In recent years, historians have begun to reassess the Elizabethan parliament. David Dean's book contributes to this development by offering the first detailed account and analysis of the legislative impulses of the men attending the last six parliaments of Elizabeth’s reign. Examining a wide range of social and economic issues, law reform, religious and political concerns, and affairs both national and local, *Law-making and society in late Elizabethan England* addresses the importance of parliament both as a political event and as a legislative institution. David Dean draws on an array of local, corporate and personal archives, as well as parliamentary records, to reinterpret the legislative history of the period, and in doing so develops a deeper understanding of many aspects of Elizabethan England.
Cambridge Studies in Early Modern British History

LAW-MAKING AND SOCIETY IN LATE ELIZABETHAN ENGLAND
Cambridge Studies in Early Modern British History

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To my parents
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Janet Siltanen has been forced to hear more about Elizabethan bills and acts than any sociologist deserves. Her patience, humour and warmth have sustained me over many years and without her constant encouragement this book would never have seen the light of day. Lastly, through their love, hard work and support Ben and Ruth Dean enabled me to enjoy life as a professional historian. The dedication of a book seems small recompense.
NOTE TO THE READER

The historian attempting to place some order on the legislation introduced between 1584 and 1601 faces a difficult task. Some 182 acts and 415 bills were introduced in the six parliaments studied here. Only a minority of failed bills have survived and although others were described in detail by a diarist, for the majority we only have a bare title. Thus any classification scheme is bound to be impressionistic. It will also have anomalies because bills sometimes attempted a variety of enactments which might cut across several of the historian’s carefully devised categories and, of course, one historian’s categories may make less sense to another. However, in this case consideration of the reader suggested that it would be most useful to use the divisions adopted by Elton in his study of the legislation in the parliaments of 1559–81. In this way readers should be able to reconstruct the history of any particular type of bill over the entire reign. Both books supply indices of acts and bills by parliamentary session which should help those interested in a specific issue.

In telling the history of some 600 legislative initiatives I have run the risk of taxing the reader’s patience with a succession of stories. In some ways this is what it must have been like for those attending these assemblies. Morning after morning, day after day, bills paraded past the attentions of MPs and peers. Each had its own story and a reason for being told. Although their beginnings varied, and some had a more complicated plot than others, all shared in one of two ends: success or failure, enactment or oblivion, at least until the next occasion. I hope that few will judge the result to be ‘long, tedious, nothing much to the question’ as an MP once remarked after another’s speech, but if some stories prove worth the telling, I trust the reader will forgive me the rest. The subdivisions used, though just as problematic as the categories within which they are located, should help identify the stories of greatest potential interest.

I have retained original spelling, but modernised punctuation and expanded contractions. The year has been taken to start on 1 January. Unfortunately, the 1584–5 Lords’ bill ‘giving Her Majesty Authority to
alter and new make a Calendar' in agreement with the Gregorian or 'new style' calendar adopted in many European countries by the end of 1583 disappeared after a second reading!\(^1\)

\(^1\) *LJ*, II, 99, 102; Hughes and Larkin, II, 665.
ABBREVIATIONS

Add. Additional Manuscripts
BIHR Bulletin of the Institute of Historical Research
BL British Library, London
Cal. Calendar
CJ Journals of the House of Commons (London, 1803–)
CLRO Corporation of London Record Office
GL Guildhall Library, London
Harl. Harleian Manuscripts, British Library
Hatf. Cecil Papers, Hatfield House, Hertfordshire (BL microfilm)
HJ Historical Journal
HLRO House of Lords Record Office
HMC Historical Manuscripts Commission
Abbreviations

HPT
Hughes and Larkin
JP
Lans.
LJ
LPL
MP (references)
MP (text)
Neale, Parliament
OA
Parch. Coll.
PH
PRO
Rep.
RO
Sainty
Salis. MSS
SP
SR
Suppl.
TCD
Townshend, Hist.
Townshend, Coll.
Townshend, Journal

Justice of the Peace
Lansdowne Manuscripts, British Library
Journals of the House of Lords (London, 1846– )
Lambeth Palace Library, London
Main Papers, House of Lords Record Office
Member of Parliament
Original Act, HLRO
Parchment Collection, HLRO
Parliamentary History
Public Record Office
Repertories, CLRO
Record Office
HMC, Calendar of the Manuscripts of the Most Hon. The Marquis of Salisbury, K.G., Preserved at Hatfield House, Hertfordshire (London, 1883– )
State Papers, Public Record Office
A. Luders et al. (eds.) Statutes of the Realm (11 vols., London, 1810–28)
Supplementary
Trinity College, Dublin
Heywood Townshend, Historical Collections or An Exact Account of the Proceedings of the Four Last Parliaments of Queen Elizabeth of Famous Memory (London, 1680)
The purpose of this book is not to revise the story told by Sir John Neale in the second volume of his epic *Elizabeth I and her Parliaments*, but to recover the history of the bills and acts which he ignored. Neale's history of the Queen and her parliaments necessarily focused on episodes of conflict, confrontation and opposition because he wanted to 'reveal the significance of the Elizabethan period in the constitutional evolution of England' and, specifically, 'to banish the old illusion that early-Stuart Parliaments had few roots in the sixteenth century'. His particular contribution was to identify an organised puritan opposition who wanted to 'frame the agenda of Parliament' and 'taught the House of Commons ... the art of opposition'.

Although this concentration on conflict and opposition reclaimed much for the history of Elizabethan parliaments, it also led to a distortion. Neale was not interested in the daily parliamentary business of making laws unless a bill created a major problem in the tripartite relationship of Queen, Lords and Commons. What contemporaries would have regarded as both unusual and unfortunate, Neale saw as the hallmarks of a developing institution. And what they saw as the essential business of parliament, he largely ignored. Of some 600 measures initiated in the six parliaments held between 1584 and 1601, Neale discussed less than fifty.

Nevertheless, the historian interested in legislation owes an enormous debt to Neale for he, and those working with him, discovered a large number of previously unknown sources for Elizabeth's parliaments. Transcribed by Helen Miller and now being edited, augmented and published

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by Terry Hartley, these provide us with much information about bills and acts.3 For each of the last six parliaments at least one diary has survived. In 1584–5 Thomas Cromwell, MP for Preston, kept a diary which, although briefer than his earlier ones, still provides long descriptions of bills and some debates. In addition a ‘report of diverse speaches’ survives among Lord Treasurer Burghley’s papers and a journal was kept of many speeches by William Fitzwilliam, MP for Peterborough, who took special care to note down those made by his father-in-law, Sir Walter Mildmay, Chancellor of the Exchequer. William Fleetwood, Recorder and MP for London, sent Burghley a report on several speeches at the beginning of the session.4

An anonymous journal survives for 1586–7, which covers only a few weeks in February and March, and an even briefer one for 1589, which Neale attributed to Henry Jackman, MP for Calne.5 For 1593 a very detailed diary has survived in many copies; it is one of the best of the reign.6 Hayward Townshend, MP for Bishops Castle, kept diaries for both 1597–8 and 1601, which also survive in several copies. That for 1601 is much fuller, with many bills and debates recorded.7 Townshend’s diary was described by A.F. Pollard and M. Blatcher in the 1930s, and they published that for 1597–8. The fuller diary for 1601, along with a digest of proceedings in other parliaments, was published as Hayward Townshend’s Historical Collections in 1680.8 A less informative diary was kept by Sir William Twysden, MP for Helston in 1601, which was compiled by his son in 1645,

3 Hartley, Proceedings. Volume II (covering 1584–89) and volume III (1593–1601) appeared as this book was at proof stage.
4 Respectively, TCD MS 1045; BL, Lans. MS 43/72, ff. 164–75v; Northampton RO, Fitzwilliam of Milton MSS, Political Papers, 2; BL, Lans. MS 41/16, f. 45–45v. There is a more extended discussion of these and the sources noted below in Dean, ‘Bills and Acts’, pp. 20–7. This will be supplanted by Dr Hartley’s discussion in the later volumes of the Proceedings.
6 The original does not seem to have survived and the remaining copies vary from those which cover most of the parliament in detail, such as BL, Cotton MS Titus Fii and Stowe MS 358, to shorter versions or summaries, such as BL, Harl. MS 1888; BL, Hargrave MS 324, Bodleian Library, Oxford, Tanner MS 264, Inner Temple, London, Petyt MS 538/20; and Northampton RO, Finch-Hatton MS 46.
7 BL, Stowe MS 362 seems to be the best text. Copies for both parliaments are in BL, Cotton MS Titus Fii and BL, Stowe MS 358; of 1597–8 in BL, Hargrave MS 278 and Northampton RO, Finch-Hatton MS 47; and, among at least ten copies of 1601, are BL, Egerton MS 2222, BL, Harl. MSS 2283, 7203 and Bodleian Library, Oxford, Rawlinson MS A 100.
and one written by Robert Bowyer also adds a little to our knowledge of this parliament.9

Some of these diaries, Townshend’s, the anonymous diary of 1593 and those in the Library of Sir Robert Cotton among them, were used extensively by Sir Simonds D’Ewes when he compiled his journals of Elizabeth’s parliaments sometime before 1630. It was published in 1682.10 Besides these, and other manuscript sources, D’Ewes had access to the journals kept by the clerks of both houses. This proved to be of the utmost importance because the journals of the Commons for 1584–1601 were lost probably sometime during the Interregnum. D’Ewes’ comment that Clerk Fulke Onslow’s journal from 1581 was ‘exceeding difficult to be read’ suggests that he was using Onslow’s scribbled book and not the written-up journal, if such ever existed. The loss of several pages of the Lords’ journal for 1597–8 is remedied by Bowyer’s transcription.11

Thus the greatest obstacle to the historian of legislation in this period is the loss of the Commons’ journals. This is largely because D’Ewes was not content to transcribe the journals, but used them alongside other sources to compile his own history of these parliaments. When his journal was published by his nephew in 1682 further errors and omissions were introduced.12 This means that statistics of bill numbers, readings, committees and so on must be viewed with caution and can never be regarded as completely accurate. Nevertheless, other sources enable us to recover most of the readings omitted by D’Ewes in his habit of identifying only some of several bills ‘of no great moment’ read on an occasion.13 Of course, D’Ewes must be used with caution not simply because he was aware of developments after 1601 and his compilation was made in light of that experience, but because his editorial practices may also impose an order on events that bears little relation to what really happened.

Although the loss of the Commons’ journals are serious, the historian of the later Elizabethan parliaments benefits from a remarkable survival record of failed bills. Most are found in the House of Lords Record Office,  

9 BL, Stowe MS 359; Inner Temple, London, Petyt MS 537/9, 16.
10 BL, Harl. MS 73, 74, 75. Although the manuscripts were used for this study, the footnotes will direct the reader to the printed edition of D’Ewes for convenience and the manuscript cited where necessary. Norah Fuidge has noted the most significant omissions in a copy of D’Ewes held in the Institute of Historical Research, London.
11 Inner Temple, London, Petyt MS 537, vol. 6, and edited by Sainty.
12 Besides leaving out the names of some committee members (particularly those towards the end of a long list), Bowes omitted a few proceedings, occasionally misnames MPs and on at least two occasions (23 and 24 November, 9 and 10 December 1597) runs events on different days together.
where the Original Acts are also kept. The bills and acts, together with the journals and diaries, provide us with an enormous amount of information on the legislative intentions of MPs and peers. It is also hoped that readers of this book will be convinced that private and local archives, whether those of corporations, boroughs, companies or individuals, are also invaluable sources for the history of parliament. If the main purpose of this book is to indicate the variety of legislative activity in these parliaments, its second is to demonstrate that the history of parliament cannot be written from the central archives alone.

Lastly, it must be stated what this book is not. It is not intended to provide a critique of Neale’s perspectives on the political aspects of parliamentary activity in this period, most notably the ‘great cause’ of Mary, Queen of Scots. Nor does it examine cases of privilege or disputed elections discussed by MPs and peers. These are important matters and took up a great deal of parliamentary time, but in most instances they affected legislation only indirectly, if at all. I hope to explore some of these issues elsewhere.

Another context which was beyond the scope of this study is enforcement. It seems clear to me that many of the bills and acts discussed here were affected by the experience of enforcement, not only by the victims and beneficiaries of laws, but by the men charged with effecting them. That experience was an essential ingredient in law-making and law-reforming, but to investigate comprehensively the enforcement of all the acts discussed here is probably beyond the efforts of any one historian. A few valuable case studies have appeared and work on others is under progress. However I might agree with Anthony Cope’s view that the execution of laws ‘is the leif therof’, I had to rest content with discussing their parliamentary history.


15 BL, Lans. MS 83/68, f. 195.
On the night of Monday 9 April 1593 a weary Nicholas Saunders wrote a letter to his friend William More from his chamber at Blackfriars. Saunders had just spent an exhausting few days in parliament where he sat as MP for Haslemere. More, who had been elected knight of the shire for Surrey, had already returned home as it was close to the end of the session. ‘I am very glad for your owne sake’, Saunders wrote, ‘yt you are quiet now at home free from ye wearesome attendance here, so I am sory for myne owne sake yt you are gone in yt I am haulf out of countenaunce wanting your presence here.’

Saunders still had the energy to inform his friend in detail of the parliamentary business he had missed. Since More had departed much parliamentary time had been taken up with the Lords’ bill seeking to ‘explain’ the 1581 statute of obedience requiring all subjects to attend divine service on Sundays. The committee had met on the very afternoon More left ‘and stayed untill viii a clocke’. They agreed on nothing but ‘a generall mislyke of ye Bill, some greatly disliking ye title, some utterly condemning ye Pre-amble, many others finding many other faults in ye body of ye bill’. On the following day Vicechamberlain Thomas Heneage reported their discussions and moved for a conference with the upper house. The Commons agreed, but only ‘with very great difficulty’, and at the conference many amendments were discussed with legal advice from the judges. Some MPs, notably Nicholas Fuller and Henry Finch, still objected when the amendments were reported and urged a further commitment, ‘to which motion ye councell would in no wyse consent except ye committees might go up presently into ye Sergeants roome and dispatch it while ye house sat, which was effected accordingly’.

While this was being done, MPs turned to consider ‘a mery bill of ye Brewers’. It passed the house after a speech from Richard Stevenson who had not meant to speak but was called upon to do so by Saunders. However, the ‘cheefeist matter of pleasure to ye house’ was a bill protecting the cloth industry in Cranbrook, Kent. Saunders had called for it to be read
to ye which Mr Asse, Aske I should have sayed, spake so well and with so good a grace yt it was to ye greate consolation of ye whole house'.

At last the committee returned with the amendments to the bill for church attendance and it too passed the Commons, not as a new bill but simply as the old one amended. 'But how yt can be I know not. For now it hath a new title, a new preamble and allmost a new body and yet it must be ye olde bill still.' The reason, he surmised, was that it would pass more quickly. 'Wee were content to yeeld to any thing', Saunders told More, so that they could rise and get to their dinners. 'For it was past three ere this was concluded and endid. I assure you Sir a great many of us cought such a faintnes there wth so long fasting, having neyther meate in owr bellies nor witt in owr hedds'.

Saunders went on to report the next day's events. He told More that the beer-brewer who had secured the arrest of the MP Francis Neale for debt, and the sergeant who did the arresting, had been committed to the Tower and then released. He also reported Sir Edward Hoby's return to the Commons after detention. Then he returned to legislative concerns. 'The bill of reskowes in arrests was so smaly reskowed yt wee have throwen it out of doores.' The bill on outlawry, he told More, was so offended by this that it followed the other 'both to my no smale greife'.

On the day of writing MPs passed a Lords' bill for confirmation of royal grants to colleges, deans and chapters, but only 'after much wrangling'. The main point of contention was a number of provisos offered by individuals. Michael Stanhope had one 'Mr More' (probably Francis Moore) plead for him; the house divided over his proviso and the negative voice won. 'I am sure my brother George can gesse of which syd I was', Saunders wrote. MPs also considered, and passed, a bill prohibiting subdivision in London. Eventually there was nothing left to read but the Queen's general pardon 'for wee had dispatched all and rose by twoo a clock this day'.

Apart from a discrepancy of dates, Sir Simonds D'Ewes's journal tells us that Saunders omitted to mention a number of other matters discussed by MPs after More had returned home. On the day Heneage reported the committee's work on church attendance, bills for Devonshire kerseys and against Catholic fugitives were read and passed. A Lords proviso to a bill against popish recusants was approved and their bill on cordage and the navy arrived with a plea for expedition. Saunders omitted proceedings on this bill and those concerning coopers, naturalisation, timber, Anthony Cook and soldiers and mariners while noting those on grants, church attendance, brewers and Cranbrook.

His selection was thus a personal one and in several instances he highlighted his own role in the events he was reporting. As well as revealing the liveliness of debate and the flavour of legislative proceedings, his letter
shows the variety of business tackled by both houses in a parliamentary session. Over three days MPs had considered matters of state and religion, economic struggles in the brewing industry, legal processes in the criminal law, as well as matters of local interest and of concern to individuals. His letter serves as a useful introduction to a book on the legislative activities of the last six Elizabethan parliaments.¹

Sir Thomas Smith and many other commentators recognised that as the highest court of the realm, parliament was the natural receptacle into which the anxieties, concerns, hopes and dreams of England's subjects were poured. Parliamentary laws were absolutely binding on all subjects. No other form of law, whether city regulations, Privy Council orders or royal proclamations, had the force and power of statute law. Consequently many organisations, groups and individuals sought to make laws and every parliamentary timetable was clogged with legislative proposals. Although some were made through a motion to the house, or in the heat of the committee room, the vast majority of proposals entered parliament as paper bills. The major question facing the historian is not only what these bills were about, their proceedings and their fate, but their origins: who promoted them and why?

A bill was usually handed to the Lord Chancellor or Speaker, or directly to the respective clerks of the two houses, depending on whether the promoter wanted it to start in the Lords or the Commons. The clerks immediately judged it to be either a public or private measure. Public bills were supposed to be broad both in scope and application; the beneficiaries of private bills were intended to be individuals or localities. It might then follow that public bills were those promoted by government officials; private bills the result of unofficial initiatives. However, because private bills attracted fees at all stages of the legislative process, their promoters often pretended that larger benefits would arise from their measures. This is what William Fleetwood revealed during a debate over a 1584-5 bill making void all conveyances which threatened land donated for the repair of highways, bridges and poor relief. Of its promoter, Fleetwood told the Commons, 'I did advise him to make a privat bill, but he would not and therfor he shall see what will come of it.'

Perhaps the clerks were also fooled in the case of a 1601 bill providing that those making new inventions or significant changes to existing processes should be given exclusive rights to them. On the surface it looks like a public bill and MPs certainly discussed whether or not it would be

beneficial to the commonwealth. In fact, it was initiated by Monmouth’s MP, Robert Johnson, who was ‘desired to put the same into the House by Mr George Brook’, brother to Henry, eleventh Lord Cobham. This, then, was a bill privately initiated but public in intent. As with Fleetwood’s highways bill, the clerk’s distinction between public and private does not help the historian identify the origin of the measure. Nor do other technical distinctions, such as the formulae of assent or the printing of public but not private acts at the end of a parliament, for these were also dependent on the clerk’s decision or on the payment of fees for printing. Professor Elton’s very useful discovery that officially promoted bills tended to use a different form of enacting clause than privately promoted ones helps us identify the potential origin of bills but, of course, tells us little about their provenance.

For this the historian must turn to extra-parliamentary sources. Thus the minute books and financial accounts of the London companies reveal that they were behind what would otherwise be thought of as public, even official, bills if only the parliamentary sources were examined. Bills concerning fishing and navigation appear to be government-inspired attempts at regulation until the records of Great Yarmouth prove that the town was behind them, framing their contents, lobbying for the support of other localities and for their passage in both houses. Many other examples of such initiatives will be discussed in later chapters, but it will be convenient first to establish a few general points about the initiation of legislation in these parliaments.

Since the decision to summon a parliament was made by the Queen and the members of her Privy Council, perhaps with advice from the Queen’s learned counsel, the government knew first when a parliament would be called and so had plenty of time in which to prepare a legislative programme. Such planning is revealed in a letter written in September 1588

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2 BL, Lans. MS 43, f. 166v; TCD, MS 1045, f. 83; PRO, SP 12/283/11; D’Ewes, p. 678.
by Lord Chancellor Hatton to Sergeant John Puckering in which he notes that the Lords usually delay discussing bills until some arrive from the Commons. So that the first few days should not be spent 'idlye or to small purpose' Hatton asked Puckering, Speaker in 1586–7, if he had any bills left over from that parliament 'which the Lordes had good liking but could not be passed by reason of want of tyme'. It is revealing of contemporary attitudes to the records that the letter had to be written; Hatton had rightly approached the Lords' clerk first, but had been told that Puckering, not he, held these measures. The same letter reveals conciliar discussions over the Speakership, ostensibly nominated and elected 'freely' by the Commons on the opening day of parliament.⁷

Sources such as this betray the role of privy councillors in the management of parliament. The government needed parliaments for two main reasons: money and legislation. Always dependent on parliamentary subsidies for waging war, increasingly subsidies were needed for the ordinary expenses of government as well. Taxation was thus the most important single reason for the calling of parliament. On occasion it also played a key role in the politics of the nation, most notably in 1572 and 1586–7 when privy councillors saw parliament as a means whereby Elizabeth could be persuaded to execute Mary, Queen of Scots. On other occasions, as over the question of intervention in the Low Countries in 1586–7, privy councillors seized the opportunity to play our conciliar politics, although often the divisions among them were small, the larger area of disagreement laying between them and the Queen.

However, the most consistent and time-consuming aspect of the government’s plans for parliament was its legislative programme. In every parliament official bills were introduced, debated, amended and approved or rejected. Some met with considerable hostility, others passed with little discussion. In order to ensure the safe passage of such measures, the government had to draft them carefully and argue in their favour in both houses. An indication of such concern is seen in Lord Treasurer Burghley’s request to Speaker Thomas Snagge for a report on Commons’ proceedings on Lords’ bills in 1589 or in the large volume of papers proving his extensive involvement in proceedings, the preparing of speeches and the drafting of bills.⁸

Other councillors, notably Treasurer Sir Francis Knollys and Chancellor Sir Walter Mildmay, as well as Hatton and Heneage, played important

⁷ BL Harl. MS 6994, f. 148, dated 21 September 1588. Although the writs for this parliament were sent three days earlier, for assembly on 12 November, it was prorogued on 14 October and eventually opened on 4 February 1589.

⁸ PRO, SP 12/223/17. See, for example, BL, Lans. MS 41/16, 73/1, 103/10, 17, 104/28, 33; PRO, SP 12/195/22, 223/33, 265/34.
managerial roles in the first three parliaments studied here. After their
deaths, only Secretary Robert Cecil could match these men in ability,
although the work of Secretary John Wolley, Chancellor Sir John Fortescue
and Comptroller Sir William Knollys should not be underestimated.
Government business in the Lords was better served by the presence of
Thomas Sackville, Lord Buckhurst and Burghley's successor as Lord Treas-
urer, by Archbishop John Whitgift and Lord Keeper Sir Thomas Egerton,
and on occasion by a number of active peers including Charles Howard,
later Earl of Nottingham, Robert Dudley, Earl of Leicester, Robert
Devereux, Earl of Essex and Roger, Lord North.9

Even without these active peers, the Council's legislative concerns were
always assisted in the Lords by the presence of the judges and the crown's
chief legal officers. They also played important roles in managing Com-
mons' business. Attorney General John Popham, for example, compiled a
list of bills in 1584–5 and was very active in legislative matters. Attorney
Sir Edward Coke, Speaker in 1593, drafted a 1597–8 bill pertaining to
debts owed by the Queen and introduced a measure for trifling suits in law
in 1601. The Lord Chief Baron of the Exchequer drafted a bill 'for returninge of sufficient Jurors and for the better Expedicion of Triallls' in
1584–5.10

The role of the Queen's learned counsel in drafting legislation, or of her
legal officers or judges acting individually, was an important one. The Privy
Council also took wider legal advice, most notably in 1589 when members
of the Inns of Court were appointed to consider all laws in force because
the Queen intended that 'all such Statutes as are founde unnecessary or
defective should be repelled or reformed as upon due consideracion shalbe
judged expedient'. They were also to consider those statutes 'requisite to
be either established or perfected for the better and more exacte administra-
cion of justice' and were to report to the judges.11

Parliamentary repercussions of their work may be seen in the various
changes to the general pardon and in the unusual high number of legal
reform acts heading the sessional statute.12 A list of twelve bills, under
various headings, might also have come out of this special committee.
Among the 'New Laws to be offered to the lower house' were bills on

pp. 216–39; PRO, SP 15/30/86; HMC, Fourth Report (Bagot MSS), Appendix, Part One
10 PRO, SP 12/176/34; LJ, II, 196; 43 Eliz. c. 6; BL, Stowe MS 362, f. 94; PRO, SP 12/265/
30; BL, Lans. MS 41/16, f. 45–45v.
11 APC, XVI, 416–18.
12 SR, IV, 798.
conveyances and ejectment which proved to be unsuccessful. None of the three bills 'now in force to the which sume thinge more may be added to make them of more validity' were introduced. They would have extended earlier Tudor statutes on soldiers and fines, and an act of 1584-5 on fines and recoveries in Wales to include jurisdiction over enrolments in the Common Pleas. None of the three 'New laws to be offered to the lower house if so it be thoughte meete', were introduced; they concerned the navy and mariners, relief of maimed soldiers and recusants' armour. Lastly, the list specified four bills passed by the Commons in the last parliament 'but proceeded no further for wante of tyme', precisely the measures Hatton had wanted to get his hands on. Here greater success was achieved for although one bill on royal grants was not introduced and another had only one reading in the Commons, those for writs of error and proclamation of fines lead the list of acts passed.

The fines bill was read when the Speaker returned to the Commons on the opening day; such pro forma measures were often leftovers from the previous parliament. Two others, on soldiers and writs of error, were also initiated early on. This is generally true of official measures: 63 per cent of the statutes bearing the short enacting clause preferred by official draftsmen were introduced within the first two weeks of the session. Government bills were also more frequently introduced in the upper house, partly because they would not get swamped in their house of origin by the large number of unofficial bills always introduced in the first few weeks of a session in the Commons. Bills from the other house were treated with great respect and almost always received quick attention. In addition, the leading legal officers sat in the upper house and were thus available for quick consultation.

