refuge for shipping between England and Gascony; that if they were

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II, pp 124–128. For a description of the King’s Bench and its development in this period, see Musson and Ormrod, *The Evolution of English Justice*, pp 17–20.

<sup>78</sup> Thornton, “The Channel Islands and the Courts of Westminster” (*op. cit.*) pp 1–28, at 26.

<sup>79</sup> Le Patourel, *Medieval Administration of the Channel Islands*, pp 111–112. For discussion of the role of the King’s Bench in relation to cases from the Channel Islands, see Thornton, “The Channel Islands and the Courts of Westminster” (*op. cit.*) pp 1–28.

<sup>80</sup> Pépin, “Petitions from Gascony”, in Ormrod, Dodd and Musson (eds), *Medieval Petitions*, pp 131–134. Parliament did clearly hear Channel Islands petitions as seen in records from the 1305 Lent Parliament. Havet, *Les Cours Royale des Iles Normandes*, pp 197–205. *Prison Board*, vol II, pp 108–109.

seized, the kings of France would be the “Lords of the Sea”.<sup>81</sup> Such concerns would have resonated with those responsible for English strategic planning where fear of French naval superiority in the English Channel and the necessity of maintaining the profitable wine trade between England and Gascony were a constant focus in the period of Anglo-French hostility.<sup>82</sup> The 1328 petition was also carefully timed: it was sent shortly after the death of Otto de Grandison, when the Islands had once again come back into the king’s hand.<sup>83</sup>

24 By invoking the continued loyalty of the Islands in the face of a very proximate enemy, the 1328 petitioners were pioneers of what became a continued refrain for Islanders over the centuries. This can be seen, for example, in Jean Poingdestre’s *Cæsarea or A Discourse of the Island of Jersey* (c. 1682), and Philip Falle’s *An Account of the Isle of Jersey, The Greatest of those Islands that are now the only Remainder of the English Dominions in France* (London, 1694), among the earliest books about Jersey. Both writers, from prominent Jersey families had a vested interest in the preservation of the privileged liberties and customs that the Islanders held from the English Crown, and were also active in academic and official capacities in England.<sup>84</sup> Like the petitioners of the 14th century, they

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<sup>81</sup> The people of Guernsey also issued a petition in 1328 expressing the same concerns about the safety of the Islands and the need to respect the Islanders’ liberties and customs. The similar wording (both use the term “lords of the sea”) and timing of the two petitions suggests that they were written in close coordination. TNA SC 8/272/13589, SC 8/272/13590; *Ancient Petitions*, pp 48–49, 49–52.

<sup>82</sup> See for instance: AG Jamieson, “The Channel Islands and British Maritime Strategy, 1689–1945”, in AG Jamieson (ed), *A People of the Sea: The Maritime History of the Channel Islands* (London, 1986), pp 220–244. Compare JM Villalard, “A Re-Assessment of the Strategic Role of the Channel Islands during the Great French War (1792–1815) (unpublished PhD thesis, University of Exeter, 2017).

<sup>83</sup> Otto’s status as Lord had included a provision that for five years after his death Otto’s debtors and the executors of his will could enjoy the revenue from the Islands to settle any outstanding financial business. Following Otto’s death, the Crown discharged this obligation immediately in order to return the possession of the Islands to the king’s hand. *CPR, Edward I: 1272–1281*, pp 188, 193. *CCR, Edward III: 1330–1333*, vol III (London, 1898), p 184.

<sup>84</sup> Jean Poingdestre (1609–1691) was Lieutenant-Bailiff of Jersey from 1669–1676, and from then on served as a Jurat till his death in 1691. He was active in England as a fellow at Exeter College, Oxford, and as a senior civil servant

recognised that the privileged status of the Islands was fundamentally due to their continued strategic importance to the defence of the English Channel during times of Anglo-French hostility and, during Poingdestre's lifetime, Jersey's contribution to the royalist side during the English Civil War. Their accounts explicitly sought to emphasise, primarily to an English audience that was largely ignorant of the position of the Islands, the close association of the Islands with the English Crown (both works were dedicated to the king), and propagated the importance of the Islands to wider English affairs.<sup>85</sup> This does not mean, though, that these authors were altogether wrong in such assertions.

25 It is important to recognise, however, that the proceedings of the itinerant justices from 1299–1331 cannot be seen simply as acquisitive efforts by the justices to fill the coffers of the Crown or to absorb altogether the Islands into the English legal system, and there has been a tendency by earlier historians to portray these proceedings as purely an assault on the privileges of the Islanders, the successful defence of which were a progressive part of the Islands' history.<sup>86</sup> In many ways,

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during the English Civil War on the side of the royalists. For the best account of his life see P Stevens, "John Poingdestre", *ABSJ*, vol XXXI, Part 2 (2014), pp 325–343. Philip Falle (1656–1742), Rector, was also active in England, having studied at Oxford and Cambridge. He represented Jersey at court in England and was entrusted to appeal to the king on the Island's vulnerability to French attack in the 1690s. He was later appointed as a chaplain of King William III. TG Hutt, "Philip Falle and his Account of Jersey", *ABSJ*, vol XXII, Part 4 (1980), pp 462–469. GR Balleine, *A Biographical Dictionary of Jersey* (London, 1948), pp 273–279.

<sup>85</sup> The fact these accounts were written in English, when Falle and Poingdestre's first language was French, is testament to their intentions to produce accounts for an English audience rather than simply a local one. It is somewhat ironic that the preface to Poingdestre in the *Société Jersiaise* republication in 1889 was written in French. The emphasis referred to is particularly apparent in Falle. *An Account of the Isle of Jersey*, pp 14–15, 48.

<sup>86</sup> See for instance, Poingdestre—

"these privileges being so solemn, so ancient and notorious, it is to be admired that from the latter days of Edward I and throughout all the weak reign of Edward II, there should be such a persecution of these Islands and such a violation of the said Privileges by the itinerant judges, as the Records of those days testify."

That is, admired in the context that the Islanders' privileges were so ancient and established that legal challenges to their authenticity by the Crown in this

the justices were attempting to bring clarity to the customary law of the Islands, which had been the source of considerable administrative and judicial complications, and genuinely to adjudicate upon civil and criminal cases.<sup>87</sup> Alongside the proceedings, as we have seen, the Crown conducted a number of important *extentes*, notably the 1331 *extente*, mainly to assess Crown rights but also with the intention to reduce the Islands' law into writing.<sup>88</sup> The Islanders themselves had, from as early as 1292, come under increasing pressure to put their laws from "time immemorial" into writing.<sup>89</sup> This was viewed as a major challenge to the rights of the Islanders, and persisted until matters came to a head in 1331, when the Islanders were summoned before the itinerant justices to evidence their liberties and customs.<sup>90</sup> This sparked a riot in Guernsey, and subsequently a suspension of the proceedings and their adjournment to the King's Bench.<sup>91</sup>

26 Against a background of these clashes between the Crown and the Islanders, we see the petitions strenuously asserting the privileges and customs of the Islanders. The most important of these is a lengthy petition dated to 1333 from the Islanders of Guernsey and Jersey. It highlighted to the king the grievances caused and unlawful activity

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period were to be admired in the audacity of their claims. *Cæsarea or A Discourse of the Island of Jersey*, p 39.

<sup>87</sup> In the 1323 commission, the justices introduced a number ordinances to reform judicial procedure and regulations, such as on brewing and baking standards. *Prison Board*, vol II, pp 128–130c.

<sup>88</sup> The 1331 *Extente* was undoubtedly linked to the 1331 eyre, in which attempts were again made to clarify the Islands laws and customs. *Extente de L'Ile de Jersey, 1331*, edited by C Le Feuvre (St Helier; Jersey, 1876). *The Extentes of Guernsey, 1248 and 1331, and other documents relating to ancient usages and customs in that Islands*, edited by Havilland de Sausmarez (St Peter Port; Guernsey, 1934). *Prison Board*, vol II pp 139–142.

<sup>89</sup> The justices of the 1299 Assize instructed the men of Jersey to reduce their laws into writing, so that they could adjudicate disputes effectively. In 1312, Otto complained that his officials could not observe Guernsey laws because the Guernsey Jurats refused to reduce its contents into writing. *The Jersey Assize Roll, 1299–1300*, pp 56, 295. TNA SC 8/272/13572, SC 8/272/13573; *Ancient Petitions*, pp 21–22, 22–23. Le Patourel, *Medieval Administration of the Channel Islands*, p 56.