Those measures which can safely be described as official bills - coming from conciliar initiatives and drafted by legal assistants, judges or even

13 PRO, SP 12/218/55. A Lords bill providing against attempts to defeat fines and recoveries by secret uses had only two readings in that house; that dealing with actions of ejectment passed the Commons but died in a Lords' committee. The first may have simply run out of time, LJ, II, 161, 163; D'Ewes, pp. 446, 447.
14 There was a bill 'for Captains and soldiers', LJ, II, 147, 148, 149, 151, 152; D'Ewes, pp. 439, 441, 447, 448, 452. A bill concerning herring may have also been intended to strengthen the navy as was the case in 1584-5, TCD, MS 1045, f. 73v; D'Ewes, pp. 445, 445-6.
17 For example, bills for tellers and conveyances in 1584, enrolments in 1586-7, tellers in 1597 and assurances in 1601, LJ, II, 65, 193, 228; D'Ewes, p. 392.
Law-making and society in late Elizabethan England

cordial clients - were thus introduced quickly and very often in the Lords. A higher percentage of these Lords' bills pertained to the crown, national security and legal matters than did those introduced in the lower house. There measures concerning social and economic matters and localities dominated the agenda. This does not mean that officials did not initiate such bills, but that they accepted that by introducing them in the lower house they were increasing their chances of success.

This was because it was in the Commons that those 'representing' the vast majority of England's inhabitants sat. Government proposals on almost any economic or social issue would be carefully scrutinised by men who were engaged in industry, manufacture or agriculture, who acted on behalf of particular interest groups or specific localities. Together they had a vast experience of life and work in Elizabethan England and they attended parliament expecting to offer advice to the government on its legislative initiatives.

However, MPs also came to initiate measures themselves and to do good service to their local communities. They rode to London hoping to raise problems and find solutions, to which end their saddle bags were filled with paper bills, notes and letters. Those most heavily burdened with instructions from home were the representatives of cities and towns. The rulers of London, Exeter, York and other towns regularly met before parliament in order to discuss affairs and work out strategies. To take York as an example, its 1584–5 MPs were to pursue legislation to do with the chantry lands and apprentices, as well as the sale of rabbit skins, the rival fairs at Beverley and Howden, the importing of herring, goldsmiths, saddlers and kilns. The monopoly of salt was the main issue to be raised in 1589, 1597–8 and 1601 along with a large number of other items in the last two parliaments. York's rulers took the opportunity on each occasion to use the MPs for other business: choosing a preacher in 1584–5, lobbying the Privy Council over corn and tracking down a will in 1597–8, and retaining a solicitor's services in 1601.

London was the most sophisticated lobby of all. Its MPs were among the most active in any Commons and it was to them that the heavy burden of promoting legislation for London and protecting its wide and varied interests, as well as those of the London companies, was assigned. Behind them lay an experienced, wealthy and well-organised lobby. The court of aldermen regularly paid fees and gifts to officials, including the Speaker,

18 See Dean, 'Bills and Acts', chapters 3, 5 and 6.
and retained the services of prominent lawyers such as Francis Moore and Nicholas Fuller. The London MPs were quick to secure the defeat of any measure unfavourable to the City such as the 1593 bill restricting London retailers access to markets beyond twenty miles of the City, rejected on its very first reading. At the same time they promoted a bill restricting the right of strangers to retail there. This campaign especially involved their MPs Edward Drew, George Sotherton and Sir John Hart, with Moore as counsel; their efforts were in vain but only because the Lords rejected the measure.

However, London's authorities also faced the problem of controlling the often competing interests of the city companies. The apparent revival of an aldermanic committee to consider legislative proposals in 1593, under conciliar pressure, was intended to control the number of bills promoted by the companies, although such committees also considered more general measures. London's companies were very experienced in the art of lobbying parliament and many of the bills regulating trade and industry were promoted by them. Most were designed to maximise control over manufacturing activities through the imposing of regulations and the right to search, as well as controlling who had access to the trade. The 'mery bill of Brewers' mentioned by Saunders is a good example. The company was seeking an upwards revision of prices set by the city authorities and spent considerable sums of money in getting their bill through the Commons and defeating an unfavourable bill promoted by the Coopers' Company which sought to prevent brewers keeping more than two coopers in their work places.

The legislative initiatives of cities, towns and companies, and the ways and means by which they attempted to turn their paper bills into parchment acts, is discoverable through their often considerable administrative and financial archives. It is much more difficult to determine what individual MPs and peers were thinking as they rode to Westminster and what legislative proposals they had in mind.

It is certainly clear that for some county elites the calling of a parliament

21 HLRO, MP 1592–3, ff. 71–2v. It allowed them to trade in Stourbridge fair but otherwise only within twenty miles of the City, on pain of forfeiting the goods or their value. The preamble proclaimed all the special benefits enjoyed by London.
22 See below, chapter 6.
23 CLRO, Rep. 23, f. 22v, Rep. 24, ff. 153v–4, Rep. 25, ff. 275, 295; GL, MS 5174/3, f. 52; Dean, 'Public or Private?', pp. 527–9. The 1601 committee considered 'what course is fitt to be taken' over bankrupts, servants and apprentices who predeceased their masters.
offered the opportunity to confirm and expand existing commercial enterprises or establish the right to pursue others within the security of a statute. Sir Thomas Cecil, Sir Richard Knightley, Robert Wingfield, John North and Anthony Irby initiated or supported bills to advance their land reclamation schemes. Those who had put money into the Wealden iron industry defended their investments against the MPs from London and the Cinque Ports who had initiated bills designed to protect timber resources. Many county representatives promoted bills to protect their regional cloth industries. Peers and country gentlemen were no less keen to secure statutory confirmation to help remedy difficulties encountered in their property transactions. Such measures comprise almost one fifth of the bills introduced in these last six parliaments and enjoyed a good success rate.

These self-interested matters were not, however, the only, if even the main, legislative intentions of those riding to Westminster from all quarters of the realm. Just as many burgesses carried with them a sense of direct responsibility to the borough from which they came, so country gentlemen had a notion of duty to their ‘country’. In the Elizabethan period the phrase is usually used to refer to a county but also more ambiguously to a constituency which comprised at least the social elite, the propertied gentry, from whose ranks the knight of the shire had been drawn. There was not, as yet, a developed sense of constituency for such men were not accountable for their votes: when they returned there was no formal body of electors to answer to, no constituency party to please. But this did not lessen their sense of duty or responsibility.

During the subsidy debate of 1593, for example, many expressed concern over the heavy burden of taxation on their country. In 1601 Sir Robert Cecil urged a bending of the rules to allow the London MPs to sit on a committee dealing with a bill they had opposed because the bill so much concerned the City that to omit its representatives would be grounds for complaint. During the monopolies debate in the same parliament it was made very clear that some had come to the parliament with local grievances foremost in their minds. In 1584–5 proposals for the reformation of the ministry were offered explicitly on behalf of the inhabitants of certain localities. The need to ‘represent’ a community was used to defend unpopular speeches.

Besides such notions of constituency, MPs had a strong sense of their place in the world as magistrates. Their very social status, their role as JPs, sheriffs and deputy lieutenants, carried a duty towards the society in which

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26 For a full discussion of these measures see below, chapter 6.
they lived. Some even thought they had a duty to represent the interests of the poor, as over hunting rights and taxation. William Hakewill reflected during the debate on the shopkeepers bill of 1601:

We must lay down the respects of our own persons, and put on others, and their affections for whom we speak; for they speak by us. If the matter which is spoken of toucheth the poor, then think me a poor man. He that speaks, sometimes he must be a Lawyer, sometimes a Painter, sometimes a Merchant, sometimes a mean Artificer.

Despite its rhetorical flourish, Hakewill was reminding MPs of their duty as members of the governing elite. As one MP declared during a 1597–8 speech on enclosure: 'the eyes of the poore are upon this Parliament ... this place is an epitome of the whole realme: the trust of the poore committed to us, whose persons we supplie'.

Some saw this as a God-given duty: in 1601 Sir Francis Darcy warned the Commons that if they failed to do something about drunkenness God would 'laye his heveye hand of wrathe and indignacion upon this Land'. Edward Glascock made the same point over blasphemy and his sentiments were written into the preamble of the bill. Others preferred a more secular statement of their duty: London's Recorder, John Croke, told the Commons in 1597–8 that they were the 'Chiefe Carpenters of the Kingdome' with the task of fashioning and carving bills which were rough pieces of timber 'from a rude to a pullished forme'. A happier and much more common metaphor was that MPs were physicians healing ills and curing diseases. In 1597–8 one member told the Commons that Sir Francis Bacon had prepared an enclosure bill 'like a most skilful chirurgian, not clapping on a plaster to cover the sore that it spread no further, but searching into the very depth of the wound'.

The role of parliament men as governors and magistrates was grounded on an assumption of male superiority and female subservience. Although most of the statutes passed between 1584 and 1601 were gender non-specific, in their preambles as well as their provisions, it is likely that a study of enforcement would show that many measures were made with

29 BL, Lans. MS 43/72, f. 173; D'Ewes, p. 491.
30 D'Ewes, pp. 666–7; Hart. MS 176, f. 13v.
31 BL, Stowe MS 362, ff. 84v–5 (Townshend, Hist. Coll., p. 197); D'Ewes, pp. 660–1; PRO, SP 12/282/56.
33 Salis. MSS, VII, 542; BL, Lans. MS 73/78, f. 130.
gendered assumptions foremost in the minds of the legislators. Thus, although both men and women were subsumed within the terms of the poor laws of 1597–8 and 1601, there is little doubt that particular provisions were made with the gender of likely offenders very much in mind. It was over such a provision, concerning the relief of the children of unmarried servants, that a debate took place in 1601 which reveals much about male perceptions of young women.35

If MPs saw themselves as charged with ordering the household, they also felt that they had to punish those who challenged the stability of the household. An act of 1597–8 took away benefit of clergy from those found guilty of abduction, rape and or forcible marriage. The issue here was not so much the harm done to the woman as the detrimental effects such actions had for inheritance; it applied only to women ‘having Substance some in Goodes moveable and some in Landes and Tenementes, and some being Heires Apparant to their Auncestors’. Indeed, the legislators seem to have been motivated here by concern over elopement, another case of their determination to control women who sought to break patrimonial authority.36 Men used parliament quite extensively to confirm jointures, dowries or naturalisation for their wives and daughters.37

In their discussions on bastardy and abduction parliament men were particularly concerned to protect property rights and to control poor, and young, women in particular. To their gendered perspective must be added a class perspective. Francis Alford’s angry and explicit defence of his gentry status in light of Sir Edward Dymocke’s accusation of baseness or Sir Edward Hoby’s annoyance at losing his appropriate seat close to the Speaker and privy councillors are suggestive of a degree of class consciousness among MPs. They were anxious that gentlemen not suffer whipping for fathering illegitimate children under the vagrancy laws, or be hauled in by JPs for resorting to an alehouse for refreshment after hawking.38

Although one MP might claim that to be good legislators for the poor they must become like the poor, all assumed it was their right and duty to legislate for the ‘poorer sort’. Their concern for social order is reflected in laws to curb the excesses of youth or to control the behaviour of the ‘lewd’.

35 See below, chapter 6. This general issue was raised in discussions in the session ‘Institutionalizing Gender Inequality in Early Modern England’ at the Northeast Conference on British Studies, Montreal, October 1993. I also benefited from the comments of Barbara Todd, Sara Mendelson and Marjorie McIntosh on my joint paper with Norman Jones, ‘Individualizing Morality in Early Modern England: Parliament and the Regulation of Personal Morality, 1530–1640’.
36 HLRO, 39 Eliz. OA 9; SR, IV, 910.
37 See below, chapter 8.
A draft bill on drunkenness noted that it was a feature of 'the woolest and inferior sort of people'. Their fear of disorder is also seen in debates over church attendance when several MPs thought stricter laws had to be brought in primarily for 'the poorer sorte of People'. In declaring that 'the consent of the Parliament is taken to be everie mans consent', Sir Thomas Smith was asserting the right of peers and MPs to speak and legislate for all.

Of course, this is not to say that all perspectives were the same. Debates on bastardy, the poor law and taxation reveal a range of attitudes and a variety of opinions. Indeed, in the later parliaments several MPs voiced concerns that they were pushing the poor towards social unrest. In a debate over the subsidy Fulke Greville noted that some had argued that their own burden should be increased in order to help the poor, 'for otherwise the weak feet will complain of too heavy a body; that is to be feared. If the feet knew their strength as we know their oppression they would not bear as they do.' But Greville thought that heavier taxation could be justified by explaining that the times required such burdens, that 'in a Prince power will command' and that they could not claim to be overcharged 'when we charge our selves with them and above them'. If none of this satisfied them, then 'our doings are sufficient to bind them'.

As local representatives, magistrates, fathers, husbands, masters and members of the governing class, peers and MPs came to Westminster with bills intended to improve the economy and society, the legal system, the church. They recognised, as Sir George More told the Commons in 1601, that they 'must not bee lyke Spiders, that allwayes keepe the ould and same Webbes' - laws must alter with the times. For the government this posed a dilemma. Useful as parliament was as a means of communicating with the localities, the process of raising problems and initiating solutions put a good deal of pressure on the parliamentary timetable. As a result official business ran the risk of being delayed or even failing for want of time. Consequently privy councillor after privy councillor enunciated the belief that there were already enough laws in force and new laws should be made only when absolutely necessary. It was, however, a lost cause. Even when they were as anxious as the government to see the end of Mary, Queen of Scots, MPs still took the opportunity of any lull in the proceedings against her to introduce bills for themselves and their localities.

39 PRO, SP 12/282/ 41, 43; BL, Stowe MS 362, f. 123.
42 BL, Stowe MS 362, f. 66. More was fond of medical metaphors too, D'Ewes, p. 494.
43 Ibid., pp. 394, 394–5.
MPs thus took seriously Francis Bacon's assertion that 'every man is bound to help the Common-Wealth the best he may'. Quoting this with approval, the young lawyer Hayward Townshend added: 'We being all here within these Walls together may be likened to a Jury close shut up in a Chamber; every man there upon his Oath, and every man here upon his Conscience, being the Grand Jurymen of the Land, bound to deal both truly and plainly.' His view that parliament men formed a collectivity of individuals acting according to their 'conscience' had meaning for a community of protestants which emphasised the role of the individual's conscience as a determining authority. It was, of course, also as individuals that peers were summoned to attend parliament to offer 'counsel', and the 1593 diarist held that Elizabeth herself described MPs as temporary 'councelors' (as opposed to the 'standing Councilers' of her Privy Council whom she thought MPs had treated with irreverence). Parliament was a public place in which counsel could be offered in various forms: debates, petitions, bills and acts.

It was Bacon who criticised MPs who failed to introduce their legislative offerings openly in the house: 'Mr Speaker, I am not of their mind that bring their Bills into this House obscurely, by delivery only to your self or to the Clerk, delighting to have the Bill to be incerto authore, as though they were either ashamed of their own work or afraid to father their own Children.' He went on to complain that they had 'turned out' bills without proper debate: 'for a House of wisdom and gravity as this is, to bandy Bills like balls, and to be silent as if no body were of Councel with the Commonwealth, is unfitting in my understanding for the State thereof.'

As the 'Grand Jurymen of the Land' and counsellors to the commonwealth, MPs and peers assumed the right and duty to legislate on all matters. On occasion this was perceived as threatening the chances of government business. On others, MPs' insistence that they could initiate discussion on religion, foreign policy and other 'matters of state' was seen as exceeding their authority, at least by the Queen. Law-making was not, therefore, without constitutional significance. The competing and conflicting interests

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44 BL, Egerton MS 2222, f. 244; D'Ewes, p. 631.
47 D'Ewes, pp. 626–7. His comment on bandying balls is presumably rhetorical; the house had only sat for five days!
of those wishing to initiate and promote legislation ensured that it was never without controversy. In the chapters which follow these bills and acts will be discussed in some detail, focusing on their origins, their contents and proceedings and their fate. Before doing so it is necessary to discuss the procedures through which they had to pass.

The procedures adopted by parliaments in order to process legislation have been seen on the one hand as an indication of opposition to government policies and management and, on the other, as simply the best means of getting an increasingly difficult job done. The first opinion has its origin in the work of constitutional, legal and political historians in the early part of the century such as F.W. Maitland, Josef Redlich, Wallace Notestein, W.G. Holdsworth and A.F. Pollard. In the 1950s Sir John Neale argued that the procedural developments identified by these scholars owed a good deal to an organised puritan opposition in Elizabeth’s reign. Strategies they adopted included appointing committees, orchestrating debates and lobbying behind the scenes.

Such interpretations have recently been challenged. In a study of the major procedural innovations in the early Stuart parliaments, Sheila Lambert found little evidence for a political motive in their making; procedural change related more directly to problems in the legislative process, chiefly the ever-increasing number of bills which confronted both houses. For Elton, Elizabethan procedural innovations and development depended on the need to transact business quickly and efficiently; it had nothing to do with the political aspirations of an organised puritan opposition. Graves has stressed the importance of the upper house in procedural and other affairs. Yet the ‘traditional’ interpretation has not lacked defenders: T.K. Rabb has speculated, for example, that even if the intentions behind pro-

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50 Lambert, ‘Procedure’.


cendural innovations had more to do with processing legislation than political opposition, they could later be used as a political weapon.53

This debate on the nature of parliamentary procedure has been accompanied by detailed accounts of the procedures themselves. Neale devoted several chapters to the subject in his book on the Commons. More recent, and more thorough, accounts of procedure have emerged from the pens (or processors) of Graves and Elton.54 Contemporary descriptions of procedure, such as the notes of William Lambarde and the treatise of John Hooker, have been edited and published as has an important contemporary collection of precedents.55

In some ways the last six parliaments of Elizabeth’s reign provide the best means of comparing the theories of legislative procedure with what actually happened. Unlike the mid-Tudor sessions discussed by Graves or the early Elizabethan discussed by Elton, each parliament from 1584 to 1601 has a private diary to add to our understanding. More failed bills with the clerks’ notations survive for these than any other parliaments and the last of them, 1601, was attended by William Hakewill, the author of one of the most thorough accounts of parliamentary procedure before the Civil War.56

Nevertheless it would be both tedious and superfluous to give a lengthy account of bill procedure from introduction to passage. The story is by and large the same as that for the earlier Elizabethan sessions so expertly analysed by Elton and has, in any case, been discussed with reference to

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Initiation and procedure

the 1584–1601 parliaments by myself elsewhere.\textsuperscript{57} It seems more useful to spend the time examining those disputes, debates and discussions which arose over procedural issues during this period and perhaps move some way to determining whether or not they reflect political motivations rather than simply administrative improvements. A brief survey of bill procedure will suffice to enable the discussion to be placed in context.

A bill, written on paper, could be initiated in either house. Most were simply handed to the Speaker in the Commons or the Lord Chancellor (or Lord Keeper as he often was in Elizabeth’s reign) in the Lords. The clerks (the Lords’ clerk had pre-eminence and was officially called the Clerk of the Parliament) were entrusted with the keeping of bills but the Speaker or Lord Chancellor were responsible for the order in which they were read. By the Elizabethan period virtually all bills went through three readings before passing the house. On the first only the title was read and some outline of the content given. Usually no vote was taken and no speech made although bills much disliked were occasionally rejected at this point.\textsuperscript{58} On the second reading the bill was read out loud by the clerk from beginning to end and the matter thrown open to debate. Once this was over two questions were put. First was whether the bill should be committed for further consideration by a smaller group of nominated men. If the vote was in favour ‘committees’ were appointed, the time and place of meeting determined and the bill delivered by the clerk to one of the members appointed (called the ‘first’ or ‘head’ of the committees). If the vote was against committal then the question was put for the bill’s engrossment (whether it was to be written out neatly on to parchment which would form, if successful, the definitive original act, but subject to later amendments or additions). If the vote was against engrossment the bill was considered to have been rejected.

On many occasions in these parliaments bills which had been committed did not proceed any further. Many others, however, were brought back into the house by the head of the committee or another. He reported the committee’s work: usually some alteration, addition or deletion had been carried out or a proviso attached. Sometimes the committee had come to the conclusion that so much needed amending that it was easier to start again and so a \textit{nova billa} was introduced. This was considered to be a


\textsuperscript{58} Over 400 bills failed in the last six sessions of the reign. Of these at least fifteen were rejected on the first reading in the Commons; the Lords did not reject any at this stage, Dean, ‘Bills and Acts’, pp. 44–5, 80, 192, 213.
completely new measure and so began again at the first reading whereas the amended bill had another second reading (or the additions were twice read) when the vote was again for the committal and then for engrossment. Engrossed bills then proceeded to the third reading when a summary of the bill was read, debate allowed and a vote taken for its passage. If it failed that was the end of the measure; if it passed then the clerk certified this fact and the bill was sent to the other house.

There it proceeded to have another three readings but without the need for engrossment. Changes could, of course, be made by the second house and frequently a joint conference between the two houses was called to discuss them. If the second house approved the bill it was so endorsed; if changes had been made by the second house this was noted on the endorsement and the amendments attached. Any changes had to be accepted by the house of origin before the bill was considered to have successfully passed both Lords and Commons. It was then held by the clerk until the last day of the session where they were given the royal assent, but the Queen always had the right to veto a measure.59

This was the agreed procedure at the start of Elizabeth’s reign and outlined by men such as Hooker. However many details were yet to be finalised and discussions in the Elizabethan parliaments became precedents for later conduct. In Lambarde’s notes on procedure, for example, precedents such as permitting the committal of a proviso and a bill on the first reading and the correcting of a bill after it had passed the Commons but had not yet been sent to the Lords came from 1581; many of his Elizabethan precedents belong to 1581 or later.60 A heavily used seventeenth-century precedent book cites at least sixteen precedents concerning bill procedure from the last six parliaments of the reign and even more from James’ first.61 Discussion arose over six particular procedural questions in the parliaments studied here. Five were raised in the Commons. Four concerned proceedings there: whether debate was permissible between the vote for the committal of a bill and voting for its engrossment; whether persons speaking against the body of a bill (as opposed to its preamble, subsidiary clauses or provisos) could be appointed to the committee to consider it; whether committee members could speak on the question of the engrossing of a bill which they had opposed in the committee meeting; and whether those against a bill or those for it should depart from the floor of the house on a division called at the third reading. Two issues arose over relations

59 Elizabeth vetoed seven Lords’ bills and thirty-one Commons’ measures in these six parliaments, nine per cent of those failing, Dean, ‘Bills and Acts’, p. 76. By comparison she vetoed thirty-four measures in the early Elizabethan sessions, Elton, Parliament, pp. 124–6.
60 Ward, Lambarde’s Notes, pp. 61, 68, 84–5.
between the two houses: when should a joint conference be called and how should the second house (in the case raised this was the Lords) endorse bills originating in the other. A few further issues provoked some discussion: the rewriting of untidy bills, the reporting of Commons' proceedings outside the chamber, the conduct of debate, the proper means of receiving Commons' delegations in the Lords, and whether counsel could be heard on public bills.62

Given the increasing importance of committees as a means of thoroughly examining the contents of a measure, it is not surprising that three of the major discussions on procedural points arose over this stage of the legislative process. The attitude of MPs towards committees seems to have changed with the pressure of business. Initially committees were needed to consider a bill more thoroughly because some defect or inadequacy had been noted or raised in the debate which preceded the vote for committal. Of course, those which were well drafted and well supported needed no such examination and could proceed to be engrossed, while those obviously problematic or greatly disliked could be rejected by losing both votes for committal and engrossment.

There are, however, indications in these sessions that some members came increasingly to regard a bill's committal as a normal and expected stage of the legislative process and they were used more and more frequently. One 1593 MP told his father-in-law that committees 'give great sudden occasions of attendance, so that none of the House can prescribe well any day to bestow his business elsewhere'. As the practice became routine, problems arose to do with size, timetabling and even how many nominees had to attend before the meeting was considered quorate.63 The implication in all of this seems clear: a measure losing the vote for committal seemed doomed to failure. This view is justified by the statistics: more bills failed at this stage than at any other.64

This might suggest the reason for some members wishing to speak after the 1597–8 bill making all wills of land invalid (unless each lease was signed, and the whole bill sealed, by the testator and witnessed by four persons) had failed on the question of committal by 46 votes (140 against and 94 for).65 Clearly they felt the measure was in danger of being lost. We know of only two members speaking to the bill and both supported it. George Snigge argued that it would encourage men to make wills early

62 For these last see D'Ewes, pp. 353, 432–4, 434, 584–5; Inner Temple, Petyt MS 537, vol. 6, pp. 294–5 (Sainty, pp. 6–8); BL Cotton MS Titus Fii, f. 65–65v.
64 See Dean, 'Bills and Acts', pp. 57–61, 80.
65 D'Ewes, p. 589. The printed edition errs in describing the bill as pertaining to 'Mills' cf. BL, Harl. MS 76, ff. 154v–5. The bill is described in BL, Stowe MS 362, f. 16.
and illustrated the point with an entertaining tale of an Italian whose father had given all his lands away to a monastery simply by raising his finger when asked to do so by the friar performing the last rites. The son saved his inheritance by asking his father to raise his finger if he wanted the friars thrown out, which he did. John Croke thought the bill roughly drafted but supported engrossment; it was up to them to bring it 'from a rude to a pullished forme'.

He at least seems to have believed that a vote against a commitment was a vote against the bill. Both speeches occurred after the Commons had decided, encouraged by Hoby and Solicitor Fleming, that debate should be allowed after the vote for a committal but before that for engrossment. On this occasion 'after much debate shewing the good of the bill which could not be amended before ingrossing, and being amended would be a good bill' the measure successfully passed the vote for engrossment but it got no further. A similar view was expressed over the matter of commitment in a 1601 bill concerning bail provisions in cases arising from writs of error.

It was the successful vote for committal in the 1601 bill to shorten Michaelmas term by two weeks which provoked a debate over the membership of committees. The problem was that London’s MPs had opposed the substance of the measure, presumably because the prospect of the City losing two weeks of business was not a happy one. Hoby, who seems to have emerged as a kind of procedural watchdog in these parliaments, moved that those speaking against a bill could not be members of the committee and was supported by others. It made little sense, William Wiseman thought, for those 'wholly against' the body of a bill to be members of the committee because a committal meant that the house was in favour of the body of the bill although it had defects requiring correction.

By contrast Cecil and Knollys felt that the Londoners should be members even if the rules said otherwise. Beginning with a rather irrelevant monologue on the wisdom of committing rather than rejecting bills over which doubts had risen, Cecil praised Londoners for their loyalty during the Essex revolt before appealing to their MPs' constituency responsibilities. 'We should do great wrong and purchase great blame at their hands that sent them hither in Trust, if in a matter of this consequence and so particularly touching the State of this City we should not admit them Committees.' Given the frequent need of proclamations shortening the term because of

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67 It caused further debate after engrossment and Fleming examined 'a worde in it' much to the annoyance of Richard Browne who informed the Speaker that he 'should after a Bill is Ingrossed, hould it in yor hand and lett noe Man looke into it', D'Ewes, pp. 626, 634; BL, Stowe MS 362, ff. 73v, 99.
68 BL, Stowe MS 362, f. 94.
plague and bad weather, it is likely these privy councillors supported the measure; if so Cecil’s words must be accepted at face value.69

While supporting Cecil, Knollys added a new question to the debate: could a member of a committee who spoke against a bill at the committee meeting ‘also speak at the ingrossing thereof in the House and have his free Voice’? By the rule established in 1597–8 there was no longer any doubt that members could speak at this stage; Knollys was either asking whether a committee member was bound to stand by his opinion voiced in the committee meeting or perhaps whether someone opposing a measure could do so before the vote for committal, at the committee and before the vote for engrossment. Perhaps he was raising both. Hoby and Greville thought that the MP could speak freely, the latter arguing that committees were artificial bodies created out of the general body; when the committee ended the member became again part of the general body and so had ‘his free voice as though he had never spoken before’.

When Speaker Croke, who, as London’s Recorder perhaps had more than a supervisory interest in the bill, put the question, the Commons decided that members speaking against the body of the bill could not be appointed to the committee which was to consider it; not a single member voted otherwise. They also decided that committee members had the freedom to speak against a bill before its engrossment; not a single vote was raised against this motion. However, having registered these two decisions as precedents, Croke put it to the house whether, ‘notwithstanding this order’, the Londoners should be appointed to the committee for the Michaelmas term bill ‘and the Yeas were greater than the Noes’!70

What is especially interesting about this debate is that it should never have been necessary for a precedent had already been established in 1593. Many MPs had then opposed a bill on rescuing prisoners, but when some objected to such men being nominated to the committee, Speaker Coke thought ‘it cleere’ that any speaking against the body of a bill could be nominated ‘and had an order to shewe made in the upper house uppon the lyke doubte’.71 It seems unlikely that Speaker Croke would have failed to use this in 1601, so either the precedent had not been properly recorded or some MPs, such as Hoby, felt it to be in error. Indeed, four days earlier Sergeant Harris was removed (‘according to the antient Order in Parlia-

69 In 1593 the term had been moved to St Albans, Hughes and Larkin, II, 624, 629, 630, 632, 658, 661, 662, III, 748, 751, 752, 754, 759, 760. Attorney Popham noted that such a bill in 1584–5 had been approved by the judges but rejected by some of the Lords, PRO, SP 12/176/34.
71 BL, Cotton MS Titus Fiii, f. 61v. However, see LJ, II, 220, where the 1597–8 Lords were unsure on the issue. Hoby had been in possession of the bill, D’Ewes, p. 502.
ment') from a committee appointed to consider a bill on 'misdemeanors in base and idle Persons' because he had spoken against it. Whatever Hoby's motivations for raising the issue, and Croke's for putting Cecil's motion to the test, this procedural controversy clearly arose because of the nature of the measure involved. The bill's supporters were afraid that the Londoners would wreck its chances; the latter were determined to finish it off. At the end of the day such fears were justified for the bill never reappeared after its committal.

A similar point had arisen over potential conflicts of interest in 1584–5. A curious bill of that parliament permitted the Lord Chancellor, Lord Treasurer and others to augment judges' income by using money made available by the vacancy of offices in the common law courts. Probably motivated by a desire to discourage bribery, it stimulated some debate and when the Queen's Remembrancer in the Exchequer, Thomas Fanshawe, was nominated to the committee one MP objected 'for he was an officer of a court'. Recorder Fleetwood moved that 'none such should be as might lose by it', provoking Fanshawe to protest, with some justification, that 'I come hither as a comon wealth man and not as an officer. If any man envy my gaynes I would he had it. I see not why I may not bee a comytte that am a dark to lose by it as Mr Recorder to be one who is shortly to be a judg and to gayne by it.

The bill died in committee.

Such disputes over the membership of committees reveals an increasing awareness by MPs of the dangers posed by those planning to use their nomination to secure the defeat of the measure. The likelihood of losing a vote led to debates over other procedural issues. When Speaker Christopher Yelverton ordered those in favour of committing a bill on serge to leave the house on a division in 1597–8 they refused because they thought they would lose the vote. Controversially, Yelverton ruled that the bill could not then be committed and it proceeded to lose the vote for engrossment. The decision quickly became a precedent, cited soon after in the case of a navigation bill. Clearly the issue here was politics, not efficiency, and the same can be said of the revealing procedural debate over a 1593 bill attempting to reduce charges of suits in Star Chamber. Strongly opposed by Bacon and privy councillors, among others, a division was called on the second reading but the house fell into a debate over who should leave the chamber. Speaker Coke was in no doubt: those in favour were to go out

72 D'Ewes, pp. 629, 635–6. It was engrossed unopposed, BL, Egerton MS 2222, f. 50.
73 TCD, MS 1045, ff. 83, 87; D'Ewes, pp. 361, 363.
74 BL, Lans. MS 43/72, f. 170v.
75 BL, Stowe MS 362, ff. 14v, 16–16v (Townshend, Journal, pp. 18, 20); D'Ewes, p. 589.
because 'the Inventor that will have a new Law is to go out and bring it in; and they that are for the Law in possession must keep the House, for they sit to continue it'. He secured the bill's fate by putting the question for rejection rather than committal.76

Some MPs may certainly have been keen to keep their seats. In 1601, when it seemed clear (at least to diarist Townshend) that the yeas would win a vote over a proviso to the 1597–8 tillage act (in the bill continuing expiring laws), 'no man offered to go forth' when the doors were opened. Richard Martin caused a stampede of those in favour after pointing out that the noes usually won such votes because some voting yea in the verbal vote stayed seated during the division because they did not want to lose their places in the overcrowded chamber. Cecil, who had been against the proviso, demanded that he appear at the bar for such a slander to the house, arguing that Martin's claims were made simply to 'draw those out of the House which perhaps meant it not' and going so far as to allege that 'good sums of money have been offered for the furtherance of this Proviso'. Hardly anyone supported his motion, and even Comptroller Knollys opposed it.77

The practice of the negative voice sitting still and the innovators leaving the chamber was accompanied, on the third reading division, by another ritual 'according to the Auncient Orders': those voting against a successful measure were to carry it out of the chamber and return with it along with those who had voted for it. This may well have been a dramatic demonstration of consensus and harmony but it was a very time-consuming one and was eventually abandoned in the middle of the 1597–8 parliament 'in regard of the preciousness of this present time, the Parliament being so near an end'.78 In the busy session of 1601, after four hours of debate over merchants' shop books and with the hour perilously close to the MPs' dinner time, the ceremony was dropped: 'because time was past, and it was very late, and there were great Commitments this Afternoon, they were dispensed withal'. Hakewill duly noted the ritual but added that it 'hath not beene used of late tymes'.79 Indeed, it is possible that the practice was only adopted when a special motion to do so was made as D'Ewes is careful to note on the two occasions in 1597–8.

All the procedural issues discussed so far were debates raised in the Commons. However, the most controversial disputes took place between the two houses. One of the most heated was that which occurred over a 1584–5 bill which sought to provide remedy in Star Chamber against secret con-

76 D'Ewes, pp. 504–5; BL, Cotton MS Titus Fii, ff. 65v–6.
77 D'Ewes, pp. 675–6.
78 Ibid., pp. 451, 573, 574.
79 Ibid., p. 667; Sims, 'Speaker', pp. 94–5.
veyances. The question was straightforward enough: was the Commons required to call a conference with the Lords if they wished completely to replace a Lords' bill with one of their own drafting? This was a bill drafted by the Queen's learned counsel, considered by the judges in the Lords and was, as Burghley informed the Commons' delegation sent to hear his rebuke, 'very well favoured and liked of her Majesty, yea in so much that her Highness used to call it her own Bill'.

It is important to note, as Neale did not, that the measure had a history prior to the 1584-5 parliament. In 1581 the Lords decided that a Commons' bill making void all 'limitations' (restrictions) on lands by wills or uses which prevented conveyances needed amendment. In order to clarify the Commons' intentions they called for a joint conference; although the lower house assigned two sergeants-at-law for the purpose the bill had no further proceeding. One suspects that Popham, concerned as an MP with earlier conveyancing legislation, was active in the drafting of the much better prepared bill of 1584-5, as perhaps was Edward Flowerdew, one of the Barons of the Exchequer who had been one of the sergeants assigned to the 1581 joint conference.

Entirely redrafted by the Lords' committee appointed on the second reading and sent to the Commons with the Lords' special recommendation, it had to be returned for the proper endorsement and was delayed until after the Christmas recess. Although the debate was not quite as one-sided as Neale implies – it was, after all, lost on the question of committal by only sixteen votes – nevertheless, it was 'longe debated and greatlye impugned' and there need be no doubt that the powers given to Star Chamber met with real opposition from a house comprised largely of gentry and common law lawyers.

Curiously, the Commons appointed few lawyers to the joint conference

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80 Neale, Parliaments, pp. 84-8; Elton, Parliament, pp. 293-4; CJ, II, 123-4. In this context it is worth noting that on a 1584-5 bill to give remedy to problems in conveyances made by corporations arising from the misnaming of the corporation is the following note: 'The laste parliament Judge Dier drewe out this Bille by the appointement of the higher howse uppon another Bille then and there exhibited to the same effecte and delivered the same Bille into the higher howse and there it was Twise redde and before it Colde be redde the thirde tyme the parliament brake upp which Bille was Committed to the Clarke of the parliament to kepe untill another parliament.' However, it is scored through, HLRO, MP 1582-5, ff. 1-2v.

81 The bill is in HLRO, MP, Suppl. 1575-93, ff. 41-6. It carries no endorsement besides the title.

82 LJ, II, 65, 66, 68, 70, 72; D'Ewes, pp. 338, 339 (where the third reading noted is clearly a mistake for the 'first'), 343, 344, 346; TCD, MS 1045, f. 80v; BL, Lans. MS 43/72, f. 170.
which took place after the bill's rejection.\textsuperscript{83} Those that attended suffered a lecture from Burghley on the tripartite nature of parliament, an important aspect of which, 'of ancient Courtesie and Custom', was the practice to use 'mutual Conference each with other in matters of doubt happening amongst them from time to time in making and establishing of Laws'. However, the Lords had learned of their bill's rejection 'by Speeches abroad, not out of this House' and since it had been evidently debated 'by sundry on both sides learned in the Laws and of good account and discretion otherwise', they thought 'the Bill very much to deserve Conference without all contradiction'.

In the Commons, Fleetwood claimed that just as judges could reform errors committed during the same term, so could parliament and the bill could be revised. His precedent came from 1576 when a bill concerning vintners had been rejected one morning but after he and others were treated to lunch by the Vintners' Company, the decision was reversed in the afternoon and the bill passed. Francis Alford soberly remarked 'We ar not to follow presidentes made in an after none, when comonly men ar more mery than wise' and Thomas Digges angrily commented 'We ar not to follow presidentes made in taverns and tipling howses.' It took more drastic steps to get the measure reconsidered: the Lords refused to deal any further with the Commons' proposed petition for religious reform until they received some answer to their request for further proceeding.\textsuperscript{84}

It was Mildmay who got the Commons working again and in doing so revealed that even though he had been in favour of a committal, he thought Burghley was wrong to chastise the house: 'albeit many times Committings and Conferences be very necessary between both the Houses, yet it is at the liberty of each of the same Houses whether they will admit any such or no, and so no error in that which is done'. Eventually MPs opted to draft a \textit{nova} which firmly tied redress to the common law courts. Further amendments were made in the lower house and the bill was the subject of a conference during its passage in the Lords where amendments were also made. The government's original intent had been reduced to a proviso protecting what jurisdiction Star Chamber had already.\textsuperscript{85}

We can therefore agree with Neale that it is surprising that Burghley even thought the original proposal had a chance, while questioning his

\textsuperscript{83} D'Ewes, p. 349. The presence of the fervent protestants Lewknor and Strickland might have led Neale to exaggerate the radical, anti-government and pro-liberty stance of the Commons.

\textsuperscript{84} Ibid., pp. 350, 351; BL, Lans. MS 43/72, f. 170.

\textsuperscript{85} D'Ewes, pp. 351-2, 361, 362, 363, 369, 370, 371; TCD, MS 1045, ff. 87v, 92; SR, IV, 709-11; LJ, II, 93, 96, 102, 103; PRO, SP 12/177/14; HLRO, 27 Eliz. OA 4.
belief that in the Lord’s bill MPs saw ‘the spectre of Death stalking in the House of Liberty’. This is not to ignore the fact of opposition: one MP certainly thought the Lords’ bill to be ‘very dangerous, full of inconveniences, impossibility great burdens to the subjectes, overthrow of the common lawe’, bringing ‘Westminster hall into the starr chamber’, but enough saw worth in the bill to see it rejected by only sixteen votes. Nor as we have seen were privy councillors united over all issues. It is hard then to agree with Neale that once the Lords decided to amend the Commons’ bill which replaced their own, they ‘did not dare proceed without asking for a preliminary conference’. It was simply a case of practising what you preached; after all, they had done so in 1581.

On the other hand, in this debate over the proper procedure in calling conferences, peers and MPs were clearly concerned with more than just facilitating law-making. The tone of Burghley’s speech in the conference was not simply that of a man reprimanding the Commons for failing to adopt proper procedure, but of one angry at the Commons’ rejection of a carefully prepared but controversial government bill. If not Neale’s minor monument ‘erected on the triumphal way of English liberty’ the statute confirmed the jurisdiction of the common law courts over property transactions.

These proceedings enabled Cecil to assert at a 1601 conference over a Commons’ bill confirming letters patent that if the Lords had already decided what to do, or had amended the bill, then the Commons’ delegation had no ‘Commission to proceed’. Buckhurst and the other peers thought this ‘a Speech both strange, improper and preposterous’, words which Cecil, after conferring with the others in the delegation, rebutted each in its turn, offering an explicit exposition on the joint role both houses played ‘as coadjuting Members of one United Body, the House of Parliament’.

Another issue over joint conferences arose in the 1597–8 depopulation bill. Whitgift moved for the conference to meet in the Great Council Chamber at Whitehall the following afternoon. The Commons agreed but requested that the Lords’ objections be sent to them in writing ‘to the End they might be the more ready to deliver their Opinions and Resolutions at the Meeting’. The Lords found this to be ‘unfit, and not agreeable to the Order of the House’ but decided that should the verbal conference prove inadequate then they would deliver the points in writing; the judges were to prepare the document. Evidently the conference was not successful, for

86 BL, Lans. MS 43/74, f. 178v; Neale, Parliaments, pp. 84–8.
87 D’Ewes, p. 679.
two days later Coke wrote out the objections which were sent down to the Commons.  

Before the dispute over the 1584–5 fraudulent conveyances bill began, the Commons had been forced to return the measure to the Lords for the proper endorsement, the first of several such difficulties in these parliaments. Shortly before the Christmas recess a motion was made to ask the Lords why they had suddenly started to endorse their bills at the top of the measure rather than at the bottom, the ‘accustomed use’. Three bills were returned for correction. So far no real difficulty had emerged but when the Lords told the Commons that there were no precedents to their suggestion that the Lords amend their amendments to a Commons’ bill on the Sabbath in light of discussions at a joint conference, the search for the time-honoured precedent began.  

An added dimension to these procedural discussions appeared in the less cheerful atmosphere of 1597–8. The Lords made an amendment of only one word to a Commons’ bill which tightened up the 1563 statute of artificers, returning the bill with the amendment written on parchment rather than paper and already endorsed. The Commons returned it asking the Lords to put their amendment on paper without any endorsement ‘according to the ancient form of Parliament in such Case used, to the end this House may thereupon proceed to the due and orderly perfecting of the same Amendments accordingly’. The Commons suddenly realised that their bills for Bristol and for hospitals and houses of correction had been ‘perfected according to their Lordships Amendments in both the same Bills; albeit their Lordships direction in some Amendments were repugnant to the former accustomed ancient Orders of Parliament in such Cases used, as in annexing those Amendments to the said Bill ingrossed in Parchment’.  

These last two the Commons returned to the Lords with the amendments approved but they took the opportunity to return the labourers bill unread. The Lords’ clerk noted rather disparagingly that the bill was ‘Returned from the Lower House, with some Exception to the Schedule affixed, because the Amendment was ingrossed in Parchment, which, according to Custom and Use of the House, they said, should be in Paper.’ This was on 15 December and it took four days for the Lords to order the amend-
ment to be written on paper; it was sent down to the Commons the follow-
ing day, 20 December.93

Clearly Coke and Dr Edward Stanhope, receiver of petitions, had been
instructed to complain to the Commons when they brought the bill and its
amendments down to the Commons: they told the MPs

that their Lordships did not expect any exception of such Levity from the Gravity
of this House; and the rather because this House had before in this present Sessions
of Parliament admitted of such like Amendments in Parchment from their Lordships
in two other Bills, and not in Paper, without any such exception; their Lordships
taking it not to be much material whether such Amendments be written in Parch-
ment or in Paper, either white Paper, black Paper or brown Paper.94

This suitably provoked the lower house to defend its earlier protests, with
long explanations from Speaker Yelverton and especially Clerk Fulke
Onslow which was needed when some MPs accused him of bringing the
Commons into disrepute. Pointing out that the Lords’ clerk, Thomas Smith,
was new to the job, Onslow’s detailed account of the proper procedures
was supported by ‘some of the Ancientist now Parliament Members of this
House’. Having heard all this, it was successfully moved that a heavyweight
delegation be dispatched for the sole purpose of explaining their actions
and informing the Lords that the Commons took ‘it self to be very hardly
dealt with, to be taxed by their Lordships with imputation of Levity, and
reproached by other unusual and unnecessary terms’.

Poor Cecil, when confronted with this order, clearly balked at such a
display and successfully argued for their also carrying up the clerical sub-
sidy. He was given the labourers bill, its one word amendment approved,
as well. What his reception was we do not know: Smith merely recorded
the arrival of the two measures in the Lords’ journal and Onslow, much
to D’Ewes’ annoyance, did ‘most negligently and inconsiderately’ omit it
in his journals. In the 1601 bill concerning the Exchequer, Hoby raised the
issue of the endorsement to a proviso attached by the Lords to the Com-
mons’ bill; some members thought the proviso should have been on paper
not parchment, but the house decided that the Lords had adopted the
proper procedure. By 1601 Smith had got it right, noting on the bill for
the Countess of Bedford, ‘To be added to the bill, the amendments in paper,
the provisos in parchment.95

What then can be said about the procedural discussions and disputes in
this period: were they the by-product of constitutional conflict or a result
of good business practice? First, and it is an obvious point, none of the

93 Ibid., 213, 214.
94 D’Ewes, p. 576.
95 LJ, II, 214; D’Ewes, p. 577; BL, Stowe MS 362, f. 245–245v; HLRO, MP 1601–6, f. 112v.
debates discussed here can be directly attributed to conflict between an organised puritan opposition and the conservative Queen; the bills concerned did not pertain to those sorts of issues. Secondly, the sometimes acrimonious disputes which occurred over joint conferences, and the amending and endorsing of each other’s bills, do not seem to have had much to do with the content of those measures, but were simply procedural points of order. The one exception is the case of the fraudulent conveyances bill when the official solution, offering remedy through Star Chamber, was definitely rejected by the lower house. No doubt the Commons was less inclined to consult with the Lords until they had drafted their own legislative solution to the problem, yet it is somewhat difficult to fit this into the story of an independently minded Commons seeking to wrest initiative from the Privy Council. The Council, or at least Burghley and Mildmay, seem to have disagreed, certainly over the procedural issue and perhaps also on the substantive one. Furthermore, the voting in the Commons was very close; opposition to the bill was in fact much less strong than we might have expected.

Most procedural decisions do, in the end, seem to have had much more to do with getting the business done well, and quickly, than with conflict between crown and Commons. Abandoning the demonstration of consensus by having the negative voices carrying a successful bill back to the house, allowing committee members to speak at the engrossing, and getting the endorsements right, were all means to the end of getting bills through the legislative process. That procedures concerning committees and conferences had to be discussed simply proves that they were still at a developmental stage and needed fine tuning. A change of clerks could cause disputes which were really administrative hiccups rather than political controversy.

This being said, there is no doubt that procedural points could certainly be raised because of the politicking in and around certain measures. There is little doubt that the London MPs wanted to be on the committee for the bill abbreviating Michaelmas term because they sought its failure, or that Speaker Croke facilitated this. It seems likely that those objecting to Michael Hickes speaking to the navigation bill of 1597–8 after the question had been put were fearful that such an influential member would affect the vote. On the other hand, perhaps those ‘in the Rebellious Corner in the right-hand of the Howse’ were simply bored and wanted to move on to another matter.


97 BL Stowe MS 362, f. 16 (Townshend, Journal, p. 20).
Supply and the general pardon

Although most bills could come from any of a number of initiatives and had to pass through a gauntlet of procedures, three sorts of bills were exceptional: those granting the lay subsidy, confirming the clerical subsidy and accepting the Queen's general pardon. Prepared under the direction of the Queen's learned counsel, these acts carried special formulae of assent and were usually printed separately. Their general form, composition and wording were established before the parliament began since they were based on previous acts, and they also differed from other bills in that their house of initiation was fixed: the lay subsidy always began in the Commons, the others in the Lords.¹

The lay subsidy acts first dealt with the medieval tax on movables in rural and urban areas known as the fifteenth and tenth, and then, much more extensively, with the more recent direct income tax which was the subsidy proper. The amount of the fifteenth and tenth was not specified because it had long been fixed; two were always granted for each subsidy. However, the number of subsidies offered increased in these parliaments with consequent increases in the number of fifteenths and tenths. The usual single subsidy was voted in 1584–5 and 1586–7, but two were offered in 1589, three in 1593 and 1597–8, and a generous four in 1601.² By contrast parliament had little to say about the clerical subsidy, merely confirming the offer made by the Convocation of Canterbury which anticipated that from York.

The Queen's general pardon was probably seen as a sort of quid pro quo for the subsidy. It listed a number of statutes which were excluded

¹ This is also true of the expiring laws continuance acts but their house of origin changed during this period, see below, chapter 9.
² The usual grant was of one subsidy payable in two years, one instalment each year, of a fixed amount. Native-born Englishmen who owned at least £3 in goods paid 20d. in the pound in the first instalment and 12d. at the second; those worth 20s. paid 2s. 8d. and 16d. Aliens were also taxed proportionately. On the fifteenth and tenth see S. Dowell, A History of Taxation and Taxes in England from the Earliest Times to the Present Day (4 vols., London, 1884), I, 110–12.
from the pardon granted to the Queen’s subjects who had committed crimes against the large number of economic and other sorts of regulatory statutes in force. These exemptions consisted largely of major crimes against the state and what were considered to be serious crimes against the commonwealth.

THE LAY SUBSIDY

The need to raise revenue through taxation was the major single reason for calling parliament between 1584 and 1601 although, on occasion, other causes were certainly important. With the decision to aid the Dutch rebels in the Netherlands and the outbreak of war with Spain in 1585, the government’s need for money was acute. The parliaments thereafter were called either before, or soon after, the last subsidies were due to come in. Contemporaries were well aware that the crown’s acute financial needs were responsible for the calling of specific parliaments. Since the number of grants increased dramatically over a short period of time, it comes as no surprise to read Francis Moore describing the 1601 subsidy as the ‘Alpha and Omega’ of that parliament.

The need for money was thus the major theme of the speeches by privy councillors at the opening of parliament; even in 1586-7, called primarily to deal with Mary Stuart, Hatton declared that they were not called to make new laws, nor to grant a subsidy ‘albeit, if need so required, the same were convenient enough to be done’. The conciliar view is eloquently stated in a personal memorandum of public business Burghley wrote in November 1597: beside ‘parliament’ is the single word ‘subsidy’. Of course, there is an implication here that once the subsidy

3 See Dean, ‘Bills and Acts’, p. 112 n. 4. In 1601 Cecil noted that if the Queen had called parliament as soon as the previous subsidy had been spent she would have called it the previous October, D’Ewes, p. 630.

4 See Cal. SP Foreign, XIX (Aug. 1584–Aug. 1585), 98, 120; HMC, Calendar of the Manuscripts of the Most Honorable The Marquis of Bath Preserved at Longleat, Wiltshire, V: Talbot, Dudley and Devereux Papers 1533–1659 (London, 1980), p. 97; BL, Harl. MS 6994, f. 37; Cal. SP Venetian, VIII (1581–91), 104–5, and IX (1592–1603), 478–9; Cal. SP Spanish, IV (1587–1603), 69–71, 515–16, 596–8, 686–9; PRO, SP 12/244/18. On 29 January 1586 Leicester complained to Burghley that parliament should have been called in order to obtain money for the Netherlands, Cal. SP Foreign, XX (Sept. 1585–May 1586), 332.

5 D’Ewes, p. 632. John Chamberlain repeated the phrase in a letter to Dudley Carleton on 24 November 1601, PRO, SP 12/282/54. Thomas Norton, the author of ‘A Discourse importing the assembly of a Parlement’ noted that the subsidy ‘or such like’ was the principal matter for the calling of a session, BL, Harl. MS 253, f. 35.

6 D’Ewes, p. 393; PRO, SP 12/265/34. For conciliar speeches see, for example, D’Ewes, pp. 428, 457–8; BL, Stowe MS 362, f. 61–61v; BL, Lans. MS 104/28, ff. 62–4v. A recent survey of them can be found in W. MacCaffrey, ‘Parliament and Foreign Policy’, in D.M.
was through, then the days of a parliament were numbered and this too was recognised by contemporaries, most notably in Thomas Norton’s advice on the management of parliaments. Several letters from MPs and others prove the point. Indeed, Richard Broughton was so certain on 14 March 1593 that parliament would soon be over now that the subsidy had been committed that he ordered his horses to be brought up to London in ten days time. One hopes that they found a good stable because the session ended on 10 April!