<sup>90</sup> For full proceedings, see TNA JUST 1/1166, 1/1167. For record of the pleas *quo warranto* in 1331, see *Prison Board*, vol II, 142–153.

<sup>91</sup> Le Patourel, *Medieval Administration*, pp 18–19, 58–60, 112–113. Havet, *Les Cours Royales des Iles Normandes*, pp 11–13, 226–227, 228–233, Ogier, *Government and Law of Guernsey*, pp 152–153.

committed by the itinerant justices of the 1331 eyre, requested that the judgements of the eyre be suspended and be reviewed, and asked that the Islanders' liberties and customs be confirmed by the king. Attached to the petition was a list of articles in Latin, explaining the Islands' laws and how they differed from the laws of Normandy. Importantly, the articles asserted the importance of the Jurats in all judicial procedure in the Islands, including those conducted by the itinerant justices, and asserted that no legal case opened in each Island should be adjudicated elsewhere, including before the court of the King's Bench.<sup>92</sup> Though the petition was unsuccessful in securing the confirmation of the Islanders' privileges, it did cause the king to suspend the proceedings that had been adjourned by the itinerant justices to the Court of the King's Bench in 1331.<sup>93</sup> This was only considered a temporary suspension with the intention to investigate fully the Islanders' claim in due course, but proved permanent perhaps largely owing to the onset of war with France, when it was recognised by the Crown that any further challenges to the Islanders' customs would seriously strain their loyalties. In 1341 Edward III issued his royal charter to the Islands, which confirmed the privileges and customs of the Islands (many of which continued to remain unwritten) and essentially created an exclusive jurisdiction for the local courts to adjudicate upon any claims and criminal procedures occurring in the Islands.<sup>94</sup>

27 The 1333 petition has had a considerable long-term influence on the constitutional history of the Islands. It was shown by the French historian Julien Havet in the late 19th century that the articles appended to this petition were later interpolated into the so-called "Constitutions of King John", a rather problematic document with an "apocryphal" status, contained only in Falle's appendix in his *Account*

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<sup>92</sup> This petition is not part of the SC 8 series but is included as part of a *Coram rege* roll relating to the suspension of the 1331 eyre. Havet, *Les Cours Royales des Iles Normandes*, pp 228–233; *Coram Rege*, Mich. 6 Ed. III, r. 181. For a copy of these articles, with some variations, See *Cartulaire des Iles Normandes*, No 2, pp 2–5. Le Patourel, *Medieval Administration of the Channel Islands*, p 19.

<sup>93</sup> Havet, *Les Cours Royales des Iles Normandes*, pp 13–14, 228–233. Le Patourel, *Medieval Administration of the Channel Islands*, pp 112–113.

<sup>94</sup> *Prison Board*, vol II, pp 219–221. Thornton, *Charters of Guernsey*, pp 1–5. Le Patourel, "Origins of the Channel Islands Legal System", *Feudal Empires*, p 208; *Medieval Administration*, p 59. Thornton, "The Channel Islands and the Courts of Westminster", pp 11–13, 27–28.

of the Isle of Jersey.<sup>95</sup> These “Constitutions” do not belong to John’s reign but were in fact a combination of an Inquiry in 1248 conducted by the warden of the Islands, investigating the customs and laws laid down in the time of King John, and the articles of the 1333 petition. Whilst the “Constitutions” may reflect laws and administrative reforms instituted by John or dating perhaps even prior to his reign, the “Constitutions” as we know them in Falle’s book belong to the 17th century.<sup>96</sup> Despite early doubts as to the authenticity of the “Constitutions”, they were frequently reproduced and deployed to establish the Islands’ laws and customs in legal cases.<sup>97</sup> *The First Report of the Commissioners* (1847) commented that “whatever the origin of these Constitutions, they have for many ages been treated as a Charter granted by the Sovereign and accepted by the inhabitants”.<sup>98</sup> For the purposes of this discussion, when one considers that Edward III’s charter of 1341 was rather general in the terms of its grant, the articles of this petition fundamentally substantiate our understanding of what the laws of the Islands were in the 13th and 14th centuries, and

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<sup>95</sup> Havet, *Les Cours Royales des Iles Normandes*, quote at pp 3, 3–8, 50–52. Falle, *Account of the Isle of Jersey*, Appendix, pp 200–206. For a succinct account of the “Constitutions” see Ogier, *Government and Law of Guernsey*, pp 146–147.