The politics of subsidy proceedings was thus animated by two potentially conflicting interests: a government seeking to secure a generous grant quickly and MPs wishing to ensure that enough time was available to initiate matters of public and local concern. In 1589 some MPs wanted to delay the engrossment of the subsidy bill partly in order to allow some commonwealth bills to proceed. In 1601, Wingfield asked councillors to ensure that after the passage of the subsidy, parliament remained in session to allow the passage of more acts; significantly, Cecil felt obliged to give such an assurance.

As a major event in the history of any one parliament, many clamoured to be included on the Commons’ committee which met ostensibly to prepare the subsidy and numbers appointed were very large, ranging from around 80 to almost 140. However, how much work they actually did is not clear since a good deal of the bill had already been prepared by officials in order to hasten proceedings. The extensive provisions for assessment and collection were all well established, although amounts and dates had to be changed. Even the preambles justifying the grant were drafted beforehand by councillors and officials; Burghley’s amendments to that of 1589 emphasised the Queen’s virtues, the defensiveness of her actions and the costs involved. However, the Commons’ committee was no rubber stamp and changes were certainly made there. Its meetings must also have been a valu-


7 BL, Harl. MS 253, f. 35–35v.

8 Cal. SP Foreign, XIX, 359; HMC, Bath MSS, V, 99–100; HMC, Fourth Report, p. 335; PRO, SP 12/244/75, 12/282/54.

9 Although it was already well known that the Queen desired a short session, preferably to end before Christmas, D’Ewes, pp. 440–1, 621, 632–3.


11 The acts of 1586–7, 1589 and 1593 preferred the post-harvest date of 10 November for the fifteenth and tenth but earlier dates had been chosen in 1584–5 and were again adopted in 1597–8 and 1601. The payments of the 1584–5 subsidy were due in the autumn, those of 1586–7 and later in February. The anonymous diarist of 1586–7 noted that the subsidy ‘differs from former subsidies in longer daies of payment’, BL, Harl. MS 7188, f. 95.
The preamble gave both the opportunity to declare the reasons for the grant. Its wording was crucial because it justified the grant to the taxpayers and the causes noted closely followed those mentioned by councillors. A study of the preambles to the six acts passed between 1584–5 and 1601 shows clearly the changing perspectives of the subsidy’s purpose. It was well established that the subsidy was needed to meet the crown’s ordinary as well as extraordinary expenses and the preamble of 1584–5 states that the Queen’s subjects would be ungrateful, and careless of their own safety, if they did not offer her at least a ‘smalle’ contribution, a view repeated in 1586–7. From 1589, however, war once again took centre stage in justifying the grant, with each preamble referring in some detail to foreign policy and emphasising the defensive nature of Elizabeth’s actions in support of the protestant cause. But the domestic benefits of her princely rule were not forgotten with references to her ‘wise and happie Governement’ (1589), her establishing ‘Godes true Religion’ (1593), her clemency and justice (1593, 1597–8, 1601) and the ‘Restitution of the Ymperiall Crowne of this Realme to the auncient Jurisdiccons & preheminences’ (1597–8).

These later preambles had the added task of justifying the increased

12 PRO, SP 12/198/78; BL, Lans. MS 58/79, ff. 182–4, 58/80, ff. 185–7; Hatf. MS, 58/39, 43; Salis. MSS, VII, 535–6; PRO, SP 12/282/69, 283/38. In 1585 it took two hours to read the measure, even without the details of certification and collection for which the Speaker referred members to the act of the previous parliament, BL, Lans. MS 43/72, f. 167.

13 A printed copy in the State Papers is marked up by a clerk with marginal headings and notes as if ready for constant referral, PRO, SP 12/283/37. Copies were printed separately for distribution, seen, for example, in the bound sessional statutes in Pepys Library, Magdalen College, Cambridge, vols. 1994, 1995.

14 For this and what follows see HLRO, 27 Eliz. OA 28, 29 Eliz. OA 8, 31 Eliz. OA 15, 35 Eliz. OA 13, 39 Eliz. OA 23, 43 Eliz. OA 18.


grants, a matter rumoured to have caused grumbling in 1589 when a double subsidy was offered. Increased expenses were mentioned, with the 1597–8 preamble noting that the costs of the Irish rebellion had happened 'when all thinges were at highest prices' and that of 1601 praising the Queen’s frugality. Nevertheless, MPs were concerned that these increased grants should be perceived as exceptional. In 1589 some wanted to insert a statement that the increased grant would be no precedent and this was effected in the last three parliaments.

Yet, MPs were as aware as privy councillors that increased grants had in part been made necessary because the real income received by the crown from subsidies had declined considerably. During these years the Privy Council dispatched a number of increasingly aggressive letters to those responsible for assessment and collection, placing blame largely on commissioners who appointed collectors of inadequate standing, assessed themselves and their friends lightly and failed to carry out their duties properly. That of 1589 stated that the Queen herself had noted that 'none [were] soe basely assessed' as the commissioners themselves and orders were issued for certificates to be sent to the Council rather than the Exchequer. Burghley was especially concerned with poor returns before both the 1589 and 1593 parliaments. In 1593 he received a copy of his son’s notes of the subsidy committee discussions on commissioners and collectors, influenced Speaker Coke’s pronouncements on the subject and may have insisted that Lord Keeper Puckering raise the issue in his opening speech.

Suggestions also came from beyond the Council. In 1595 Richard Cary assumed a receptive audience for his proposals for reform. His claims reinforced the view that commissioners were most at fault and caused the Queen to set up a committee of councillors to examine his proposals. Parliamentary repercussions may have followed for a 1597–8 bill ‘to tax all Lands and Goods for the payment of the Subsidy in the same Parish where

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17 Cal. SP Span., IV (1587–1603), 513.
19 BL, Lans. MS 57/2, 5, 6, ff. 4–5v, 11–15v, 104/33, ff. 78–82v, 83–83v; Hatf. MS 168/6, 94, 103; PRO SP 12/244/51; BL, Lans. MS 73/1, ff. 2–3v; D'Ewes, pp. 457–8. Burghley certainly corrected earlier speeches by Puckering, BL, Lans. MS 115/18, ff. 33v–46, and had a hand in Lord Chancellor Hatton’s 1589 speech, Lans. MS 104/25, f. 55–55v, 28, ff. 62–3v.
Supply and the general pardon

it lyeth' closely follows one of Cary's suggestions. It met with the ultimate disapproval: rejection after the first reading.20

However, MPs were not unsympathetic with the problem of poor returns nor unaware that they themselves were at fault. In 1601 Sir Arthur Gorges drew attention to improper assessments of JPs rated at £8 or £10 contrary to the statutory requirements for holding the office. Raleigh confessed that while the poor were properly assessed 'our Estates that be thirty pound or forty pound in the Queens Books are not the hundred part of our Wealth'. Approval was given to mention the problem in the 1586–7 preamble: the Queen's subjects were urged to make

Some Contribucion owt of our Landes and Goodes to the uttermoste of our habilitie, and that in a better maner and more agreeable to the truthe of our meanyng yeare the same ought of right to bee yeelded than hathe bene seane and executed in manye places amongst the richer sorte for like Contribucion, by Corrupcion or greate Negligence of them to whom the speciall Care thereof was comytted.

Moreover three significant changes were made in the act designed to improve returns and all were maintained subsequently. Commissioners were now allowed to increase 'the taxacion of suche persons as they shall so fynde by due examynacon to be of greater value or substance in Landes or Goodes then they weare presented at', a change that a diarist thought worth noting. The land qualification for high collectors was upgraded to £40 (from £10), and a provision was added that the Treasurer and the Barons of the Exchequer were to cancel recognisances upon payment without any further warrant nor claim any fees or rewards for doing so, presumably to encourage prompter and fuller payment.21

The reform process continued in 1593 when the status of collectors of the fifteenth and tenth was doubled to £40 in lands and £400 goods for the first four of six fifteenths and tenths granted. This higher rate was specified for all six collections in 1597–8 and all eight in 1601. Some attempt was also made to tighten up the rules governing the exemption of those residing in the Cinque Ports whose contributions to the defence of the realm were already substantial.22 Fortescue was behind this attempt to make the

20 Hatf. MS 141/151; D'Ewes, p. 582; Dean, 'Bills and Acts', pp. 135–6. D'Ewes, p. 582. Interestingly enough a Richard Carey did sit for Whitchurch in 1597 (his only parliament); not much is known about him except that he was mayor of the borough, which was owned by the Dean and Chapter of Winchester, HPT, I, p. 550.

21 D'Ewes, pp. 632–3 (Townshend has Raleigh's fraudulent declarations as 'Three or Four Pounds', Hist. Coll., p. 204); SR, IV, pp. 778–9, 784, 787; BL, Harl. MS 7188, f. 95. Another 1601 MP, Sir Bassingbourne Gawdy, had made the same point about JPs four years earlier, Norfolk and Norwich RO, WLS 17/1, ff. 22v–3.

22 Changes proposed would have severely limited exemptions, but in the end the phrase 'at this present tyme dwellinge with(in) the FYve Portes corporate' was simply altered to those
Ports pay more, and MPs such as New Romney's John Mynge lobbied hard against it. Whatever the value of these changes — and the regularity of angry conciliatory letters suggests their effect was minimal — little real attempt was made in parliament to tackle the problem of undervaluation directly. To some councillors, and perhaps to the Queen herself, MPs' declarations that they would 'mend' their subsidies and pleas to their colleagues to pay up as willingly as they had granted must have seemed a little hollow. However, there was no shortage of advice on how to increase royal revenue. An MP in 1586–7 had a bill ready which provided for an annual search 'to procure willinge payment'. Among a bundle of suggestions offered by Sir Henry Knyvet in 1593 were the calling in of debts, selling of crown woods and the exploitation of revenue from alehouses and even recusants, should the bill taking away their children but charging them for upkeep be approved. He also wanted assessments to be made on oath and a proper valuation of property. Another argued for a special levy on parishes to raise troops. Such suggestions bear comparison to those made when the question of a benevolence in return for assuming sovereignty of the Low Countries was raised in 1586–7, from taxing those worth over £10 and the seizure of recusant property, to a tax on enclosures and wealthy merchants.

In fact there are hints that some were beginning to think in terms which became only clear and familiar with the debates over the Great Contract in 1610: the notion of 'supply' and 'support'. When Burghley controversially intervened in 1593 to urge the Commons to offer three rather than two subsidies, he did so after some hard thinking about subsidies and the 'having dwelt for the moste parte of the yere next before the taxing and assessing of theis Subsidies as aforesaid within the Fyve Portes Corporate'. This was maintained in later acts, SR, IV, 833–4, cf. 882, 952, 1009; D'Ewes, p. 503; HLRO, MP 1592–3, f. 206.

23 Kent Archives Office, NR/CPc 46, 84, NR/FAC/39, f. 5. Fortescue had Sir Thomas Cecil's support, D'Ewes, p. 493.


25 BL, Harl. MS 7188, f. 94v.

26 D'Ewes, pp. 477, 491–4; BL, Cotton MS Titus Fii, ff. 48–52v. Assessments used to be on oath but this was abandoned in 1559, see Schofield, 'Parliamentary Lay Taxation', pp. 275–6. In 1589 Lord North told Burghley that oaths were necessary for proper payment, Salis. MSS, III, 429; Miller, 'Subsidy Assessments', pp. 28–31, cf. Dietz, Finance, p. 383.

27 For suggestions in 1601 see Salis. MSS, XI, 484–5; BL, Harl. MS 7188, ff. 100v–2; Harf. MS 89/82, 83.
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finances of the crown. His ultimatum to the Commons was unequivocal: the Lords would approve no less than three subsidies payable in three years, with two annual instalments. ‘And that to what proportion of benevolence or unto how much their Lordships would give their assents in that behalf, they would not as then shew’ but would do so at a later conference. His apparent choice of the word ‘benevolence’ (according to D’Ewes) may suggest that something in addition to three subsidies was expected. Certainly in the Commons, Bacon spoke of the ‘manner of supply’ which ‘may be by Levy or Imposition, when need shall most require; so when her Majesties Coffers are empty, they may be filled by this means’. Together with Sir Edward Stafford’s suggestion that the parliament be prorogued, presumably to keep the tax-granting body in readiness, and John Hele’s suggestion of taxes in addition to the subsidy, it seems that some councillors and MPs were considering ways in which the crown’s finances could be put on a surer footing. Yet, once again, little was done. Full reassessments seem to have rarely taken place, although attempts were made to raise peerage assessments in 1598.

Apart from these attempts to improve returns, and changes to the preambles, the subsidy acts also varied in terms of the timing of payments made necessary by the increased grants. In 1589, when two subsidies were granted, four payments were due: two for each of the two subsidies, payable over four years. In 1593 rather than offering three subsidies each to be paid in two instalments over six years, parliament ordered the first and second subsidies to be collected in one instalment, each to the value of a whole subsidy. However, the third subsidy was to be paid in the usual manner, that is, in two instalments over two years, one each year. The joining of the usual two instalments into one was again adopted in 1597–8 when the three subsidies granted were each collected in one instalment over three years. In 1601 the method partly reverted back to the norm when the grant of four subsidies was to be paid in seven instalments. Only the first was to be paid in one instalment and the remaining three in two. However, these later instalments were to be made twice rather than once a year.

As a result of these extra grants the English were, by the consent of their representatives in parliament, more heavily taxed in the 1590s than at any

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28 D’Ewes, pp. 483, 492-3.
other time under the Tudors. MPs were not slow to voice concerns over this. In 1586–7 one noted that people were ‘loth to have many paymentes’. Another voiced, or so intended, misgivings at the timing of the 1589 grant, which he thought would not help the current crisis and increase the burden on subjects already troubled by defence costs and privy seal requisitions.\(^\text{30}\)

In 1593 some called for those worth only £3 and under to be spared altogether and this was repeated in 1601. Faced with the treble subsidy in 1593 Sir Henry Unton argued that ‘we must regard them and their Estates for whom we be heere’ and concerns that subjects were unable to pay more were rejected by Fulke Greville who noted that the sumptuousness of apparel, plate ‘and in all things’ argued otherwise. As well as those ‘that sent us hither’, Greville thought MPs had to consider ‘who sent for us hither’; the poor could not claim to be overcharged ‘when we charge our selves with them and above them’. Nevertheless, the constituency argument weighed heavily in the minds of MPs. Wroth even felt able to demand the release of the members imprisoned for discussing the succession, on the grounds that ‘some Countries might complain of the Tax of these many Subsidies, their Knights and Burgesses never consenting unto them nor being present at the grant’.\(^\text{31}\)

Before leaving the lay subsidy a few points need to be noted in relation to the passage of the individual acts. Although the 1584–5 parliament assembled on 23 November 1584, the subsidy was not fully under way until 23 February because councillors were preoccupied with the bill for the Queen’s safety.\(^\text{32}\) Mildmay played the leading role in directing the subsidy through the Commons, and the bill passed smoothly, being first read in the Commons on 3 March and passing the Lords on the 17th. Burghley, as ever, was involved, especially in coping with the Speaker’s illness and the adjournment of the Lords ‘so as ye Common house might in the meane tyme procede and hasten the bill of subsydy’. Only the motion that Catholics pay double rates like strangers caused contention and it was squashed by Mildmay.\(^\text{33}\) In 1586–7 the subsidy was delayed by the much higher

\(^{30}\) BL, Harl. MS 7188, f. 94v; Lans. MS 55, ff. 180–3. Neale, _Parliaments_, pp. 206–7, attributed the 1589 speech to Henry Jackman; that of 1586–7 belongs to either John or Nicholas Hare.

\(^{31}\) D’Ewes, pp. 490–2, 496–7 (Onslow, after recording the motion, later thought better of it), 630; BL, Cotton MS Titus Fii, f. 42v; PRO, SP 12/244/91.

\(^{32}\) D’Ewes suggests that the speeches of Mildmay and Hatton on 28 November led to the appointment of a committee to draft the subsidy and that Hatton’s report on 11 December may have pertained to the subsidy, but this remains conjecture, D’Ewes, pp. 333–4, 338.

priority given to Mary Stuart. Hatton took the leading role with a moving and detailed attack on international Catholicism and the heroic actions of their protestant Queen. Mildmay focused on the problem of collecting subsidies claiming that barely one sixth of the amount granted actually entered the royal coffers. Thereafter the subsidy passed smoothly, running parallel to discussions over the benevolence.

By the time of the next parliament, originally summoned to meet on 12 November 1588 but prorogued until 4 February 1589, England was well and truly at war. Burghley, Hatton and Mildmay again worked together and the subsidy passed smoothly although some were anxious to establish that the double subsidy not be construed as a precedent. Perhaps it was this concern which led to some rather poorly attended committee meetings, but it is hard to make much of this. Some certainly objected to the question being put for the engrossment on 27 February after the second reading, although they were careful to record that this was not meant to defer the bill 'in any other respect than only' to allow for provisos and speeches to be offered and give them longer to initiate and discuss bills for the commonwealth. We do not know what the provisos might have been, but there is no doubt that the matters to which they turned for the remainder of the 27th were among the most controversial of the parliament: pluralities, purveyors and the Exchequer. There was a greater than usual delay between engrossment and the third reading: eight working days in 1589 compared to between three and six in the other parliaments.

The 1593 parliament proved to be the most controversial in terms of subsidy proceedings and the story has been told in some detail by Neale. The whole tone of the proceedings were set by Lord Keeper Puckering's angry complaints of 'slackness' in paying taxes: 'a great shew, a rich grant and a long summ seemeth to be made, but it is hard to be gotten, and the summ not great which is paid'. The Queen, he told peers and MPs, blamed 'the wealthier sort'. Only a third of the amount due had reached the Exchequer, or, as Fortescue put it, 'these Subsidies, which are granted now adays to her Majesty, they are less by half than they were in King Henry 8ths time'.

34 D'Ewes, pp. 408-9; Bodleian Library, Oxford, Rawlinson MS 838, ff. 123-9; BL, Sloane MS 326, ff. 105-11; BL, Harl. MS 6265, ff. 98-9; Lehmberg, Mildmay, pp. 281-3.
35 BL, Harl. MS 7188, ff. 89v-91v, 92-92v, 93, 94v, 95, 100v-2; D'Ewes, pp. 410, 412-13, 414, 416; BL, Harl. MS 6845, ff. 30-42v; Bodleian Library, Oxford, Ashmolean MS 800/29, ff. 126v-9; LJ, II, 133, 134; Pierpont Morgan Library, New York, MS MA 276, pp. 28-31; PRO, SP 12/199/9; Neale Parliaments, pp. 169-83. The only point of controversy may have been over Fleetwood's unsuccessful proviso for officers of the mint.
37 D'Ewes, pp. 457-8, 471-3; Salis. MSS, IV, 289; Neale, Parliaments, pp. 298-312.
If the historian of state finances is correct, then the Lord Treasurer had initially hoped for a grant of four subsidies; unfortunately, the evidence for this is not offered. The parliamentary records themselves only suggest the familiar story: the Commons planned to offer two subsidies but Burghley intervened to secure three. Now either Burghley had completed his calculations late in the day and so his intervention was a complete surprise to his Commons' colleagues or they had failed to convince MPs to make the larger offer and pressure was brought to bear from the Lords. Certainly there are signs that something was not quite right because it was not Chancellor Fortescue who initiated the proceedings in the Commons but Cecil. Indeed, Fortescue spoke only after Cecil and Wolley, and both Sir Edward Stafford and Bacon were brought in for good measure. Fortescue, however, certainly took on his proper role in reporting the committee's work.

Burghley's intervention, which took place after the Commons' committee had resolved to move MPs 'to make the subsidy no lesse' than it had been in Henry VIII's time but before they met to draft the preamble and articles, risked constitutional controversy for there was no doubt that the right to initiate subsidies lay with the Commons. Bacon spotted the big issue: agreeing to three subsidies, he 'misliked that this House should join with the Upper House in the granting of it... the burthen resteth upon us as the greatest number; nor is it reason the thanks should be theirs'. He had a precedent from Henry VIII's reign, presumably the episode of 1532 when the Lords asked the Commons to grant 'some reasonable ayd' towards strengthening the Scottish border and Dover Haven. The Commons had then granted one fifteenth but the important point was that the Lords had only notified the Commons that more money was needed; the implication was that Burghley should not have gone as far as prescribing the amount. Others, however, thought that any further conference would demean the ancient privileges of the Commons. Beale offered a precedent from 1407 in which the Lords had wanted a greater subsidy than the Commons had offered but the Commons had refused to hold a joint conference and were supported by the King. Although the privy councillors 'and the Courtiers' still wanted to hold a conference, Cecil's motion to this effect was rejected by 217 votes to 128.

38 Dietz, Finance, p. 70. It is likely that further investigations into the finances of the Elizabethan state will reveal the true story of the manoeuvres in 1593.
39 D'Ewes, pp. 477-8, 480-1; BL, Harl. MS 1888, p. 71; Hatf. MS 168/94, 103. Burghley's notes for a speech emphasised the defensive purpose of Elizabethan foreign policy and included an account of expenses since the last subsidy, BL, Lans. MS 104, ff. 78-83v.
The Lords thought 'that poynt of honor a nycenes more then needed to bee stood uppon' and demanded to see the precedents, a request with which the Commons refused to comply. However, on the following Monday, Beale protested that his precedent had been intended to show that they should not 'confirm' the higher grant desired by the Lords, not that they could not have a conference with them. As clerk to the Privy Council, Beale seems to have been got at on the Sunday and two privy councillors, Heneage and Wolley, immediately moved that a conference be held. It was a clumsy move which led to Knyvett's motion 'that for the freedom of the House it might be concluded amongst them a matter answerable at the Bar, for any man to report any thing of any Speech used, or matters done in this House'. Unton thought 'the House much injured', that they should be reported to be against the subsidy. Cecil was forced to announce that the Queen had not demanded any subsidy and he was 'altogether against' the notion that they had to keep all things secret from the Queen, while accepting that nothing should be reported 'in malam partem'. Raleigh successfully moved for a conference 'in general' with the Lords which was to meet the following afternoon and so necessitated the postponement of the subsidy committee.41

The next morning, however, before the conference met, Heneage provoked another debate when he attempted to clarify 'how far the said Committees of this House shall have Warrant to treat with the Committees of the Lords'. While this was being resolved, Unton suggested that they agree to a treble subsidy before having the conference. There the Lords repeated Burghley's earlier account of the inadequacies of subsidies and the urgency of the need. In the Commons' committee all agreed on three subsidies and debate focused on the timing of payments and how the tax burden should be spread. In the end the Commons agreed on three subsidies payable in four years rather than the three originally wanted by Burghley, many had argued for payment over six years. MPs' keenness to examine the wider issues of state revenue is seen in their resolution to confer in 'a general Committee . . . of all matters of remedies' rather than simply 'a Committee for three Subsidies'.42

Three days later Fortescue was able to bring in the preamble which was read, debated and committed to Heneage, Fortescue and others for revision, apparently because of objections to the phrase that they would prostrate themselves, their lives and their goods at the Queen's feet. The preamble

41 D'Ewes, pp. 483-4, 484-6, 487-90; BL, Harl. MS 1888, pp. 93, 95-6 (who has the vote as 310 against the conference out of 434); BL, Cotton MS Titus Fii, ff. 41v-4.
42 D'Ewes, pp. 489-90, 491-4, 495; BL, Harl. MS 1888, pp. 143, 144-7; BL, Cotton MS Titus Fii, ff. 48-50v.
Law-making and society in late Elizabethan England

was immediately revised and approved and the Queen's learned counsel were ordered to prepare the measure although some wanted the committee to meet rather longer than this. Finally, on 16 March, the subsidy had its first reading. On the second three days later a proviso for the Cinque Ports was amended and approved. The subsidy passed the Commons on 22 March and was through the Lords by the 30th.43

In the aftermath of these debates three men, at least, had cause to regret the speeches they had made. Beale stopped attending both court and parliament, 'grieved . . . not a lytle' that he had been reported as opposing the subsidy. Claiming to have helped 'ende a greate and longe strife' over the double subsidy in 1589, he pointed out to Burghley that unlike most he paid his full share and more; once shown the error of his ways, he had 'don as much as I was commaundd'.44 Unton was also in disgrace despite intervention by Essex who had informed the Queen that as soon as Unton had realised 'what would content her Majesty, you did concur with them for the days of payment'. Agreeing that his lifetime of service should not be forgotten, she was still angry at his 'bitter speech' against Cecil. 'She startles at your name, chargeth you with popularity, and hath every particular of your speeches in parliament without book "as the anatomy, the pots and pans and such like"'.45 Bacon too was accused of opposition and courting popularity. He had argued only against the treble subsidy being seen as a precedent and against imposing too great a burden on the poor; indeed, he protested that he was the first of the 'ordinary sorte' of the Commons to speak in favour of the subsidy and his later speeches only differed from the party line 'in circumstance of tyme, and manner, which me thinckes should be noe greate matter'. Like Unton, Bacon failed to get the promotion he desired.46

This, then, was not only the most dramatic and complicated debate over any Elizabethan subsidy hitherto, but it was one which had serious repercussions for some of the participants. Much of the problem must be attributed to some poor leadership and management in the Commons. Four privy councillors had given somewhat contrary messages to MPs. Heneage, the most experienced, was ill; Wolley was rather ineffectual; and neither Fortescue or even Cecil as yet had the maturity to command. Burghley

44 BL, Lans. MS 73/2, f. 4–4v. Beales' letter is long, bemoaning the fact that he was blamed, abroad and at home, for the carrying down of the commission to execute Mary Stuart, before discussing at length his religious position which he thought was the main cause of his restraint.
45 Salis. MSS, IV, 68–9, 452–3.
46 BL, Lans. MS 116/22.
clearly did a lot behind the scenes and it seems that father and son worked together, perhaps to the irritation of the more senior councillors in the Commons.

This possibility is worth considering for it contradicts the standard view that the privy councillors in the Commons proceeded in the subsidy without first consulting the Queen. In other words, on hearing that they were only going to offer a double subsidy, the Queen commanded Burghley to take action and the result was the joint conference. This remains a plausible scenario but there are others. If Burghley and Cecil worked more closely together than this interpretation allows, then it could be suggested that Burghley’s preferred three subsidies in three years was a top bid, with the Commons’ two subsidies being so obviously inadequate that the three subsidies in four years was an acceptable compromise, and perhaps the best the Privy Council had hoped for in the first place. Or, as was hinted at on several occasions, perhaps Burghley and Cecil hoped that some surer, more regular source of revenue would be found to meet the urgent needs of the crown. This was the point made by Essex, writing to Cecil from his ship which had just left Plymouth on 14 August: ‘look about you to provide extraordinary means to maintain the wars, for if you go the plain way of subsidies to work, I fear you will find it was not well forethought of’. The Lords may have also been encouraged to intervene because they had done so earlier, with much success, over the continuance bill.