<sup>96</sup> Havet, *Les Cours Royales des Iles Normandes*, pp 3–8. Le Quesne, *A Constitutional History of Jersey*, pp 52–54, 539–541. Falle’s conflation of sources should not, however, undermine the significance of these records. The 1248 Inquiry and other contemporary records surrounding it remain crucial to understanding our constitutional history. For valuable discussions of the “constitutions” instituted by King John as found by the 1248 Inquiry, see JC Holt, “Jersey 1204: The Origins of Unity: A Note on the Constitutions”, in P Bailhache (ed), *A Celebration of Autonomy, 1204–2004: 800 Years of Channel Islands; Law* (St Helier; Jersey, 2005), pp 121–124; J Everard and JC Holt, *Jersey 1204: The Forging of an Island Community* (London, 2004), pp 156–166. Ogier, *Government and Law of Guernsey*, pp 146–147.

<sup>97</sup> Havet notes that Philippe Le Geyt (1655–1716) acknowledged that the articles of the “Constitutions” did not all belong to the reign of King John. *Les Cours Royales des Iles Normandes*, pp 5–6. It is interesting that the “Constitutions” were used by the States of Jersey in the Prison Board case, even after Havet’s study, whose research was referenced in the Crown’s evidence. *Prison Board*, vol II, pp 108–111, vol IV, pp 1053–1056, vol V, pp 2–4. Ogier, *Government and Law of Guernsey*, pp 146–147.

<sup>98</sup> *First report of the commissioners appointed to inquire into the state of the criminal law in the Channel Islands* (Jersey) (London, 1847), pp ix, 72–73.

occupy a place as one of the more important medieval documents in the constitutional history of the Islands.

### Conclusion

28 Over the course of the 14th century, the use of petitioning in the form instituted during the reign of Edward I declined considerably. Petitions from the Channel Islands continued in reduced numbers from the 1340s onwards until the 15th century, and the final petition in the SC 8 series is dated to c.1453. The decline of petitions from the Channel Islands correlates with the general decline in use of the petitionary mechanism in England and elsewhere in the realm. Gwilym Dodd concluded that the decline in petitioning during the reign of Edward III was not so much due to the ineffectiveness of this mechanism but as a result of more stable political conditions and on account of comprehensive improvements to central and local judicial institutions: alternative remedies became available. It is important to recognise that the petition was originally introduced to resolve issues that could not be resolved elsewhere, and at a time when other judicial mechanisms were in need of serious reform. After numerous improvements to the administrative and judicial systems during the 14th century, the need for people to rely upon petitioning as a remedy for their grievances was significantly lessened, and the need for intervention by the King and Council became more limited, though the mechanism was never altogether extinguished and the King and Council retained its place as the ultimate appellate jurisdiction in the realm.<sup>99</sup>

29 A similar picture may be seen in the case of the Channel Islands. It is noticeable that the bulk of petitionary activity occurred during the “*longue oppression*” of Otto de Grandison’s Lordship, when local officials were largely unaccountable and there existed serious deficiencies in the Islands’ judicial systems.<sup>100</sup> Following the death of Otto in 1328, and the return of the administration of the Islands to the king’s hand, the growing sophistication of the Royal Court and the offices of Bailiff and the Jurats saw the local judicial institutions reach a stage of maturity that enabled them more effectively and independently to resolve disputes and grievances, reducing the need

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<sup>99</sup> Dodd, *Justice and Grace*, pp 116–122, 317–325.