By contrast the 1597–8 subsidy proceeded smoothly with Fortescue now taking his proper place as initiator, supported by Cecil, Sir Edward Hoby and Bacon. The Commons’ committee offered three subsidies payable in three years without prompting and although some preferred four years, Cecil stepped in to convince the house that the money had to come in more quickly. The subsidy thereafter passed smoothly. However, once again, speeches in the Commons had repercussions. Hoby had evidently proposed ‘some yearly payment to be made during her Majesty’s life’ or at least a grant of four subsidies especially to be paid by ‘the gentlemen in all counties’. John Hare had objected and later wrote to Cecil to prove that this had been wrongly interpreted as opposition. He had spoken out of worry that ‘the people’s great love’ might be tested ‘if this new course should take place respecting the many payments and charges otherwise in the country’. His comment ‘touching the small hospitality of the nobles’

47 Salis. MSS, VII, 352–3; Hatf. MS 54/47.
48 See below, chapter 8.
had been made ‘free of all unreverent thoughts’ and to show that the gentry ‘did by their housekeeping abide the greater charge, and consequently deserve greater favour’. Rather than see the Commons lose ‘part of our thanks’ as in 1593, he had thought it best to consult the Lords first. He feared some MPs bearing past grudges would be happy ‘to blow this coal’ as would ‘other great personages at court, for speaking my conscience in the last Parliament against their purpose’.  

The much fuller debates which have survived for 1601 reveal the same concerns voiced by MPs in 1593 over the ability of the country to pay and the timing and frequency of payments. Privy councillors were forced to reject any moves for exemptions, including one from Yarmouth. Fortescue even resorted to an anecdote from the Turkish sacking of Constantinople: when the ‘Great Turk’ entered the city he found three hundred millions in gold. ‘If they’, quoth he, ‘had bestowed three Millions in defence of their City, he could never have gotten it.’ Resolving that ‘the three pound men’ should be taxed, ‘about six of the Clock, it being dark Night’, the committee ‘rose confusedly, and would sit no longer’.

Cecil reported the well-attended committee’s work, and after MPs agreed that the first full subsidy should come in by 1 February, followed by three further subsidies, Wroth moved that the extra subsidy be drawn up separately, with a preamble which urged the ‘great necessities, the willingness of the Subject’ and also that it should be regarded as no precedent. However, nothing was done to this effect; the subsidy had its first reading on 26 November, passing the Commons on 5 December and the Lords ten days later. Neale perhaps makes too much of the Commons’ decision to defer discussion on the subsidy for two days in order to discuss monopolies. Undoubtedly their priorities were clear, and the subsidy did have its first reading once the Queen’s message cancelling certain monopolies was received, but to declare this to be the ‘classical strategy of linking redress of grievances with supply’ may be an overstatement. Indeed it was the Lords who took rather longer than usual to process the subsidy bill in 1601.

It was in 1601 that John Hele made the most unpopular speech of the day and perhaps of any Elizabethan parliament concerning the subsidy: ‘Mr. Speaker, I marvel much that the House will stand upon granting of a Subsidy, or the time of payment, when all we have is her Majesties; and she may lawfully at her Pleasure take it from us; Yea she hath as much right to all our Lands and Goods as to any Revenue of her Crown.’ At

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50 Salis. MSS VII, 489; Hatf. MS 57/35; reprinted in HPT, II, 252.
this the house hummed, laughed and talked. Speaker Croke put an end to this but when Hele began to justify his view by reciting medieval precedents the humming started up again 'and so he sate down'. The last word belonged to Henry Montagu of the Middle Temple. He dismissed Hele's precedents 'and if all Preambles of Subsidies were looked upon, he should find it were of Free Gift'. Their two viewpoints can be said to represent the gap between the theory and reality of parliamentary taxation.

The inhabitants of England in the late sixteenth century faced an almost unparalleled level of state demands for money, arms and support. During the twenty-six years until 1585 six subsidies and eleven fifteenths and tenths were granted amounting to twenty-four collections over twelve years; over the next nineteen years no less than fourteen subsidies and twenty-eight fifteenths and tenths were granted, with collections each and every year. Apart from the Henrician war years of 1541-7, annual receipts were higher than at any other time in the sixteenth century.54

As we have seen, MPs certainly voiced concerns over the burden placed on the localities and on the poorer sort. Indeed, Cary alluded to the threat of social unrest: his proposals would remove grievances which now caused men 'to murmor againste the governemente of the state or suche as are in aucthoritie, or the one againste the other, as we in the service therof doe dayly finde they doe'. However, whatever their worries, no Elizabethan MP ever suggested that the request for subsidies be refused or even seriously questioned. No subsidy was ever jeopardised by their concerns and although this was in part due to careful management – 1593 aside – it was primarily because there was simply no opposition. No later Elizabethan MP ever objected to granting a subsidy and none suggested that the grant should be made conditionally. Whatever foreign ambassadors might think, the 1586-7 subsidy was not explicitly linked to the execution of Mary Stuart although an obvious attempt was made to link the benevolence with the sovereignty of the Low Countries.55

Yet several incidents force us to qualify the statement that no Elizabethan parliament insisted on redress of grievances before supply. One is Fortescue's promise that the Queen would do something about purveyors. It's
inclusion in his speech for the subsidy must surely have been no coincidence. Another is the Queen's statement, conveyed by Cecil on 26 November 1601, that the Commons could offer her no greater thanks for her message promising action against monopolies than their grant of subsidies. Here too there is at least some implication of a *quid pro quo*. A third, also from 1601, is the request from Richard Symnell on the subsidy's third reading that the privy councillors ask the Queen that her general pardon 'might have noe more shortnes then it had in the begininge of hir Raigne'. There was now even more opportunity for her to be generous, he argued, because there were now many more 'Penall, and intrappinge Lawes... I hope that seeinge the Statutes doe abound, it would please hir, that hir grace would superabound.'

Lastly, three later Elizabethan MPs asserted the belief that supply was given in expectation that bills reforming problems of the commonwealth would be passed. William Fitzwilliam believed that one MP spoke on religious reform immediately after the subsidy was called for in 1584–5 because he thought 'the oportunitie verie fitt, the rather for that hir Majestie, expectinge a benevolence from them woulde the sooner yeadle to their lawfull and necessarie petitions'. William Lewis of Kings Lynn wanted some return for the subsidy in 1593, namely the removal of restrictions on the exporting of corn and the importing of wine, 'for the vent of our Cloth amounteth not to the sum of our Vintage'. He also wanted the statutes regulating apparel put into effect. Wingfield's 1601 motion, and Cecil's promise in the affirmative, that time would be allowed for the passage of bills even though the subsidy had been approved reveals a similar assumption. The general principle that parliaments had to have time to make laws as well as pass grants was an important one. It is a belief which makes Francis Bacon's discourse on making laws not at all irrelevant while the house was discussing the subsidy.

If no Elizabethan parliament explicitly made grants subject to redress of grievances, it is also true that none tried to exert control over expenditure or even demanded to know how the previous grant had been spent. Yet, it is significant that privy councillors felt it necessary to provide just such an account in each of these parliaments to justify greater grants. There was a need to convince, and subsidy returns showed that there was a need to cajole and even coerce. Indeed, the distance between rhetoric and reality is revealed when the Commons hissed and hummed when Sergeant Hele

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58 For the belief that parliament's power rested on its control of taxation, and the ability to use it to force the answering of grievances, see J.S. Roskell, 'Perspectives in English Parlia-
suggested that their debate was superfluous because the Queen had a rightful claim to all their lands and goods; the same men were content to offer precisely this in the preambles of the acts themselves. The reality of serious undervaluation rendered such declarations somewhat rhetorical and, as the Queen reminded them on occasion, subsidies seemed much harder to obtain from her lay subjects than her clergy.

THE CLERICAL SUBSIDY

While the lay subsidy declined in value revenue from the subsidy granted by the clergy in Convocation actually increased. In the 1580s between £8,000 and £9,000 was regularly received each year; by the end of the reign between £12,000 and £17,000 was common. This was partly due to more accurate valuation, since the grant was a tax on clerical wealth as assessed by the Valor Ecclesiasticus of 1535, and partly to the more direct control the Council could exercise over the bishops who were responsible for its collection. Whether or not the grant caused any debates in Convocation similar to those on the lay subsidy in parliament is difficult to
ascertain since most of the records of Convocation are lost; there do seem to have been complaints of poverty and inability to pay from the lower clergy.63

Nevertheless, at least as far as the Queen was concerned, the clerical subsidy was a more satisfactory source of revenue. After thanking the assembled bishops for their grant on 27 February 1585, she added 'and the rather for that, that came voluntarily and frankly whereas the Laity must be intreated and moved thereunto'.64 On 10 March 1593, while informing Buckhurst that the clergy were proposing to offer an additional subsidy, Whitgift boasted that his own payment of nearly £500 yearly was more than the three 'best' in England and that in many places a poor clergyman paid more subsidy than the best gentlemen of the county.65

Certainly in parliament the clerical subsidy involved little work by her councillors. The bill which confirmed it was always introduced in the Lords, by the Archbishop of Canterbury.66 Its form was already determined by the grant of the Convocation of Canterbury; the provisions for its collection were the same as the previous acts.67 Thus it was almost certainly prepared beforehand.68 The rule of three readings on three separate days, thus allowing for debate on the second reading and committal for revision before engrossment, was usually waived and the bill was always introduced late in the session. On a single day in 1584–5, 1586–7 and 1597–8 the bill had its first reading and was committed for the engrossing; in 1589 and 1593 the bill had the first and second readings in one day, and in 1601 it


64 PRO, SP 12/176/68, 69. Burghley responded 'These Men come with Mites, but we will come with Pounds', only to earn the Queen's retort: 'I esteeme more of their Mites than of your Pounds, for that they come of themselves not moved, but you tarry till you be urged thereunto.'

65 LPL, Fairhurst Papers, MS 2004, f. 3–3v. See also BL, Harl. MS 6994, f. 58.


67 Parliament only confirmed the grant made by the Convocation of Canterbury, never that of York, although the latter always followed the former's example. The act carried a clause which enacted that the grant of York was to be collected as the act provided for that of Canterbury, BL, Cotton MS Titus. Fii, f. 80v; Bond, Lords MSS, pp. 20, 23, 26, 27, 37, 67.

68 Only two drafts have survived, for 1593 and 1601; they are almost identical to the statutes, HLRO, MP, Suppl. 1575–93, ff. 137–41; HLRO, Parch. Coll. Box 1D, no. 3263.
had all three. This could also happen in the Commons: the clerical subsidy passed the lower house on its first reading in 1593 and on its second in 1597–8, although normally the three reading rule was observed.69

Thus the clerical subsidy passed quickly, between three and seven days in these parliaments.70 The readings themselves were formal. As the Lords' clerk noted in 1601: 'Memorandum, That, at the Second and Third Reading of the said Subsidy, the Body of the Grant was omitted to be read (according to the accustomed Manner), and only the Preface and Confirmation of the Grant were read.'71 This was probably also the practice in the Commons. When the bill arrived in the lower house in 1593 the anonymous diarist noted: 'Doctor Carew accompanied with Mr. Pole brought downe the Clergies contribution. Dr. Carew brought the bill intituled an act for confirmation of the subsidy graunted by the Clergy. Mr. Pole brought the instrument it selfe under the seale of Canterbury.' Later he pointed out that the bill 'cometh ingrossed in English in forme as all other bills and also the same is sent in latine under of the seale of Canterbury'.72 Once it passed the lower house the clerical subsidy was endorsed as usual and returned to the Lords for the end of the session when it received a special form of assent and was then, like the lay subsidy, printed separately from the sessional statute.73

The act began by simply stating that the prelates and clergy of Canterbury had granted the Queen a tax, rated by the pound, on their spiritual wealth as delivered to her under the archbishop's seal and that this was now to be confirmed by parliament.74 The Latin grant was then cited in full and was followed by an account of the motives for giving the subsidy. The act of 1584–5 mentioned the benefits of the Queen's rule and government, especially in promoting protestantism, and the costs she had incurred

70 D'Ewes, pp. 368, 415, 447, 452, 512, 513, 514, 575, 577, 686, 687; TCD, MS 1045, ff. 91, 92.
72 BL, Cotton MS Titus Fii, ff. 79v, 80v. The 'instruments' of both York and Canterbury survive in the HLRO, Parch. Coll., Boxes 1C and 1D, nos. 3212, 3213, 3218, 3219, 3222, 3223, 3225, 3227, 3238, 3264.
73 A copy of the printed act of 1601 is PRO, SP 12/283/34.
74 For what follows see the acts themselves, HLRO, 29 Eliz. OA 7, 31 Eliz. OA 14, 35 Eliz. OA 12, 39 Eliz. OA 22 and 43 Eliz. OA 17. The original act for 27 Eliz. (1584–5) is now missing but it was available to the editors of SR, IV, 738–43. The remaining acts are printed in ibid., 772–8, 812–18, 861–6, 930–7, 984–91.
Law-making and society in late Elizabethan England

in the realm's defence. The act of 1586–7 closely followed the wording of the previous one but also mentioned the Queen's expenses on sea and land necessary to withstand invasion and rebellion; the act of 1589 elaborated on the threats to the realm and referred specifically to the costs in meeting the Spanish preparations of the previous year. The 1593 act similarly involved no substantial changes to this part of the statute except that it rather vaguely asserted that the recent attempts against the realm had 'in dyvers respectes' far exceeded 'those of former tyme'.

In contrast, the 1597–8 act seems to have been completely revised and the changes are along the lines that were made in the preambles of the lay subsidy acts. Stress was put on the benefits of the Queen's government — her preservation of justice, circumspection for peace, natural inclination to mercy and her 'tender care' of the realm — and her subjects in Convocation prayed to God that this should continue. This was followed by an extensive and elaborate account of the Queen's enemies, the threats and dangers to the realm and the great costs in meeting them both in the past and which would be incurred in the future. Similarly the 1601 act elaborated on these themes. No one knew better than the clergy how valuable the Queen's actions in preserving the gospel had been. She had spent her treasure and seen her revenues diminished rather than tax her subjects. The grant was made especially necessary by the presence of the Spanish army in Ireland.

After rehearsing the motives for the grant the act then cited the terms. The grant was made according to the valuations as carried out under the statute of 26 Henry VIII (c. 3) on the nine-tenths of clerical wealth which remained after the annual tenth had been yielded. It was not to be paid in the first year after promotion since the first fruits had been taken. The act of 1584–5 provided for a subsidy of 6s. in the pound payable over three years, 2s. being due on 2 October 1585, 1586 and 1587. Pensions paid to priests were similarly taxed and stipendiary priests, worth £8 and above, were to pay 6s. 8d. each year. The grant of 1586–7 was identical to that of 1584–5 but in 1589 the grant was increased to two subsidies of 6s. in the pound payable over six years. In 1593 two subsidies of 4s. in the pound were offered, payable in four years. The opportunity was taken to upgrade, and graduate, the tax on stipendiary priests and to shift payments from October to February in line with changes to the lay subsidy. The grant was increased again in 1597–8 and again in 1601; stipendiary priests were taxed at higher rates on both occasions.

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75 Three subsidies of 4s. in the pound and now payable in two payments each year over three years, due in on 19 February and 2 October 1598, 1599 and 1600. An account of ecclesiastical taxation, perhaps of 1597–8, is in PRO, SP 12/266/82.

76 Four subsidies were offered of 4s. in the pound payable over four years. The first was due in one payment on 26 March 1602, the rest in two payments each year for three successive
The remainder of the clerical subsidy was devoted to the details of collection of which the bishops were in charge. In 1589 two new provisions were added. The first was that officers of the Exchequer found guilty of neglect or charging fees (besides the 3s. 4d. due for a *Quietus est* - the writ discharging the payer) were to be fined £10. The second provided that collectors were to use process for payment only after ten days had been allowed for payment and that no fees higher than 4d. were to be taken for this. In 1593 these changes were retained except that the ten days allowance for payment was increased to twenty. In 1597–8 and 1601 a heavier tax was levied on wealthier vicarages.  

Thus the nature of the clerical subsidy changed during this period and these changes followed those of the lay subsidy: the number of subsidies increased, payments became more frequent, dates of payment were changed to follow changes in the lay grant and checks were imposed on Exchequer officials. As the amounts increased the accompanying preambles became more elaborate.

Some attempts were also made in Elizabeth’s parliaments to improve the collection of the clerical subsidy. Elton notes that Bishop Parkhurst of Norwich was behind a 1572 statute which extended the 1571 act punishing tellers and receivers to collectors of clerical taxation. In 1597–8 a Commons’ bill ‘for the better Answering of her Majesties Tenths and Subsidies from the Clergy’ died in the second reading committee.

**The General Pardon**

Each parliament between 1584 and 1601 enacted the Queen’s ‘most gracious general and free pardon’. In the preamble, which stated the motives for the measure, the Queen noted her subjects’ ‘affection’ deserved reward, implying perhaps that the general pardon was intended to demonstrate her gratitude for the subsidy. Thus according to the act of 1589, when the members had offered a double subsidy, her subjects ‘from tyme to tyme, but especyallye at this present, have declared and shewed there dewtifull Affeccon’. In 1593 and 1597–8, after treble subsidies had been voted, the

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77 In 1597–8 and 1601 the phrase ‘Collectors and under-collectors’ was added to ‘deputies’ of bishops, deans and other officials.
78 The clergy also followed the laity in offering the Queen a benevolence, of 3s. in the pound, in 1586–7. See PRO, SP 12/199/9; HLRO, MP, Suppl. 1575–93, ff. 77–96.
80 Originally royal appreciation of the subsidy had been more explicit, as in the general pardon of 1523 and 1544; in 1514 it had even initially been part of the lay subsidy act, Lehmberg, *Later Parliaments*, p. 273; Schofield, ‘Lay Taxation’, pp. 13–14.
general pardon noted that the Queen's subjects had shown affection not only to herself but also 'for the defence of this Realme', and this was preserved in 1601 when four subsidies were offered.\[^{81}\] As noted earlier, this was the session in which one MP clearly saw the pardon as a gesture of royal thanks for the subsidy. As he spoke on the third reading of the subsidy, on 5 December, he clearly expected the pardon to be offered, although it was not introduced in the Lords until 18 December, arriving in the Commons on the same day.\[^{82}\]

The general pardon was an act of grace, a gift from the royal prerogative which had been drawn up by the Queen's learned counsel. Like the clerical subsidy it was always introduced in the Lords but, unlike that measure, it did so already engrossed on parchment and with the royal sign manual giving the Queen's assent to it.\[^{83}\] As little time was needed for discussion, the bill was usually introduced on the last day or two of the session and received only one reading before its passage in both houses.\[^{84}\] Moreover, the special formula of assent which the bill received at the end of the session was an 'acceptance' by the subject rather than an 'assent' of the crown.\[^{85}\] In 1584-5 and 1593 the Queen was actually present in the Lords when the bill was read.\[^{86}\]

The form of the general pardon was based on previous statutes, but changes were occasionally made. Following the preamble the act noted that many of her subjects had suffered from the just penalties imposed for their offences 'from which they cannot anye waye be freed or delivered but by her Majesties great Mercye'.\[^{87}\] The Queen's mercy and justice appertained to her 'Princelye Estate and Calling' and could be distributed to the subject 'as occasion shall serve ... assuredly trusting that from henceforthe her

\[^{81}\] SR, IV, 758, 834, 883, 952, 1010.

\[^{82}\] Townshend, Hist. Coll., pp. 286-7; LJ, II, 257.

\[^{83}\] See HLRO, 27 Eliz. OA 30, 31 Eliz. OA 16, 35 Eliz. OA 14, 39 Eliz. OA 24, 43 Eliz. OA 19. That for 29 Elizabeth is missing but was available to the editors of the SR, IV, 793-7.

\[^{84}\] LJ, II, 108, 141, 190, 257; D'Ewes, pp. 374, 418, 454-5, 521, 595, 688, 689; Inner Temple, Petyt MS 537, vol. 6, p. 305 (Sainty, p. 18); Ward (ed.), Lambarde's Notes, p. 80. The only controversy in this period came in 1601 when, on 18 December, 'as the Speaker was coming to the House in the Morning, the Pardon was delivered unto him, which he took and delivered unto the House, which they sent back again because it was not brought according to the course', It was later brought down when the Commons was in session by two of the legal assistants of the upper house, as was proper, D'Ewes, p. 688.

\[^{85}\] All the original acts bear the special formula except that of 1597-8 when it was omitted. In that parliament the new clerk of the upper house had to be corrected on endorsing bills and so the omission may simply be an error. The acts of 1589 and 1601 bear the special formula as well as the usual assent for public acts (La Royne le veult).


\[^{87}\] The following discussion is based on the original acts (cited above, n. 112) printed in SR, IV, 758-62, 793-7, 834-9, 883-8, 952-7 and 1010-14.
Highnes Subjectes will endeavor themselves to live in due Obedience, And according to her Highnes Lawes as they ought to doe'.

From 1593 the references to the Queen's mercy were replaced by a more straightforward statement of her 'princely and mercifull Disposicion' and hoped that by discharging them from the penalties her Subjects would be 'thereby the rather moved and induced from henceforth the more carefully to observe her Highnes Laws and Statutes, and to contynewe in theire loyall and due Obedience'.

It was then enacted that the Queen's subjects were released of all penalties and suits arising from causes pardonable by her except for those specified in the statute. Each act set a date up to which the pardon was effective. Although the act was phrased in general terms, the pardon was as valid as if each penalty and person had been specifically named. No subjects were to be sued unless their offence was excluded from the benefit of the act. Subjects were granted all forfeitures arising from these offences; all grants of such forfeitures made by offenders were valid. This latter clause was an addition to the general pardon of 1581. Pardon could be pleaded without any fee beyond the 16d. claimed by the clerks for entering the plea. The general pardon was to be construed in such a way as to be beneficial to the subject. The act then provided that if officers of courts, sheriffs and other officials tried to enforce or impose penalties for offences pardoned by the statute then the parties offended were to receive treble damages as well as all costs, and such officers were to pay the Queen £10 for their offence. All suits initiated from such actions would be void.

The remainder of the act primarily listed exceptions from the benefits of the general pardon. First were offences of high treason against the Queen's person; in 1601 this was widened to offences 'of levieng of Warre, and all Rebellions and Insurrections whatsoever', the first of several changes in the 1601 act which are interlined in the original act. Treasons committed overseas and all suits and punishments resulting from all such treasons (in England and abroad) were exempted. In the acts of 1584-5, 1586-7, 1589 and 1593 offences of high treason were followed by piracy, murder, counterfeiting or diminishing of money, burglary and robbery, together with aiding or being accessories to the same; in 1597-8 and 1601 the order was slightly different. The only important changes were that the acts of the last two parliaments exempted offences of forging the great seal, privy

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88 Cf. SR, IV, 699.
89 The inclusion of accessories to burglary before the burglary was committed was an addition in 1584-5 to the previous act of 1581, SR, IV, 759, cf. 700. The earlier act restricted the burglary to those occurring when any person or persons were in the house 'and put in feare'; this was removed in 1584-5.
seal, royal sign manual and privy signet before that of counterfeiting money. In 1601 concealing and aiding treason was added.

In the 1584–5 statute the next offences excluded from the benefits of the act were arson, rape and abduction, but from 1586–7 onwards horsestealing was inserted before arson. All the statutes then listed escapes of traitors or felons, witchcraft, seizing goods of traitors and felons due to the crown as being exempt.\(^9\) Slander in print and libelling was a new addition and, from 1589, one that was widened to include slanders 'against the present Government of this Realme in causes eyther Ecclesiasticall or Temporall'.

These major crimes against the state and the Queen's subjects were followed by offences related to the Queen's rights as landowner and as guardian of wards.\(^9\) The clause concerning liveries was elaborated from 1589 on and preceded by a statement that the Queen was to enjoy fully all benefits arising from failure to sue for livery. The acts then exempted major prisoners (those in the Tower, Marshalsea, Fleet or imprisoned on order of the Queen or members of her Council) and fugitives abroad from its benefits, followed by a number of provisions pertaining to those concealing debts or failing to pay revenue due to the crown, such as customs, subsidies, rents and first fruits and tenths. The 1601 act added 'all Corrupcions and Misdemeanors of any Officer or Minister of or concerning Custome or Subsidy'. In 1586–7 enclosures and depopulation were added to the list.\(^9\) Forfeitures arising from offences against a statute or common law when action was, or would be, taken within eight years of the session and commenced in any court at Westminster, were exempted; in 1586–7 Star Chamber was added to this and, from 1589, the Exchequer Chamber.\(^9\)

The next clause exempted contempts or actions commenced within four years of the ending of the parliament in the Court of Star Chamber.\(^9\) The offences of perjury, forging deeds and exporting gold or silver without licence were then noted, followed by incest, adultery, fornication, simony and, in 1601, usury 'for which any Interest hath beene received or taken

\(^9\) In 23 Eliz. c. 16 this was followed by a clause exempting persons indicted for murder and all forfeitures arising from the same, SR, IV, 700.

\(^9\) 'Spoon of woods' was a new addition and the act of 1584–5 included a phrase 'or for defalte of sewinge or prosecutinge of anye Liverye' that was not in the act of 1581, SR, IV, 760, cf. 700.

\(^9\) More additions were made in 1584–5, including forfeitures of leases from knight service. The enclosures clause was not so new; it was omitted in the 1584–5 act but was in that of 1581, SR, IV, 700, 701, 760, 760–1, 795.

\(^9\) In the 1581 act the actions affected were only those commenced before the first day of the session and the phrase which included those assigned by the Queen by way of gift was added in 1584–5, SR, IV, 761, cf. 701.

\(^9\) This came later in the 1581 act, SR, IV, 701. In 1601 the phrase 'or whereupon any Sentence or Decree is given or entred' was added, ibid., 1013.
since the beginning of August last. The act then excluded disturbances during common prayer, preaching or divine service, and praemunire from the act's benefits, as were dilapidations for which suit was depending before the end of parliament from 1593 on. All acts then provided against exporting ordnance and covenous actions on penal statutes.\textsuperscript{95}

The acts of 1584–5 and 1586–7 then excluded offences against the laws of the forest in Windsor and Waltham, followed by the exemption of issues and fines over £6.\textsuperscript{96} In 1589 several new offences were inserted, including embezzling stores of the Queen, extortion by undersheriffs and rescuing prisoners. These new offences were maintained in the acts of 1593 and 1597–8 but those against forest laws reappeared. Officers of the courts and stewards of manors guilty of extortion were added in 1597–8 and 1601 respectively; in the last the offence of rescuing prisoners was removed.