<sup>100</sup> J Havet, quoted in Le Patourel, *Medieval Administration of the Channel Islands*, p 46.

for petitioning and the intervention of the central institutions of royal government in Channel Islands affairs.<sup>101</sup>

30 The greater reliance on local judicial institutions in this regard was additionally due to a number of shortcomings in a process which entailed invoking assistance from a body which was some distance away and in certain respects quite different from the Channel Islands. One issue was the costs involved in pursuing legal process in England and having to travel there when summoned to present cases before the King and Council in Parliament. In a petition of 1324, for instance, Dennis le Marchant and Matthew de Sausmarez lamented the significant expenses they had incurred from two years of legal process in England seeking to resolve certain defects in a royally issued document concerning tenements in Guernsey.<sup>102</sup> Furthermore, as the period progressed it became increasingly difficult for English authorities to determine Channel Islands disputes, owing to a decreasing number of English judges skilled in Norman law, let alone the specific of the laws and customs of the islands. As a result, and, as has been seen above, legal process went back and forth, rarely achieving a satisfactory outcome, until the creation of the 1341 Charter and its confirmation in the first instance jurisdiction of the Islands' Royal Courts. Finally, in 1368 the King's Bench declared itself incapable of hearing cases from the Channel Islands.<sup>103</sup> From the perspective of the Crown, a greater reliance on local judicial institutions was a much more practical solution to the resolution of most of the grievances of the sort that had been expressed in petitions,

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<sup>101</sup> Le Patourel, *Medieval Administration of the Channel Islands*, pp 104–120. Le Patourel, "The Origins of the Channel Islands Legal System", *Feudal Empires*, pp 193–210. Ogier, *Government and Law of Guernsey*, pp 110–111.

<sup>102</sup> TNA SC 8/60/2989; *Ancient Petitions*, pp 12–13. Of a different nature, in 1321, when complaining about the maladministration of Otto, Thomas de Estfeld claimed to have been assaulted in London by Otto's men to prevent him appearing before the king at Westminster. TNA SC 8/257/12834; *Ancient Petitions*, p 32.

<sup>103</sup> In 1368, the King's Bench declared that Jersey Jurats were not bound to appear before it and that Island issues had to be judged according to Island customs, which confirmed the competence of the local judicial institutions. Le Patourel, *Medieval Administration of the Channel Islands*, p 67. Thornton, "The Channel Islands and the Courts of Westminster", pp 1–28, 14–28. Ogier, *Government and Law of Guernsey*, pp 152–153. Edward Coke, *The Fourth Part of the Institutes of the Laws of England. Concerning the Jurisdiction of Courts* (London, 1817), pp 286–287.

and thus after 1341 it reserved only exceptional cases for its adjudication.

31 It is clear that the mechanism of petitioning occupies an important place in the history of the Islands, but what does it tell us from a constitutional perspective? First, petitions gave people from the Channel Islands direct access to the highest level of the king's power structure and the possibility to use it to seek to vindicate private and public rights and gain commercial and political advantage. It was a process used by individuals, interest groups, whole communities and even, on occasion, the Channel Islands as a whole, which showed some degree of collective consciousness. Secondly, the parliamentary and judicial machinery was in a state of development. But even though they would separate into the Houses of Commons and Lords, the Privy Council, and a separate court structure, a precedent had been set and it was the Privy Council, the successor to the King and Council, that the Channel Islands would continue to use for judicial and political appeals and, ultimately, to obtain sanction for locally initiated legislation.<sup>104</sup> Thirdly, petitions must also be seen in the larger context of the battle to establish the boundaries of authority and control between the king and the Channel Islands. For the Islands at this stage, this meant the extent of their judicial independence and the right to retain their own laws as well as their own customs and rights. This was largely achieved by the Islanders and culminated with the 1341 Charter, which confirmed the Islanders' privileges and customs, and allowed them to continue to enjoy their own administrative and judicial institutions and hence retain and develop their distinct cultural identity.

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<sup>104</sup> For a good description of this evolution, including how it came to be recognised in case law, see WJ Heyting, *The Constitutional Relationship between Jersey and the United Kingdom* (1977), chap 6, pp 55–67, esp Lord Sankey's summary of the historical and constitutional position of the Privy Council, pp 59–60. Dr Heyting was a constitutional lawyer who was settled in Jersey and was commissioned by The Jersey Constitutional Association, a political lobby group set up to address how the UK's intended joining of the European Economic Community (EEC) would affect the Island. In this work, we yet again see the constitutional history of the Channel Islands prayed in aid of contemporary arguments. See also Thornton, "The Channel Islands and the Courts of Westminster" (*op. cit.*) pp 17–28.