Following a number of exemptions concerning issues and fines were offences against the Elizabethan settlement, including the obedience act of 1581.\textsuperscript{97} The latter was preceded from 1589 by offences against the statute of 27 Elizabeth against Jesuits. All acts noted that those conforming by attending divine service would benefit from the pardon. Rebels, forgers of commissions, documents or the Queen's signature on documents prior to their passing under the great seal, were excluded.\textsuperscript{98} In 1584–5, 1586–7 and 1589 a proviso then followed which made it lawful for clerks and officers to award writs of capias utlagatum (i.e. to seize persons outlawed) at the suit of the plaintiff against outlaws pardoned by the act in order to compel the defendant to answer the plaintiff at whose suit they were outlawed, and noted that each offender was to take out writs of scire facias\textsuperscript{99} against the party at whose suit they were outlawed before they could claim the pardon. Offences against the laws prohibiting building or subdividing within three miles of the City of London were then excluded.\textsuperscript{100} In 1593, 1597–8 and 1601 the latter preceded the proviso concerning the issuing of

\textsuperscript{95} Disturbances during common prayer, ordnance and covenous actions were all added in 1584–5, SR, IV, 761, cf. 701.
\textsuperscript{96} In 1581 this was £5, SR, IV, 701. The inclusion of offences against the forest laws was added to the general pardon in 1584–5, ibid., 761, cf. 701.
\textsuperscript{97} This last was, of course, added in 1584–5. The earlier act restricted itself to offenders in prison or custody for refusing to attend divine service and offences against the act of uniformity was the last clause of the statute, SR, IV, 702. From 1593 mentioning the 1581 act was thought to be sufficient and the act of uniformity was dropped.
\textsuperscript{98} The last provision was a new addition made in 1584–5, SR, IV, 762, cf. 702.
\textsuperscript{99} Scire facias was a writ used most commonly to require a person to show cause to the court why the execution of a judgement passed should not be made, but could also refer to a writ, founded on a matter of record, requiring the person against whom it is brought to show cause why the party bringing it should not have advantage of such record, see John Cowell, The Interpreter, 1607 (Menston, Yorks., 1972), and H.C. Black, Black's Law Dictionary (5th edn., St Paul, Minn., 1983).
\textsuperscript{100} This last provision was not in the 1581 statute, SR, IV, 702.
writs. The final clause of the 1584–5 act provided that it did not extend to outlaws on *capias ad satisfaciendum*¹⁰¹ until they agreed with the parties by whom they had been outlawed.¹⁰²

This clause was present in all the general pardons but, in 1586–7, it was followed by a provision that the act did not extend to any person ordered for execution before ten days after the end of the session.¹⁰³ The act of 1589 had both the *capias* clause and that pertaining to executions but another four besides: the act did not extend to any misdemeanours by the Queen’s purveyors contrary to law; commissioners or captains who took money for changing or releasing soldiers pressed; offences against ecclesiastical government; or to heresy or schism. All were repeated in the later acts.

Thus, although much of the general pardon was based on previous acts, changes were made, offences omitted or, more often, included. What remained were the large number of penal statutes, especially infringements against laws regulating the economy and those punishing minor crimes. Indeed, the exclusion of an offence from the benefits of the general pardon were regarded as an indication of its seriousness: the preamble of the 1597–8 tillage bill noted that depopulation had been punishable by many statutes ‘and in generall pardons excepted’.¹⁰⁴

Several motives could, then, lie behind the changes made to these statutes. Some offences were included because their seriousness had come to the attention of the government; thus the inclusion of offences against the statutes concerning Jesuits in the general pardon of 1589 may have been the result of renewed action by the Council. In July 1588 a proclamation had been issued against owners of papist books, and during the 1589 parliament another was issued against Martin Marprelate; thus it is not surprising that the clause excluding libel against the government was added to the general pardon of that year.¹⁰⁵ The exemption of treasonable acts of rebellion and insurrection in the 1601 act was probably a consequence of the Essex revolt.

¹⁰¹ *Capias ad satisfaciendum* – the writ whereby the sheriff seizes a party and holds them safely until they satisfy debts or damages awarded, see Cowell’s *Interpreter* and Black’s *Law Dictionary*.

¹⁰² This too was a new addition made in 1584–5, SR, IV, 762, cf. 702. The earlier act ended by exempting those who, at the last day of the session, were restrained by the Queen for any offence, or charged for any offence specified in the act and, lastly, offences against the act of uniformity, *ibid.*, 702.

¹⁰³ *SR*, IV, 797. However, when the act of 1584–5 was partially enrolled by the Clerk of the Parliaments, Anthony Mason, it included this clause which is not in the original act of that session, PRO, E 175, Roll 86.

¹⁰⁴ HLRO, MP, Parch. Coll. Box 1D, no. 3244 (Bond, *Lords MSS*, p. 44).

¹⁰⁵ See, for example, *APC*, XIV (1586–7), 127–8, XV (1587–8), 72–3, 122–3; Hughes and Larkin, III, 699, 709.
Supply and the general pardon

However, in numerical terms the most significant additions were made to the acts of 1584-5 and 1589: whereas four were made in 1586-7, two in 1593 and 1597-8 and four in 1601, the general pardons of 1584-5 and 1589 each had twelve additions. It may be more than coincidental that the former session saw a large number of judicial measures promoted by the government and that, before the 1589 session, a special committee of lawyers and judges was set up by the Council to examine all penal laws with a view to reforming the administration of justice. Several of the changes to the general pardon of 1589 related to judicial processes.

Nevertheless parliament did not play an altogether inactive role. By initiating bills MPs and peers drew attention to serious problems facing the commonwealth, and their inclusion in the general pardon was a sign that action had been taken by the crown. Failed bills concerning the abuses of purveyors and captains, embezzlers of the Queen's goods and Exchequer officials were moved in 1589 and all were made unpardonable that year. Extortions of sheriffs and undersheriffs, enacted against in 1586-7, were also included. By promising to deal with them in the general pardon, councillors may have defused debate on sensitive issues. This was certainly the case with purveyors in 1589 when the Queen halted debate with a promise that the problem was being seen to.106

It seems likely that royal officials made these changes before the general pardon was introduced, although the interlineation of 1601 suggests that perhaps it was done after a draft based on the previous statute was prepared. In fact, only one motion for an alteration to the general pardon, from the floor of the house, is recorded and that largely over an error of wording spotted by Wroth, a later client of Cecil's, in 1597-8.107

This suggestion aside, there is no evidence that members of either house effected changes to the general pardon; changes were made, probably before introduction, by official draftsmen presumably on instruction from members of the Council. Careful consideration had to be given especially

106 BL, Harl. MS 7188, f. 95; D'Ewes, pp. 432-3, 444, 452, 454; LJ, II, 147; 29 Eliz. c. 4.
107 He moved that all those who had alienated 'their Capite Landes without Lycence' should benefit from the general pardon, pointing out that the provision which pardoned amerciements 'Taxed, Levied and paid' should have read 'Taxed, Levied or paid'. Made, it would seem, before the pardon arrived in the Commons, his friendship with Hickes may have given him foreknowledge. In any case nothing was included (or excluded) concerning capital lands in the general pardon and although 'or' was used in the relevant part of the act, the earlier error may have only been in the print, for the original act of 1593 correctly reads 'or', BL, Stowe MS 362, f. 16v (Townshend, Journal, p. 20 n. 82); D'Ewes, p. 595; HPT, III, 663; N. Tyacke, 'Wroth, Cecil and the Parliamentary Session of 1604', BIHR 50 (1977), pp. 120-3; Pauline Croft, 'Parliament, Purveyance and the City of London 1589-1608', PH 4 (1985), p. 13; Pauline Croft, 'Wardship in the Parliament of 1604', PH 2 (1983), p. 40; SR, IV, 887 (l. 9) cf. 956 (l. 20), assuming that the statute's 'totted, levied or receyved' is equivalent to Wroth's reported 'Taxed, levied or paid'.
to offences that were to be excluded from the act; the addition of thirty-six offences between 1584 and 1601 can be seen not only as an attempt to emphasise the seriousness of the offences concerned and to demonstrate the government's willingness to act, but also to reduce the loss of revenue from fines imposed on offenders benefiting from the act.

The general pardon, like the clerical subsidy, was one of those rituals in parliament that were important but took up little conciliar time and energy. In this they contrasted with the lay subsidy which, although also prepared by official draftsmen, needed a good deal more planning and much more effort by privy councillors. It too had become an expected event in Elizabeth's parliaments and much of its proceedings, from the official opening speeches to its being returned to the Commons as an offering for Queen and country, bore the hallmarks of ritual. This need not deny its centrality to Elizabeth's parliaments.\(^{108}\)

\(^{108}\) Cf. Alsop, 'Parliament and Taxation', p. 100
The crown and the state

THE SAFETY OF THE REALM

In June 1580 two heavily disguised men entered England with papal authority to convert the Queen’s subjects to Roman Catholicism. The arrival of the Jesuits Edmund Campion and Robert Parsons coincided with renewed papal involvement in Ireland and a proclamation of January 1581 soon equated their activities with treason. The parliament which ended the following March passed an act which imposed a £20 fine on those refusing to attend church services and further proclamations against Jesuit priests followed. The security of the nation depended entirely, or so it seemed, on the frail life of their monarch. Those who assembled for parliament in November 1584 were acutely aware of the danger. The year 1583 had seen the uncovering of Francis Throckmorton’s plot to assassinate the Queen. The fate of protestant Europe seemed to hang in the balance when, in July 1584, the protestant hero William the Silent was murdered. During election time many MPs and peers participated in a remarkable ritual. Joining together in a Bond of Association, the subscribers promised to pursue to the death anyone claiming the throne and benefiting from the Queen’s murder. Since any beneficiary and their heirs were also to be barred from the throne, the Bond was the clearest possible statement that the Elizabethan elite considered Mary, Queen of Scots, the major threat to the security of the nation. Subscriptions were still being collected as parliament began on 23 November.¹

The 1584–5 parliament thus focused on the twin issues of the Queen’s safety and the Jesuit threat. These were government measures whose passage was managed in the Commons by Hatton and Mildmay and which

were given careful consideration by a committee for 'great Causes'.

The safety bill was drafted by Solicitor Egerton and a number of lawyers, assisted by Popham and Secretary Walsingham. It provided that anyone claiming the Queen's title who invaded with over 2,000 persons, 'not having anye invasion made uppon them befor', provoked such an invasion or a rebellion was to be judged by a commission of twenty-four councillors, lords, bishops and judges. If found guilty of high treason, they and their heirs would lose any rightful claim. Subjects were to pursue the claimant and supporters, but not the heirs, to the death. Fitzwilliam reports some important suggestions by committee members, including the claimant's right to self-defence, but many members were worried that while their oath bound them to pursue an heir to the death, the act enabled the Queen to restore the heir's claim - could the Queen by letters patent dispense with the Bond?

On 14 December Hatton announced that the safety bill would be read that afternoon, a move designed to attract a good attendance and, one suspects, to defuse discussion over the deprivation of godly preachers and Dr Turner's Bill and Book. Although the Queen agreed to remove the proviso 'by which any of these Subjects which have taken the Oath of Association, might any way hereafter by any possibility be touched in conscience', some still had misgivings, mainly because the bill was more generous to the heir than the Bond. Some MPs thought the bill should provide for an interim government if the Queen was assassinated. Indeed, some had wanted Mary to be specifically named and a suggestion that any heir in league with the Pope be disabled was rejected because it interfered with the succession, 'a thinge most dislikinge to hir Majestie and utterlye forbadden us to deale with'.

If MPs needed any reminder as to the importance of the measure, it was supplied by one of their own, Dr William Parry, who sought a royal audience with assassination on his mind. Over the Christmas recess the safety bill had been rewritten by officials who had considered a number of proposals. These included drafts for an interregnum government by a 'Grand Counsell' (which would call a parliament and convocation to determine the succession) and papers confirming the legality of the Bond. The result

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3 PRO, SP 12/176/23, 24; HLRO, MP 1582-5, ff. 126-32; TCD, MS 1045, f. 78; Northampton RO, Fitzwilliam of Milton MSS, Political Papers 2, ff. 6v-9v; Northampton RO, Fitzwilliam of Milton MSS, Political Papers 2, ff. 6v, 9v-11.


5 D'Ewes, pp. 361, 362; BL, Lans. MS 43, f. 168v; PRO, SP 12/176/11, SP 12/176/22, 25, 28, 29, 30, 31; Northampton RO, Fitzwilliam of Milton MSS, Political Papers 2, ff. 27-
was a bill considerably different from the first. The elaborate preamble was trimmed. The commission was to declare which parties were guilty and only these were to be pursued to the death. It could levy forces, could expect support from all subjects, and any claimant resisting their efforts would forfeit their right. Provisions in the earlier bill declaring supporters of a disabled claimant guilty of high treason and enabling the Queen to restore an heir's claim were dropped; now only offenders and not their heirs were to lose their claim. Finally, any conflict with the Bond's oath was simply remedied by the legal device of declaring that it was to be 'expounded according to this lawe'.

It reached the statute book, the first act of this parliament, after minor amendments in both houses, but some were still worried about its consistency with the Bond. Moreover, as Professor Collinson has recently pointed out, however sure Burghley was over the necessity of providing for an interim government in the event of the Queen's death, no statutory provision was made for one.

The act which followed this measure in the sessional statute gave Jesuit priests the choice of leaving the realm within forty days or risk being caught and judged to have committed high treason. Anyone who returned would suffer likewise, indeed, so would 'theyr eyders and comforters, knowinge them to be suche'. Anyone presently in a seminary was to return or they would be similarly charged; any who assisted them, or sent their children abroad without licence, would be charged with praemunire. Parry alone opposed the bill - 'full of blood, danger, despair and terour or dread' - a view which led to confinement and undoubtedly later encouraged MPs to seek permission to draft a bill for his execution 'as may be thought fittest for his so extraordinary and most horrible kind of Treason'.

8; ibid. 184 (with notes by Burghley); BL, Lans. MS 98/4, ff. 14–18; PRO, SP 12/176/26, 27 (a copy), 32; Huntington Library, California, MS EL 1192 (articles by Popham, corrected by Burghley and discussed in Collinson, 'Monarchical Republic', pp. 51–5). On 26 January Hatton wrote to Burghley that they, Bromley and Leicester were to attend the Queen the following evening 'abowght the matter of parlyment Wherewith I fynd hir Majesties somewhat troublsyed', PRO, SP 12/176/14.

6 HLRO, MP 1582–5, ff. 133–6, summarised by Cromwell, TCD, MS 1045, f. 87v.

7 D'Ewes, pp. 363, 364, 367; LJ, II, 95, 96, 97; BL, Lans. MS 43/72, f. 173v; SR, IV, 704–5; HLRO, 27 Eliz. OA 1. A proviso offered by the Staffordshire lawyer Francis Cradock, allowing the Queen to dispense with the act by proclamation, was rejected; Mildmay declared it a 'dangerous president'. The Commons' amendments included changing the enacting clause into a declaration of the full agreement of the three estates and adding a petitionary preface; both had been in their first bill.


The Lords made a number of significant changes to the bill, committing it, unusually, on the first reading. They reduced the offence of those aiding priests from high treason to felony, gave those abroad six months in which to return and added four provisos. These gave sick priests a little extra time in which to leave, imposed punishments on subjects refusing to reveal the whereabouts of a priest and on JPs for not reporting this information to the Council, ordered all oaths taken by priests to be registered in Chancery and stipulated that no one submitting under the terms of the act were to come within ten miles of the Queen without permission. The Lords also wanted to simplify the preamble, thinking the phrase 'or according to the order or rytes of the romyshe churche' which followed the note of priestly ordination by Rome to be superfluous and wanted the clause allowing children and others 'under his, or her Governement' overseas without special licence limited to merchants and mercantile activities. Special permission would thus have been needed to go overseas to learn a language.\(^\text{11}\)

Although discussed in a joint conference before passing the Lords, these alterations caused considerable debate in the Commons. Thomas Digges, who later included a discussion of the bill's 'over suddayne' passage in his petition concerning the Queen's safety, objected to the Lords' reducing the penalty from high treason to felony and did not like the provision that priests could escape the law by submitting to a bishop or a JP: they could easily procure such dispensation and he reminded the house that Parry had taken the same oath 'yet dyed a Catholik as he cald him self'.\(^\text{12}\) However, in the end the Commons only made a few minor amendments to the provisos and added one ensuring that informants would receive a certificate to prove that they had fulfilled their duty. The Lords made some minor amendments to the Commons' amendments.\(^\text{13}\)

As in 1581, later Elizabethan MPs knew that Jesuit priests were only part of a larger problem, that of recusancy at home. As Dr Turner's 1586–7 bill proves, some associated the Queen's safety with the 'rooting out of Papistrye'. On that occasion this unofficial initiative from an undoubted religious radical was seen off by the Speaker, but MPs insisted on the right to legislate on recusancy. A 1584–5 bill 'that Recusants shall not have Armour, Weapons or shot in their Custody' only failed to make the statute book because the Queen exercised her

\(^{11}\) *IJ*, II, 76, 78, 83, 90, 91; D'Ewes, pp. 352, 362; HLRO, 27 Eliz. OA 2.
\(^{12}\) BL, Lans. MS 43/72, f. 165v.
\(^{13}\) The Commons gave JPs twenty-eight days (instead of twenty) to report to the Privy Council and added that information could go to the Councils of the North and Wales as well as the Privy Council, D'Ewes, pp. 364–5, 365, 366, 367, 368, 370; TCD, MS 1043, f. 90; *IJ*, II, 95, 98, 104; HLRO, 27 Eliz. OA 2, cf. SR, IV, 706–8.
veto; it had been initiated by the Lieutenant of the Tower. More successful was the Lords’ bill of 1586–7 which sought to improve the obedience act of 1581 by declaring all conveyances by recusants seeking to avoid the penalties of that act void. It also tightened up regulations for the registration of convictions and the payment of fines, a problem noted by officials in October 1586. A bill seeking further amendment died in a Commons’ committee in 1601.

These measures had to be initiated as elaborations or ‘explanations’ of the 1581 act in order to disguise the fact that parliamentarians were breaking the Queen’s prohibition on initiating religious bills. However, the nettle was grasped openly in 1593, no doubt with the full approval of councillors who had been engaged in a crackdown on Jesuits. The problem was approached from all angles, but particular attention was paid to those who were giving support to the priests. The second bill initiated in the session was a harsh measure punishing popish recusants with the entire loss of their goods and two-thirds of their lands. Recusant wives would lose their jointures and dowries and any man marrying such would lose two-thirds of her lands. Offenders could not buy or sell land, hold any office or practice law and their children would be taken away at the age of seven and brought up in a protestant household. Anyone keeping a recusant servant would suffer a monthly £10 fine.

Eventually these provisions were toned down. A revised bill allowed recusants to retain their goods and wives would only be punished on their conforming husband’s decease, but in other respects the redrafted measure tightened up the provisions for indictments, fines and the procedures concerning children. These changes reflected concerns voiced during the second reading. While some feared recusant fathers would disinherit their sons or that several guardians should be appointed, Nathaniel Bacon provocatively argued that bishops should not get custody partly because many episcopal chancellors were too much ‘affected to the Canon Law, and some are

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16 BL, Egerton MS 2222, f. 136v; D’Ewes, p. 687.
18 D’Ewes, p. 471; HLRO, MP 1592–3, ff. 1–15, summarised well by D’Ewes, p. 498, and in Hatf. MS 168/105. Another version, endorsed by Burghley as ‘the first bill against recusants’, has an additional provision fining parents who allowed their children to be baptised by a priest, Salis. MSS, IV, 298–9 (Hatf. MS 170/52).
infected with Popish Religion'. However, it was the issue raised by Henry Finch which became the most troublesome: 'whether those that came not to Church by reason of the dislike they had of the Church Government, shall be in like Case as a Recusant Papist'.

Although on the new bill's second reading on 13 March MPs voted to exclude the supporters of Henry Barrow and John Browne from the bill's provisions, a correspondent writing on the following day suggests that moves were afoot to bring radical puritans into the law. This was clearly the government's view, as revealed by Burghley during a conference over a Lords' bill, amended by the Commons, confining Catholic recusants to their place of abode. The upper house, he said, had thought of introducing a bill 'including generally all such as refused to come to church or would persuade men not to come to church' with the caveat that no families should be broken up. This, Heneage reported, the Lords did not 'as a thing they had agreed upon in any bill but projected it as a matter they would fynde our mindes in, how we would accept it if it came downe to us'. Although the Commons refused to respond to this proposal it seems clear what was going on: they were being told to abandon their measure in expectation of an official one. As Thomas Phelips reflected, the Commons' bill 'was thought so extreme as it is supprest'.

The official bill was very different and adopted the safer line that it only sought to explain part of the 1581 statute. It was noted as mentioning 'seditious sectaries that meete in conventicles and refuse to come to church' and who 'shall deface our devine service' by printing, writing or 'open speaking'. If, after three months in prison, they refused to conform they were to leave the realm or be guilty of felony. Those harbouring offenders were to be fined £10 per month, unless the offender especially committed to their care was a parent, brother, sister or son. The bill specified a form of words to be used by those submitting and conforming, omitting all reference to papal authority and entrusting certification to the minister and the bishop.

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19 D'Ewes, pp. 476–7, 481, 489, 495, 497–8, cf. HLRO, MP 1592–3, ff. 56–70 (which shows that D'Ewes' account of the bill errs in several respects); BL, Cotton MS Titus Fii, ff. 34–35; LPL, Fairhurst Papers, MS 2019, f. 5v. The house divided over the place in which the large committee (well over fifty) was to be held, the Exchequer chamber or in the parliament house itself.

20 D'Ewes, pp. 500, 502; BL, Cotton MS Titus Fii, ff. 62, 64; Thomas Barnes to C. Paget, PRO, SP 12/244/75. However, Litchfield's Richard Broughton confined his report home to the 'straight' laws for recusants and their wives, HMC, Fourth Report (Bagot MSS), Appendix, Part One (London, 1874), p. 335.

21 BL, Cotton MS Titus Fii, f. 80–80v; PRO, SP 12/244/124.

22 L/II, 182, 184; D'Ewes, p. 513; BL, Cotton MS Titus Fii, f. 82. Throughout these debates there was an attempt to relate the new law to those of 1581 and 1589, as witnessed by the drafts of the bills and an abstract of acts in PRO, SP 12/244/122.

23 BL, Cotton MS Titus Fii, f. 82–82v.
In the Commons the bill came in for a good deal of criticism, particularly from Finch who pointed out the inadequate and inaccurate descriptions of the sectaries' beliefs and argued that to bring them into the law was an innovation and not simply an elaboration of the 1581 act. Even more serious, he thought that anyone complaining of clerical abuses, excommunication or non-residence, or who even failed to attend their parish church, would find themselves charged. Sir Thomas Cecil, the ecclesiastical lawyer Dr William Lewin (who had spoken earlier in favour of including Brownists and Barrowists), Heneage, Sir Edward Dymoke and others spoke 'diversely' to the bill. Raleigh thought it right that the nearly 20,000 Brownists should be 'rooted out of a Commonwealth' but he was worried that others would be caught up in the law and that it was so hard it would leave the wives and children of Brownists dependent on the community.24

Eventually a large committee took on the task of revising the measure. The title and preamble were removed and a form of wording sought which would have only brought in the Barrowists and Brownists; the lawyer John Brograve was ordered to draft a nova. However, time was short and in the end they heavily amended the Lords' bill. Although proceedings were complicated by Heneage's first telling the Lords that the committee had rejected the bill and then by the Lords complaining that the Commons had ruined their bill – 'cutting of the hedd, mayming the bodye and leving it no legs' – eventually a conference found its way to agreeing on additions and alterations. Conciliar desperation is shown in Cecil's motion to have the doors of the house locked to ensure that the changes made by the Lords were considered. It finally passed on the penultimate day and became the first act of the parliament.25

The original act reveals that the Commons made the bill probationary and added provisos assigning a third of the fines due to the poor, providing that no recusants were to be forced to leave the realm and consequently that any so doing would lose their property, although their wives would retain their dowries and heirs would not be corrupted in blood. However, since it was rewritten, more changes must have been made and probably included the substantial reduction of the preamble. As noted in chapter 1, Saunders thought it remarkable that the revised bill was not made into a nova; so too was the anonymous diarist. But the ambiguity over what sorts of conventicles were to be illegal remained, however strong fears were that this would affect puritans who were not sectaries.26

25 D'Ewes, pp. 519, 520; BL, Cotton MS Titus Fii, ff. 90–1, 92–5; LJ, II, 190; HLRO, 35 Eliz. OA 1; SR, IV, 841–3.
26 HLRO, 35 Eliz. OA 1; SR, IV, 841–3. The amendments are in HLRO, MP 1593, ff. 9–12. See also BL., Cotton MS Titus Fii, ff. 93–5. Although many MPs must have thought the same, Brograve especially, it is tempting to speculate that Saunders was the diarist.
The Lords’ bill was, according to one writer, passed there ‘by the Bishoppes meanes’ and was much opposed in the Commons because ‘the Puritans wold have bene drawne within the compasse therof’. ‘Yett’, he reflected, ‘by the earnest labouring of those who sought to satisfye the Bishops humours’ it passed the Commons. He noted further that it was rumoured that the execution of Barrow and Greenwood had been deferred by the solicitation of Burghley who had chastised Whitgift and Bishop Thomas Cooper of Winchester for securing their deaths which had taken place ‘the day after the lower howse had shewed theyr dislike of this bill’.

‘It is playnley sayd’, he reported, ‘that theyr execution proceeding of malice of the Bishoppes to spite the nether house which hath provoked ther moch hatred among the common people affected that way’. 27

On the same day that the Commons read the nova bill for church attendance, a bill restricting Catholic recusants to within five miles of their residence arrived from the Lords. It had begun as a bill ‘for restraining and punishing vagrant and sedicious personnes whoe under feyned pretence of conscience and Religion, corrupt and seduce the Quene’s Subiectes’. 28 Now more accurately entitled ‘for the restreying of popeshe Recusantes to some certen places of Abroade’, it imposed a penalty of forfeiture of goods and lifetime loss of the profits from their property on offenders. Those without freehold over twenty marks or goods worth £40 were to be banished or be charged with felony. MPs were primarily concerned about the provisions for married women, a matter which took a joint conference and a new proviso to resolve. However, the Lords liked the remainder of the Commons’ amendments. 29 Predictably, they did not like at all a Commons’ bill ‘to make void the Spiritual Livings of those that have foresaken the Realm, and do cleave to the Pope and his religion’. It had no proceeding in the Lords, although three days remained in which to do so. 30

TRAITORS, LIBELLERS AND SLANDEROUS BOOKS

Although the fundamental loyalty of most of the Queen’s Catholic subjects was not in doubt, some sought to overthrow or undermine the regime. The parliament of 1586–7 was initially much preoccupied with the aftermath of the Babington Plot, a scheme to kill Elizabeth and replace her with Mary, Queen of Scots. Although most attention was focused on Mary herself, the intention being to put as much pressure as possible on Elizabeth to author-

27 PRO, SP 12/244/124.
28 L/, II, 170, 171; HLRO, MP, Suppl. 1576–93, ff. 119–28v. See also PRO, SP 12/244/108.
30 D’Ewes, pp. 511, 519; L/, II, 188.
ise her execution, legislative proposals were also pursued. One measure would have compelled those suspected of supporting the Pope to take an oath renouncing Rome or suffer banishment as felons. Obstinate recusants would be guilty of high treason. 31

The attainder of the Babington conspirators had also revealed the need to deal with traitors who conveyed their property in anticipation of their conviction. 32 Two acts attempted to deal with this problem. The first, chapter 2 of the sessional statute, declared that no record of attainder could be reversed after the execution of the person attainted, but exempted those records upon which a writ of error was depending or which had already been reversed. Already aware of this problem, the bill may well have been drafted by officials after discussions over the main attainder bill; it passed both houses quickly. 33 The second act was a Lords' bill dealing with fraudulent conveyances made by traitors since 1576. It provided that all persons claiming title not already recorded under any conveyance by persons attainted had to have them enrolled in the Exchequer within two years. Such claims would be examined and, if found fraudulent, would be declared void. 34

Some of the regime's enemies chose to fight with the printed word. In 1584 William Allen published the True, Sincere and Modest Defence of English Catholiques which has been described as the 'principal controversial work from the Catholic side during the whole period'. It argued that those executed for treason died as Catholic martyrs, not traitors. At the same time, Leicester's Commonwealth, an attack on the Earl of Leicester and Elizabeth's government, appeared. A lay brother, Ralph Emerson, was imprisoned in September for bringing in copies and both Leicester and Walsingham were busy searching for the author and printer. In October a proclamation suppressed all books 'defacing of true religion' and slandering the government, which also targeted Leslie's Treatise on the rightful claim of Mary, Queen of Scots, to the English throne. 35

The following month a bill 'against slanderous Libelling' was introduced in the Lords; it failed to emerge from the large committee appointed just
before the Christmas recess. In the Commons, George More, a member of Leicester’s household, called for ‘provision to be made against Libellers’ and a committee was set up to consider the matter. The men appointed included More, Grafton (son of the former Queen’s printer), Burghley’s secretary Vincent Skinner, Walsingham’s secretary Laurence Tomson (who had been nominated for a seat by Leicester) and the lawyers John and Nicholas Hare. Perhaps they drafted the bill ‘against Slanderous Books and Libels’ which had its first reading on 17 March but was rejected. Speaker Puckering later demanded the bill and handed it over to Popham. It may be that the puritan lobby opposed the bill, fearing it would affect their polemics, but they were not numerous enough to defeat the bill on their own, nor would it have been difficult to limit the bill’s applicability.

Freedom of the press was thus considered somewhat of a virtue by MPs; a 1584–5 measure limiting the right to print to members of the Stationers’ Company and licensing all books was ‘very much disliked’. It provided that all orders made by the Stationers’ Company, the Lord Chancellor and Lord Treasurer were to be observed and no printer was to publish until he had certified the number he intended to print. The bill carried provisos for those printers licensed by the Queen, the universities and for the Queen’s Printer. Someone tried to legislate against seditious books in 1601, but the bill ended up in a committee appointed on the penultimate day of the session and would have had no chance of reaching the statute book. The tone of the draft preamble, full of the horrors of unlicensed printing with its attendant threat to the state, suggests a private initiative.

A commentary on a 1584–5 bill suggests that the measure’s authors had some specific targets in mind. The author had heard ‘an old parliament man’ say that ‘many penall statutes ar very like unto nettes, which being made to cache crowes do often tymes take pigeons’ and this would do the same. Despite the claims of its preamble, the bill merely protected the Stationers’ privileges and the Queen’s right to issue licences. However, he was in favour of some censorship, especially of ‘wanton discourses of love, popular ballades, lying historyes’ which distracted from the reading of the scriptures and other ‘good treatases of morallitie and wytt, for men would read good bookes rather than sitt idell in their howses upon rayny dayes’. Such volumes did harm to young men, ‘maydens and women, that little reading they have, if must be, use it to the reading of wanton Italian dis-

36 LJ, II, 72, 74. It has been argued that the bill lapsed because the existing provisions of the 1571 treason act were considered enough, Peck, Leicester’s Commonwealth, p. 7.
37 D’Ewes, pp. 353, 368, 369; TCD, MS 1045, f. 91.
38 Cf. Peck, Leicester’s Commonwealth, p. 7, who argues it was rejected ‘probably because the Puritan members feared it could be turned against themselves’.
39 TCD, MS 1045, f. 81.
40 PRO, SP 12/282/31; BL, Egerton MS 2222, f. 213; D’Ewes, p. 687. It may be the undated bill printed in A. Peel, The Seconde Parte of a Register (2 vols., Cambridge, 1915), II, 4–5.
corses and tales'. 41 To this higher purpose he had with him a bill drafted
by 'gentleman well known to this howse' in the last parliament which might
be a surviving measure purporting to be at least corrected by William Lam-
barde. 42 This would have set up a censorship committee consisting of the
Deans of St Pauls and Westminster, London's Recorder and eight lawyers
from the Inns of Court.

Along with undesirable books, officials and others were worried about
forgery. In 1593 a bill 'against counterfeiting of Counsellors and Principal
Officers Hands' passed the upper house with no difficulty but was rejected
in the Commons. Offenders were to be set on pillory and suffer a corporal
punishment to be determined by the Privy Council. Wolley reported that
the committee thought it 'a very dangerous Bill, and not fit in their opinions
to pass this House' and it was rejected. An attempt in the next parliament
to legislate on this matter also failed, this time in a committee which suf-
fered from non-attendance. 43

THE DEFENCE OF THE REALM

Later Elizabethan parliamentarians thus believed that they lived in a hostile
world, protected only by the frail life of their Queen, the limited powers
of her government and the support of the almighty. With the outbreak of
hostilities with Spain, the inadequacies of the defence system were made
all too apparent and attempts were made in parliament to improve matters.
Elizabeth had inherited a military structure which was essentially medieval
in structure. By the 1570s and 1580s two important developments had
taken place: Lord Lieutenants and their deputies had virtually become a
permanent feature of the military landscape and the trained bands had
emerged as the country's most important military force. In addition, an
important Marian statute had created a national system of musters and
militia organisation. However, the forces sent overseas were largely
untrained volunteers or conscripts, recruited especially from the
unemployed. 44

In one respect, at least, the English had superiority over their enemies:

41 BL, Lans. MS 43/75, ff. 180–3v. It is a complicated series of notes which appears to be
jottings and rough notes followed by neater versions.
42 BL, Lans. MS 43/76a (draft) and 43/76b (good copy). It is variously endorsed as 1577 and
1580, and as 'Restraint for printing booke 1597'.
43 LJ, II, 173, 174; D'Ewes, pp. 491, 497, 500, 502, 503, 503–4, 513, 556, 561; BL, Cotton
MS Titus Fii, f. 83v.
44 C.G. Cruickshank, Elizabeth's Army (2nd edn, Oxford, 1966), pp. 18–40; L. Boynton,
The Elizabethan Militia 1558–1638 (Newton Abbot, 1971), pp. 90–125; A. Hassell Smith,
'Militia Rates and Militia Statutes 1558–1663', in P. Clark, A.G.R. Smith and N. Tyacke
(eds.), The English Commonwealth 1547–1640: Essays in Politics and Society Presented
to Joel Hurstfield (London, 1979), pp. 93–110.
the quality of their ordnance. However, as several MPs warned during a debate in 1593, the Spaniards and the Dunkirk pirates were getting their hands on it; Raleigh claimed that such sales had made each English ship, once worth ten Spanish, now equal to only one. The Council was well aware of the problem, issuing a proclamation against exports in September 1592. This they regarded as sufficient remedy and when a 1593 bill ‘inhibitinge’ the export of ordnance was ‘delivered in’, Fortescue showed Speaker Coke a letter from the Queen forbidding any reading and Coke so ‘acquaynted the party delivering in the bill’.

The matter took up much parliamentary time in 1601. Bills were initiated in both houses and died in a Lords’ committee. The problem was very sensitive since, as her intervention in 1593 proves, the Queen was not about to let parliament legislate on a matter affecting her prerogative. According to one estimate, the crown received over £20,000 from issuing licences to export. The author also felt there were grounds against legislating in any case: the 1592 proclamation was sufficient safeguard, only smaller pieces were exported to English allies and English ordnance was obtained by seizing English or allied shipping rather than by trade. Indeed, he argued that what appeared to be English ordnance had actually been made in Westphalia and elsewhere (two such could be examined in the Tower armouries) and the licences had harmed that trade by undercutting prices.

A few MPs made one or two of these points in the Commons’ second reading debate on their own bill, most notably London’s Thomas Fettiplace who raised a number of significant difficulties including the crown’s annual customs revenue of some £3,000 and the fact that merchant strangers refused to carry goods unless some ordnance was included. He wanted a seven-year prohibition arguing that if the Spanish prohibited the export of horses, ‘much more ought we to have a special care herein, when we shall Arm even our own Enemies against our selves’. However, most MPs preferred to avoid the substantive issue and debate instead the best means of proceeding: by bill or by petition. As such the fate of the ordnance bills was similar to the related issue of monopolies in this parliament. It led one MP to protest that every time there was ‘any great or weighty matter or Bill’ in the house, they immediately said it affected the prerogative and

45 D’Ewes’ manuscript, Bl., Harl. MS 75, f. 265, says that one English ship could beat a hundred Spanish! Presumably Bowes thought this was too great a claim.
46 Hughes and Larkin, III, 747; APC, XXI (1591), 430–1, 460. Earlier efforts to enforce bonds can be found, for example, in ibid., XVII (1588–9), 142–3, XVIII (1589–90), 7–8, 188–9, XIX (1590), 461–2, XX (1590–1), 5. See also CLRO, Rep. 23, f. 52.
48 LJ, II, 248, 252, 253, 254. The Lords bill also prohibited the export of coin.
49 PRO, SP 15/34/43.
could not be meddled with. 'And so we that come to do our Countries good, bereave them of that good help we may justly Administer'. His solution was to have a petitionary preamble; truly informed of the matter the Queen would assent to it. Another could 'see no reason but we may well proceed by Bill, and not touch her Majesties Prerogative'; Henry VIII and Edward VI had been equally watchful of their prerogatives and then 'there was no doubt or mention of the Prerogative'.

In the end the bill was completely redrafted by committee; they seem to have altered the title, cut the preamble so that it referred only to the light penalties presently in force and made the unlicensed export of ordnance a felony whereas originally a fine of £30 had been imposed. MPs were keen to get on with the bill, at the expense of others, and their work was given added pertinence when Wroth took the opportunity on its first reading to report that a ship was that very day ready to leave with thirty-six pieces of ordnance. However, proceedings were brought to a standstill when Hoby, the holder of a profitable licence to bring illegal exporters of iron to justice, informed them that a more substantial and severe measure had been initiated in the Lords, noting that one patent holder had been moved to surrender the same. However, the Commons refused to wait for the Lords' bill with the end result that both ended up in a Lords' committee. Hoby had warned that two bills 'will breed Disputation, perhaps Confusion' and perhaps he was right, but William Hakewill's speech on the penultimate day implies that the matter was deliberately allowed to lapse. Dudley Carleton remarked that it had been 'putt by', a matter 'much mervayled and grutched at'.

Parliament also discussed the problem of arming and training the Queen's subjects. A 1584-5 bill for the proper making of small firearms had only a single reading in the Lords while another in 1589 concerning 'Horse Armour and Weapons' passed the Lords but failed in the Commons

50 D'Ewes, pp. 670–2. There is some problem with the identification of these speakers. The first, 'Mr Carey', was most likely George Carew as he was subsequently appointed to the committee, but a number of Careys sat in this parliament. Similarly, the second, 'Mr Hyde', could be one of four who sat in 1601. HPT, II, 363, assumes the Speaker to be Lawrence Hyde presumably because of his more active record especially on monopolies, but many of those references could also equally apply to his brothers Henry and Nicholas or the Berkshire JP George Hyde.

51 D'Ewes, pp. 672, 676; PRO, SP 12/283/5. A fuller committee list was noted by D'Ewes but not by his editor, p. 672, cf. BL, Harl. MS 75, f. 266v, and the complete list survives in PRO, SP 12/283/8.

52 D'Ewes, pp. 677, 677–8. The debate over the Speaker's right to determine which bills should be read was made with reference to whether the Speaker was like a Roman consul or not.

despite pressure from the upper house. Since the provisions of armour and weapons had been laid out as recently as 1558, it is likely this bill was only intended to reinforce the earlier statute. However, three days before the parliament ended, Perrot, former Lord Deputy of Ireland and a member of the Privy Council for only a few weeks, declared that the Queen 'thought it requisite that provision were had for her Majesty as well for her Subjects against the imbezelling and purloining of her Armour, Weapons and other Habiliments of War' and offered them a bill to this effect. The measure was given two readings, engrossed, a third reading and passage immediately; the parchment bill must have already been prepared. The Lords presumably gave it passage the same day. The act made the embezzlement of arms, munitions or victuals a felony.

It was hoped that this statute would help towards solving the major problem in the Elizabethan army, the misbehaviour of captains. Since they were in control of the equipping and paying of the men under their control, captains had an almost unlimited opportunity to make money illicitly. Letters and reports from the campaigns in the Netherlands, France and Ireland testified to abuses such as withholding pay, collecting the pay of the dead, retaining unwarranted proportions of pay in return for 'expenses' and even the illegal sale of equipment and weapons. A nice scam was revealed during the Irish campaign whereby captains raised troops in the counties but then discharged them keeping their pay and conduct money; at the muster in Cheshire townspeople were paid to appear against the muster roll and then would return home, the captain boarding with only paper soldiers. Captains were also responsible for recruitment and some accepted bribes to discharge men or allow their non-attendance at musters.

This last practice would have incurred a fine of ten times the amount of the bribe under a statute of 1558 which also imposed a penalty of ten days' imprisonment or a 40s. fine on those not attending musters. However, given the later Elizabethans' extensive experience of war, it is not surprising that further attempts were made to reform the system and new laws were urged by military experts such as Sir John Smythe and Thomas Digges. The
Queen's orders to Lord Willoughby on the eve of the expedition to Normandy in September 1589 especially demanded his taking a harsh line against the abuses of captains in selling discharges and equipment; the Privy Council called the JPs of Sussex and Hampshire to account. In an attempt to encourage captains to distribute full wages a number of 'dead pays' were officially permitted after 1589, proof that pay was known to be inadequate, and a proclamation of 1590 issued instructions on the proper conduct of musters.\textsuperscript{59}

But these official attempts to resolve the problem were piecemeal and temporary. Parliamentary efforts included the first bill read in the Lords in 1589, a measure 'concerning Captains and Soldiers' which provoked much debate in the Commons where Alford got into trouble for reporting that some MPs had wanted to reject it.\textsuperscript{60} After some prodding, the Commons' committee finally produced a list of 'imperfections' both in the laws in force and the new measure and these were considered by the Lords.\textsuperscript{61} A list of objections and answers dated 24 March suggests that some MPs opposed the exemption of noblemen from some of the bill's provisions, felt that the measure drew towns 'farre out of their libertyes' and that the penalties imposed were far too high. The Lords' answers, some in Burghley's hand, asserted that the previous laws had been even harsher, but to no avail.\textsuperscript{62}

A 1597-8 bill 'for reforminge of sundrie abuses Committed by soldiers and others used in her Majestie's services concerning the warres' confirmed the recent act against the embezzling of arms and armour as well as the clause in the 1563 navy act which had extended earlier provisions against the desertion of soldiers to mariners and gunners. In addition, those who failed to turn up to their rendezvous after being enlisted or deserted from the service were to be charged with felony, as were those issuing licences unlawfully.\textsuperscript{63} Amended, replaced and recommitted, the bill which eventually arrived in the Commons also provided that the felony should not extend to the corruption of blood or the seizure of goods beyond the life of the offender and ordered that charges should be brought within one year of the offence.\textsuperscript{64} Committed in the lower house, two conferences were

\textsuperscript{59} Cruickshank, \textit{Elizabeth's Army}, pp. 9 (note 2), 136-8, 237, 244-5; Hughes and Larkin, III, no. 728.
\textsuperscript{60} LJ, II, 147, 148, 149, 151, 152; D'Ewes, p. 439.
\textsuperscript{61} D'Ewes, pp. 441, 447, 448, 452.
\textsuperscript{62} BL, Lans. MS 58/70. The bill does not survive, but a proviso drawn up by Popham and corrected by Burghley does. It provided that captains should make roll counts of the men in their charge and certify those who had died or deserted into the Exchequer with copies either to the Warden of the Cinque Ports or the Lord Admiral, BL, Lans. MS 58/68, dated February 1589 and so probably added by the Lords.
\textsuperscript{63} HLRO, MP, Suppl. 1596-1601, ff. 169-70.
\textsuperscript{64} Ibid., ff. 171-2; LJ, II, 218, 220; Inner Temple, Petyt MS 537, vol. 6, pp. 292, 295, 296, 298 (Sainty, pp. 5, 8, 9, 11).
unable to resolve the problems identified by the Commons and the bill failed. Sergeant John Hele wanted a proviso to exempt sergeants 'for if I bee prest goe I must'.

His jest was recalled by Townshend in 1601, when his motion that lawyers be exempt caused much merriment and lots of similar proposals. The Lords' bill 'concerning Musters, Soldiers and other Things appertaining thereunto' began with the problem that husbandmen rather than artificers were being mustered, partly because bribes had been offered. The bill increased the statutory penalty for non-attendance to three months' imprisonment and provided that on their release offenders had to enter into a £10 bond to appear at the next muster. Those accepting bribes to discharge a man from his service were to be fined ten times the sum received and imprisoned for six months. Powers were given to Lord Lieutenants, their deputies and the commissions of musters to distrain goods and imprison those refusing to contribute funds as required by law. Redrafted and retitled 'concerning Captains, Soldiers and other the Queen's Services in the Wars', the new bill made its predecessor's provisions secondary to the main enactment which imposed fines on captains who claimed pay for the dead and absent or who failed to pay full wages within six days of receiving the same. Desertion was made a felony, without corruption of blood, forfeiture of goods or dowries. One important change would have also been made by both bills: the age of men liable for service would have been raised from sixteen to eighteen years.

Captains also came into criticism for insisting that those turning out to musters with the weapons prescribed by law - especially bows - pay some contribution towards equipping musketeers and other equipment thought up 'at their own pleasure'.

"Law-making and society in late Elizabethan England"

65 D'Ewes, pp. 589, 590, 592; Inner Temple, Petyt MS 537, vol. 6, pp. 300, 301 (Sainty, pp. 14, 15); BL, Stowe MS 362, f. 16v (Townshend, Journal, pp. 20-1).

66 LJ, II, 229, 230, 231, 233, 238, 242, 244, 247, 249; HLRO, MP, Supp. 1575–93, ff. 99–102v, 103–103v (the amendments); HLRO, MP, Suppl. 1596–1601, ff. 73–5. The second bill, HLRO, MP, Suppl. 1576–93, ff. 99–102, 103, 104–6, is incorrectly calendared, and filed, as belonging to 1589. The endorsement on f. 102v notes that it was committed to the same Lords who considered the first bill, with the addition of Lord Windsor, as is noted in LJ, II, 244, and the paper sheet of amendments is endorsed as having both a first and second reading on 11 December, in agreement with the journal, II, 247. Moreover, the 1589 bill was read in February.

67 Much of the debate focused on the quality of JPs, a red herring introduced (again) by Glascock, and the vote, eighty-one voices against forty-eight, reveals as much about attendance on the afternoon of 16 December as it does about opposition to the measure; D'Ewes, pp. 684, 685, 687; BL, Stowe MS 362, ff. 250–2 (Townshend, Hist. Coll., pp. 327–9). D'Ewes notes that the bill also affected mariners.

68 Boynton, Militia, p. 171; Cruickshank, Elizabeth's Army, pp. 102ff.
a Commons' committee after an MP's motion, would have altered the law for providing armour and weapons, and prohibited the importing of 'false and deceitful Armour and Weapons'. The latter seems to have been associated with the Armourers' Company. Attempts to legislate on 'the retaining, well ordering and governing of Mariners and Seamen', to provide surgeons for both army and navy, and to improve the supply of horses also failed.

Except for the embezzling act of 1589 none of these measures succeeded; most were Lords' bills which failed in the Commons. This may reflect concerns over the realities of recruitment (captains were not without their defenders) and over impositions on the localities during the economic difficulties of the 1590s. Thus, for example, Sir Henry Cocke, Hertfordshire's second knight in 1584–5, 1586–7 and 1593, and deputy lieutenant, reported that men hid their weapons and arms for fear of being overassessed. War-weariness was so great by 1600 that eleven counties had ceased to contribute to the Irish campaign.

Given the importance of England's navy in these years it is perhaps surprising that more bills seeking to improve the navy were not successful, although this was not for want of trying. One means to improve the navy, according to the preamble of an act of 1593, was to ensure that the ropes used in the rigging of ships (known to contemporaries as cordage) were of good quality. The act imposed fines and imprisonment on those making ropes with old materials. This was a Lords' bill which had been redrafted there, and it was amended in the Commons by a committee which included

69 D'Ewes, pp. 552–3, 556, 566; BL, Stowe MS 362, f. 9 (Townshend, Journal, p. 11). Townshend notes the speaker as Francis Moore, but D'Ewes' George More is probably correct as he seems to have reported the committee's work on 14 November and is known to have been concerned about the problem, Boynton, Militia, p. 171. D'Ewes' identification of the man reporting the bills on 2 December as 'Edward Moore' is an error; Edward More did not sit in 1597–8.

70 The Armourers' Company paid out money for counsel on the bill on 29 November and for various charges on 2 December. Despite the bill's failure Speaker Yelverton still received his £6 fee on or soon after 9 December, GL, MS 12,065/2, ff. 86, 86v.

71 D'Ewes, pp. 570, 571; LJ, II, 218, 219, 234, 236. On the need for good surgeons see Cruickshank, Elizabeth's Army, pp. 174–9. The Lords' 1601 bill to limit the use of coaches was rejected on its second reading there. Although Egerton successfully moved that the Attorney General should peruse earlier statutes concerning horse breeding with a view to preparing a bill tackling both questions, nothing appeared on the floor of the house, LJ, II, 228, 229. The rejected bill survives in HLRO, MP, Suppl. 1596–1601, ff. 64–6, but not endorsed. Other efforts were in 1586–7 and an alternative 1601 strategy was to use 'the impaled groundes of Noblemen and gentlemen' to breed horses, D'Ewes, pp. 417, 651; BL, Stowe MS 362, f. 148.

72 Boynton, Militia, pp. 47–8 citing BL, Lans. MS 76/37; Cruickshank, Elizabeth's Army, p. 283.

73 See below, chapter 6.
such illustrious seamen as Raleigh and Drake. However, attempts in 1601 to improve hemp supplies were unsuccessful. A first effort was rejected on its second reading. Raleigh spoke against it, arguing that men should be free to use their land as they saw fit. He was of the opinion that there was enough cordage in any case and that the tillage bill then being discussed was sufficient to encourage hemp production. Later in the session a revised bill, described as providing for the better furnishing of the navy with cordage, was rejected on its first reading. It was effectively the same measure, now with a time-limitation clause. Although some felt its introduction to be against the rules of the house, clearly officials were determined to promote it; Knollys spoke in its favour to no avail.

Initiatives were taken against pirates, as in a 1584–5 Commons’ bill which died in a committee appointed on the second reading. Yarmouth’s Thomas Damet made a passionate speech against pirates from Dunkirk and Newport in 1601 and was supported by Edward Peake of Sandwich and others. It seems that no one had come with a bill prepared however: Barnstaple’s Richard Martin stated that while he appreciated their matter he disapproved of ‘these extravagant Speeches’, wishing that their authors had ‘laid down some project, though never so small, of remedy; otherwise such cursory Motions as these be, cannot be but very distastful to the House’.

**PREROGATIVE MATTERS: PURVEYANCE AND WARSHIP**

The 1601 debate over ordnance proves that MPs were not afraid to tackle matters affecting the royal prerogative. One of the great prerogative rights of the monarch was the entitlement to purchase goods and services for the royal household at cheaper rates. By the middle of the sixteenth century the traditional system of purchase was breaking down and because of general hostility, inflation and declining royal revenues, moves were made towards county compositions for goods usually supplied by purveyance. Nevertheless purveyors were still needed for many goods and the full range of complaints persisted: purveyors took more than they needed and sold the sur-

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74 SR, IV, 857; LJ, II, 184, 186, 188, 189; D’Ewes, pp. 519, 520. The Lords requested expedition on the bill and the Commons gave it two readings on its arrival there; the committee met that afternoon and the next day the amendments were twice read, attached to the bill and the whole given its third reading and passage. The Commons’ amendments are visible on the original act and were relatively minor, HLRO, 35 Eliz. OA 8.

75 D’Ewes, pp. 626, 654; BL, Stowe MS 362, ff. 74v–5, 155v–6 (Townshend, Hist. Coll., pp. 188–9, 253); PRO, SP 12/282/42, 62.

76 D’Ewes, p. 372; TCD, MS 1045, f. 92v.

77 D’Ewes, pp. 665–6. Damet moved ‘that some Masters of Ships and Seamen might be sent for to attend at the Committee’.
plus to their own benefit, they purchased goods at such low prices that the poor suffered, no compensation was made for the costs incurred in bringing goods to market, purveyors issued faulty receipts, payment took far too long and the best products were always taken.\footnote{See Allegra Wordworth, \textit{Purveyance for the Royal Household in the Reign of Queen Elizabeth}, Transactions of the American Philosophical Society, New Series, vol. XXXV, Part 1 (Philadelphia, 1945). A catalogue of twenty-four abuses was submitted to Burghley, BL, Lans. MS 104, ff. 115v–16.}

Parliament was one arena in which these complaints could be aired but the Queen was unlikely to allow any bills to reach the statute book. She vetoed one of 1586–7 ‘to reform the excessive Takings of the Queen’s Majesty’s Purveyors’ even though it passed the scrutiny of her councillors in the Commons and was pushed through the Lords in two days. It was a measure which one MP thought especially worth reporting home and it provoked some debate in the lower house where Fleetwood joked that anyone opposing it was likely to be accused of praemunire and Mildmay offered the view that complaints had arisen ‘for private displeasure’. The bill provided that purveyors were to take goods only as allowed by statute or suffer a penalty of £20. No subject was to be brought before the Board of Green Cloth (the prerogative court of household officials) on the complaint of the purveyor alone, but only after information had been laid before two JPs and confirmed by them.\footnote{D’Ewes, pp. 412, 413, 414; BL, Harl. MS 7188, ff. 95, 95v, 100v, 102; LJ, II, 134, 135; Philip Gawdy to Bassingbourne Gawdy, BL, Egerton MS 2804, ff. 67–8v; Lehmberg, \textit{Mildmay}, pp. 285–6, and Neale, \textit{Parliaments}, pp. 187–9.}

In 1589 another bill was also blocked by the Queen, but at an earlier stage. Initiated by John Hare, a common attorney in the Court of Wards and Horsham’s MP for many of Elizabeth’s parliaments, the bill provided for the proper enforcement of previous laws. Purveyors were prohibited from seizing goods on highways and they could not also be butchers, poulterers or graziers. As in the 1586–7 bill, subjects could only be called before the Green Cloth if the complaint was certified by two JPs from the area where the offence was alleged to have happened. Purveyors making false complaints were to be fined £20 and lose their office. JPs were instructed to read the statute at every quarter session; failure to do so incurred a £5 fine.\footnote{D’Ewes, p. 432; BL, Lans. MS 55, ff. 184v–5.}

That the bill had considerable support may be suggested by its unusual proceeding: a debate on the first reading followed by an immediate second and committal. Most of the appointees came from counties close to the court and thus most affected by the system of purveyance. They were also to examine a measure on informers and the 1586–7 purveyance bill was to be retrieved for their consideration; officers of the Household and Green...
Cloth were to be invited to attend.\textsuperscript{81} The Queen stopped it in the Lords, however much the Commons urged action and produced precedents. Addressing a delegation summoned before her on 7 March, she told them that action had been taken by the late Lord Steward but that the Armada had interrupted proceedings. The Queen informed them that she, having as much skill, will and power to rule and govern her own Household as any Subject howsoever to rule and govern them without the help or aid of their Neighbours; so her Majesty minding very carefully of her own more great love and affection towards her dutiful and loving Subjects (whose most faithful and approved good love and fidelity towards her the more esteemeth than all the Treasures of the world besides) very shortly to cause a Collection to be made of all the Laws already in force touching Purveyors, and also all the constitutions of her Highnesses Household in that case, and thereupon by the advice of her Judges and her Learned Council to set down such a Form and Plot for the said Redresses yea and that before the end of this present Session, as shall be as good and better for the ease of the Subjects than that which this House had attempted without her Privity, in which they would have bereaved her Majesty the Honour, Glory and Commendation of the same.

It was a remarkable speech, with that blend of criticism and compliment which was the hallmark of her great speeches in 1601.\textsuperscript{82}

Yet the Queen did permit the holding of another conference between both houses and members of her Household and a good deal of information on abuses 'very many and foul and some of them offered to be proved true in such sort as the same had been reported unto them' was received.\textsuperscript{83} The issue generated the usual array of complaints, defences and proposals. One major source of opposition was the City which claimed to be exempt from purveyance. There the purveyors of fine poultry were particularly hated for taking excessive quantities and selling the surplus in their shops. In 1586 the fine poultry purveyor John Raymond suspended existing agreements with London's Poulterers and ordered his men to seize goods from higgler's on the highways as well as poulterers in their city shops. Although they placed much of the blame for their problems on Raymond's shoulders, his successors wrote to Burghley while the bill was in the Commons attacking each of its provisions. Progresses made highway purchases inevitable; only experienced poulterers knew enough to be effective purveyors, and they usually lost money from selling surplus poultry, offering the figures to prove it.\textsuperscript{84} Concluding that 'if any other restraint be made against us or that we may not be at liberty to take provision when and where it may be found' they would beg to be dismissed from office, things evidently got no better, because in 1591 they resigned and Raymond returned.\textsuperscript{85}

\textsuperscript{81} D'Ewes, pp. 432-3, 433.
\textsuperscript{82} \textit{Ibid.}, pp. 434, 435, 436, 437, 439, 440, 442, 443, 444.
\textsuperscript{83} \textit{Ibid.}, pp. 446, 448. \textsuperscript{84} Wordworth, \textit{Purveyance}, pp. 65-9.
Burghley seems to have been especially concerned over the matter. Among his papers is a list of purveyors and their commissions covering goods from ale and apples to wax and wheat. Someone made abstracts for him of all the statutes from Magna Carta and Henry III to that of Mary Tudor. Moreover Burghley himself made a list of objections and notes on the bill, the general conclusion of which seems to be that there were already enough laws in force. Knollys also responded to the Commons' bill: seeking confirmation from JPs would only delay proceedings, informers would run the risk of perjury if forced to swear by oath and 'no men of wealth wyll be hir Majesties purveyor upon such harde condycion'. All in all the bill meant far too drastic a check on the prerogative powers of the Board of Green Cloth and his preferred solution was composition which would allow JPs to spread the burden more equitably, give the cofferer ready cash to repay subjects more quickly and ease the burden of progresses. Knollys also urged that no new grants of exemption be made 'And it seemeth the veyre necessarie that hir Majestie should tell hir offfyrcers of hershould whether she have made anye suche newe grawnte, or not'.

Another royal prerogative, wardship, involved Burghley even more directly than purveyance since he held the lucrative office of Master of the Court of Wards. Not surprisingly then, the two bills which did enter parliament in these years did so in the Lords; both failed in the Commons. The first, 'to provide Remedy against fraudulent Means used to defeat Wardships, Liveries and Primier Seisen' was noted by Cromwell as providing 'that yf leases be made for more then a hundred yeres not havinge the acustomed rent reserved, that the lessees shalbe chardgeable in case of wardshyppe as persons havinge inheritance in landes'. Many MPs objected to it. Perhaps it was Richard Williams, the estate manager to the Lords Cobham, who was the most critical MP, while another, possibly Richard Kingsmill, Attorney of the Court of Wards, was for it. Fleetwood, a former escheator and duchy feodary, was opposed, disliking the fact that it was retrospective, threatening to keep the house there until 2 p.m. with the precedents he had and promising he could keep them there for two

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86 BL, Lans. MSS 58/52, f. 124–124v, 56/21, ff. 64–5v, 56/30, ff. 85–7v; 104, ff. 140–1v, with notes on dispensation, and compositions, ff. 142, 146, 148. See also the paper arguing that the bills for purveyors and the Exchequer should proceed, ibid., ff. 144–5.
87 BL, Lans. Ms. 58/50, ff. 111–12.
88 On Burghley's work as Master see Joel Hurstfield, _The Queen's Wards: Wardship and Marriage under Elizabeth I_ (London, 1958), pp. 260–82. Perhaps the appointment of a new Receiver General in July 1584 stimulated some move for change; George Goring had been an early Elizabethan MP for Lewes and built up an enormous debt at the Queen's expense, _ibid._, pp. 208–9; HPT, II, 209.
89 _LJ_, II, 65, 70, 98, 99, 101; D'Ewes, p. 370; TCD, MS 1045, f. 91v.
90 BL, Lans. MS 43, f. 166. Two 'Williams' sat in 1584–5, Richard for New Romney, and the Welsh MP David. The other MP was one of three Kingsmills sitting, George (Stockbridge), John (Ludgershall) or Richard (Hampshire).
hours with his anecdotes. Egerton argued it worth committing as a matter ‘considered of, digested by ye lordes Judges’. He noted that those wanting to overthrow a bill thought it ‘good pollecy to say it towceth corporations very nere’ and others ‘will cry away with it when they understand it not’. 91

The bill was committed, amended and a conference held with the Lords before a nova was introduced providing ‘against leases above lxxxix yres of landes helde in capite’ (i.e. lands held directly from the crown). It was rejected on the third reading by ninety-five votes to seventy-five. 92 What little of the debate survives suggests that many in the house thought it a bill which was introduced largely to benefit officers of the court. One such was the lawyer Richard Grafton whose speech forced Kingsmill to declare it did not benefit him – ‘I have gotten no lease synce I was officer’ – and one of the Bacon brother’s to retort they may ‘rather myslike of jelousy’. Those in favour included Fleetwood and Egerton, who told the Commons ‘if I did think it would wrong or preiudice the subiect any way I would not allow of it or give my consent. For though I am an officer of her majestie, yet I have children and may have land to leave them.’ The apparent lack of lawyers present contributed to the bill’s demise: ‘therfore it well it [were] better advised upon and that we did signify unto the lordes so muche’. 93 What the Lords had done was to initiate a second measure, ‘to provide Remedy for Her Majesty’s Wardships, Liveries and Primier Seisin, in certain Cases’. It made it to the Commons on 22 March and presumably got caught up with the first and had no further proceeding. 94 Undoubtedly, some MPs were once again nervous about any extension or even clarification of wardship.

In the end both Lords and Commons had to be content to let the Queen deal with problems of wardship and purveyance, but parliament obviously played an important role in raising the grievance. However, it must be said that Elizabethan attempts at reform failed. Despite the improvements made by John Hare, as Clerk of the Wards in the 1590s, wardship continued to remain a contentious issue and flared up again in the parliament of 1604. 95

91 BL, Lans. MS 43, f. 166–166v, undated but probably on second reading on 19 March. Fleetwood did offer two anecdotes; one concerned the Bishop of Winchester’s cook whose porridge was thought to have killed an elderly woman. Some MPs must have laughed – ‘do yow laught at it? I tell you it is no laughing matter’ – and he proceeded to tell them about his witnessing an execution of a prisoner sentenced to be boiled to death in oil: ‘I was a litle boye sitting behind my grandfather upon a horse and was taken away when I cryde for feare, for I tell you it was a terrible matter to behold.’

92 D’Ewes, pp. 370, 371, 372, 373; TCD, MS 1045, ff. 91v, 92v, 93.

93 BL, Lans. MS 43, f. 175–175v.

94 LJ, II, 103, 104; D’Ewes, p. 371; TCD, MS 1045, f. 92. Cromwell noted the bill ‘to chardge the landes of [e]states in remeynder and ioyncnt estates to wardshippe’ was read once.

95 On Hare’s efforts see H.E. Bell, An Introduction to the History and Records of the Court of Wards & Liveries (Cambridge, 1953), pp. 26–8, and on 1604 see ibid., pp. 138–9; Wallace
Apart from a few gestures made by Burghley and the 'lords in commission for household causes', especially in extending the county compositions, little was effectively done to solve the problem of purveyance and in James' early parliaments Hare, Wroth and More found themselves considering much more radical solutions. Moreover, the Commons had mightily offended the Queen, not only because they had shown little hesitation in moving bills on purveyance, a matter so much affecting her prerogative, without her consent, but, as Gilbert, Lord Talbot, reported because 'certayne yonge gentlemen ... have bene muchoe busyer bothe in thes bylls and others then they needed'. Worse was to come, however, for by comparison, MPs' agitation over monopolies was much more protracted than their complaints over purveyance.

**PREROGATIVE MATTERS: MONOPOLIES**

The right to make grants through letters patent under the great seal was another quintessential prerogative power. Grants to livery companies or guilds conferred the right to form a corporation with control over a particular trade or economic activity. Elizabeth extended such usage by issuing letters patent granting a monopoly over new inventions and increasing grants to license overseas trade which gave exclusive trading rights over a particular foreign region to a particular corporation of merchants. Other grants dispensed with penalties imposed by penal statutes (through the *non obstante* - literally 'notwithstanding' - clause) as a means of relaxing the rigidity of the law. Recourse was to the prerogative law courts rather than the common law which was of no great concern so long as grants affected only new interests and inventions or even just deprived the crown of penalties in return for a cash sum. However, when grants were issued covering old practices such as the making of salt or starch much opposition was provoked. As early as 1571 one MP, Robert Bell, had spoken out against certain licences but it was in 1597–8 and 1601 that monopolies came under greater attack.98

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Very early on in 1597–8 MPs voiced concern over the abuses of such grants and a committee was set up to investigate; the fact that London counsel Francis Moore was one suggests that the City had decided to raise the issue, as York had certainly done. The first signs of official anxiety may be detected in the attempts to delay the nomination of the committee and decide on its remit and eventually councillors probably intimated that the Queen would accept a petition. Although it thanked her for action against abuses, it is not clear what action was requested or promised besides reformation in the courts.

Although certainly some patents were repealed and others judged in court, it was not until early 1601 that Buckhurst, the new Lord Treasurer, and Cecil seem to have conferred over the matter. The former had ordered an enquiry and found the number of monopolies ‘to be very great, and most of them so unfit and so odious, neither profitable to her Majesty nor good for the commonwealth’. Buckhurst thought that their nature and quality should be examined and some repealed. Coke had also investigated monopolies and in the end was ordered to attend Buckhurst, Cecil, Egerton, Nottingham and Popham in order to take action. Other matters, most probably the Essex revolt, prevented all but a few meetings between Buckhurst and Coke. All this was conveyed by Buckhurst in a letter to Cecil on 7 August 1601. He continued:

But now, before this Parliament, it is a thing most fit and necessary, that we meet and make a public notification thereof, and upon due consideration to examine the state of them, and to call in as many of them as shall be thought fit before the Parliament: and the same to be done by our public meeting and notification thereof so solemnly and publicly as that all men may take knowledge thereof.

Buckhurst urged Cecil to move the matter with the Queen, noting that some monopolies were beneficial and profitable, ‘to revoke too many were as dangerous and hurtful to her Majesty’s prerogatives on the other side’. Moderation was needed and Buckhurst wanted Stanhope, ‘for he is wise and temperate’, to be involved in the process.

We do not know what action was taken except that on 7 October the judges hearing the case of Turner vs. Darcy over the patent for playing cards were ordered to suspend action until the Queen’s pleasure; she did not want ‘her Prerogative Royall . . . called in question for the valliditie of

99 That this included Robert Wingfield, not John (MP for Peterborough) is suggested by his letter to Cecil shortly after Christmas reflecting on the latter’s favour, HPT, III, 638–9. On York, see above, chapter 1.
100 D’Ewes, pp. 554, 555, 558, 570, 573; Salis. MSS, VII, 476–7 (committee list); Neale, Parliaments, pp. 354–5. The address is in BL, Add. MS 48109.
101 Salis. MSS, XI, 324–5; Hatf. MS 87770.
The 1601 parliament opened on 27 October and it did not take so very long for the matter to be raised, as Buckhurst had anticipated. On 4 November a member moved for the revival of the 1597-8 bill. On 18 November, the lawyer Anthony Dyott offered a bill against patents granting a monopoly over certain commodities, monopolies which had in fact abused the Queen's 'good intent'. Dyott noted that it had a very long title and when he finished another lawyer, Laurence Hyde, offered a bill with a shorter one: 'an exposicion of the Common Lawe touchinge theis kinde of Pattentes, Comonlye called Monopolies'. Both measures seem to have allowed recourse to common law courts against patentees in certain cases.

Nothing seems to have been done at this point but later that morning Gregory Donhault, Egerton's secretary, unsuccessfully tried to speak to Hyde's bill, but was prevented by Speaker Croke's rising on Cecil's urging.103 Two days later, when a dispute arose over which bill should be read, Hyde took the opportunity to present his bill again and the whole house cried out in agreement. Someone moved for a committal 'and some cryed commit it, some ingross it' and a debate followed. The story of the bill, based on D'Ewes and Townshend, has been retold by Neale and needs only a brief analysis here.104

Intending to criticise neither the prerogative nor the Queen's intentions, Warwick's MP William Spicer was forced to speak 'out of grief of heart, to see the Town wherein I serve pester'd and continually vext by the Substitutes and Viceregents of these Monopolitans, who are ever ill-disposed and affected Members'. The patentees for aqua vitae and vinegar had exceeded their patent in a number of ways and the deputy was 'an obstinate Recusant'. His localist impulse was shared by many. Dr John Bennet, sitting for York as one of the very few Tudor MPs for the town who was an outsider, spoke against the monopoly of salt, 'in respect of a grievance out of the City for which I come'. Others, such as cards, dice and starch, were also hurtful, but salt was the outstanding offender. Francis Moore, an MP active in 1597-8, spoke of the grievances felt in Reading and Berkshire, singling out the patent for currying leather which negated the effects of statutory regulation. The London lawyer sitting for Barnstaple, Richard Martin, spoke 'for a Town that grieves and pines, for a Countrey that groaneth and languisheth under the burthen of monstrous and unconscionable Substitutes to the Monopolitans of Starch, Tinn, Fish, Cloth, Oyl, Vinegar, 

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102 APC, XXXII (1601), 237.
Salt, and I know not what, nay what not?'. Surrey's George More identified the monopoly of petre as the one most troubling his county.

Of course, as Bacon recognised, since it touched the prerogative, and since recourse was available before the law (citing the cases heard by the Exchequer between this and the last parliament), the proper procedure was to proceed by petition rather than by bill. MPs were divided on this, but not necessarily for the positive reasons implied in some accounts. Some of those preferring to proceed by petition took that view because a statute could be easily suspended by the prerogative, while some preferring a bill thought it best simply because the last petition had not had the desired effect. Indeed, Wingfield thought the Queen had given them 'free liberty to proceed in making a Law the next Parliament' if their grievance had found no redress. Laurence Hyde, the author of the bill, seemed to go even further with his precedent from the reign of Edward III when John Pecche, holder of a monopoly of sweet wines, was brought to the bar of the house where the patent was declared invalid, the monopolist was imprisoned, fined heavily and forced to repay the excess money he had taken. 'This is a Precedent worthy of observation, but I dare not presume to say worthy the following.'

However, others, such as Bacon, pointed out the benefits of certain monopolies. Raleigh, who had blushed when Dr Bennet had mentioned the monopoly of playing cards, defended his monopoly of tin which had led to an increase in wages and created jobs. Soon after, Monmouth's Robert Johnson suggested that the Queen would be as earnest as they in calling in the monopolies if she had heard a fifth of the debate and it was on this optimistic note that the house proceeded to appoint a huge committee which was to meet in the house the following afternoon. Their discussions were well recorded.

A Yorkshire knight, Sir Edward Stanhope, spoke of the abuses of the patentee for salt in that county which had caused a dramatic rise in prices. To call in the patent for white salt would save Kings Lynn, Boston and Hull some £3,000 per annum. Before other MPs could add to the list of complaints, and thus effectively carrying on from where the debate on the floor of the house had ended up, Bacon dismissed the bill as 'injurious and ridiculous'. Fleming took up this theme, but in his attempt to explain why

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106 Other monopolists pointed out that their grants created employment, *Salis*. MSS, VIII, 34; Hatf. MS 49/18.
107 D'Ewes, pp. 647–8. The full committee list is only in the manuscript, BL, Harl. MS 75, f. 230v.
108 He is mistakenly identified in the printed edition of D'Ewes, p. 647, as Sir Edward Hoby, cf. BL, Harl. MS 75, f. 231v.
the petition of 1597-8 had met with little effective action he only provoked Wroth to ask why he and Coke had only been asked to act in Hilary term 1601 and not earlier, and why more patents had been issued since the last parliament. His naming of these encouraged Hakewill to inject a little humour by asking where bread was in the list. ‘Bread?’ asked one MP. ‘Bread?’ asked another. ‘This voice seems strange’ said a third. ‘No’, said Hakewill, ‘if Order be not taken for these, Bread will be there before the next Parliament!’

Townshend suggested that they petition the Queen for all monopolies ‘grievous to the Subject’ to be called in and for permission to draft a bill ‘that they might be of no more force, validity or effect than they are at the Common Law without the strength of her Prerogative’. The committee drafting the petition should receive from all MPs a list of monopolies they felt needed repealing. His motion was well liked and Monday afternoon was named as the time to deal further in the matter. However, further debate took place on the Monday morning after the bill was read once again. The themes were by now familiar: whether to proceed by petition or bill, and for or against a committal. Cecil put paid to Hyde’s precedent: for then ‘the King was afraid of the Subject’ and everyone sat in the same house with the monarch, so no prejudice to the prerogative could arise. Warning Speaker Croke that he should not have allowed this sort of bill to be read, Cecil was in favour of commitment ‘to consider what her Majesty may grant, what not; what course we shall take, and upon what points’. Eventually a committee was named and notes of patents and their ill effects were prepared.

The committee gathered a list of over almost forty monopolies, from those to Richard Drake, Sir John Packington and William Carr for *aqua vitae*, starch and paper, to such specific patents as those to John Norden for the printing of his *Speculum Britanniae* and to Thomas Morley for his three-part songs. Some were considered to be ‘of no great moment’ including those for the export of iron and tin, the sowing of hemp and flax, the gashing of hides and even that for salt-petre which had been complained of during the debate. Conspicuously absent was the patent for salt. The committee broke up resolving to meet again Tuesday afternoon but not after a ‘multitude of people’ clamoured for action outside the chamber doors.109

However, on the morning of the 24th there was further agitation with Cecil rising to speak ‘upon some loud Confusion in the House touching

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some private murmur of Monopolies’ to chastise MPs for their behaviour, ‘more fit for a Grammar-School than a Court of Parliament’. Some had argued in favour of passing a bill and then waiting to see if the Queen would veto it. Davies had suggested that the patents should be called in and cancelled there and then – ‘and this were bravely done’ – and some that they proceed by petition. The first two, and especially the second, Cecil thought ‘ridiculous’. The third ‘doubtless is best’. ‘Why, if idle courses had been followed, we should have gone forsooth to the Queen with a Petition to have repealed a Patent of Monopoly of Tabaco Pipes (which Mr Wingfields note had) and I know not how many conceits.’ Cecil wished every man to rest contented until the committee met that afternoon and brought in its resolutions, as they had already ordered.

Unfortunately Townshend does not seem to have attended the committee meeting that afternoon; while they were talking the Speaker was summoned to the Queen. Thanking them for their care for the commonwealth and the grant of four subsidies, the Queen had told him that ‘partly by intimation of her Council, and partly by divers Petitions that have been delivered unto her both going to the Chapel and also to walk abroad’, the abuses of some deputies of certain patentees had been brought to her attention. She would remedy these abuses presently. Some patents would be repealed, some suspended and none would be executed until they first had ‘a Tryal according to the Law for the good of the People’. Speaker Croke ended with a eulogy: ‘Now we see that the Axe of her Princely Justice is laid to the Root of the Tree; and so we see her gracious goodness hath prevented our Counsels and Consultations.’ The house sat quietly, ‘silently talking one with another’, before Cecil promised that ‘there are no Patents now of force, which shall not presently be revoked; for what Patent soever is granted, there shall be left to the overthrow of that Patent, a Liberty agreeable to the Law’. Reform would occur by proclamation: ‘The notice of this is now publick, and you will perhaps judge this to be a Tale to serve the time. But I would have all men to know thus much, that it is no jesting with a Court of Parliament’ – no man would dare to ‘mock and abuse all the States of this Kingdom in a matter of this consequence and importance’. Cecil went on to supply details of the patents to be revoked, those that would be suspended ‘and left to the Law’ or examined by the Privy Council.

His was, as reported, a remarkable speech, combining wit and eloquence with measured criticism. Some must have remained unconvinced for, after all, Cecil was now the Chief Minister and probably the key figure in the minds of MPs contemplating the ‘new misgovernment of the time’. But it

110 D’Ewes, p. 651, and, for the mention of Davies, BL, Harl. MS 75, f. 236v, and Townshend, Hist. Coll., p. 244.
was an effective speech and others followed, some protesting that they never wished to challenge the prerogative, most taking the opportunity to praise the Queen. The Speaker was instructed to offer their thanks to the Queen accompanied by some twelve others.¹¹¹

On the following day Cecil reported that the Queen was willing to receive their thanks and on the next, 27 November, many MPs offered praise to their monarch – her words were ‘worthy to be written in Gold’ and ‘in the Tables of our hearts’, ‘a Gospel’ which would be ‘a lively memory in Ages to come’; their own attempts were likened to holding ‘a Candle before the Sun to dim the Light’. Nevertheless Donhault, who offered the first description, thought her words should be recorded in the parliamentary records and that she should be urged to act. Cecil and Knollys put paid to this and the enthusiasm of the majority was reflected in that many more were nominated to attend the Queen than the chamber would allow. The lucky ones heard her famous ‘Golden Speech’. Assuring them that she considered those who spoke somewhat out of turn to have done so ‘out of Zeal to their Countries, and not out of Spleen or malevolent Affection, as being Parties grieved’, the Queen declared herself angered by the oppressions of ‘these Varlets and lewd Persons, not worthy the name of Subjects’. Although they might have monarchs mightier and wiser than herself, they had not, and never would have, one ‘that will be more Careful and Loving’. This magnificent speech signalled the end of the Commons’ agitation over monopolies.¹¹²

However positive a note it ended on, there is no doubt that the government’s failure to take effective action in the years between the two last parliaments of the reign provoked the most significant outburst of opposition in any Elizabethan parliament. On one level this was precisely the purpose and function of parliament: to enable the presentation of grievances and to seek redress by statute. It is a good example of parliament serving as a ‘point-of-contact’ between crown and locality. Many MPs had taken the trouble, or had been asked, to present specific cases of abuses from their towns and counties. Their impartiality in this matter had been noted, and commended, by the Queen. On the other hand there is no disguising that much of the debate also revolved around the question of whether to proceed by bill or by petition. To judge from Cecil’s comments, emotions had run high. At least two MPs (Hyde and Davies) thought the patents could be called in by the Commons and revoked there and then. If such extreme views should not be allowed to distract from the majority view that a petition was the best way forward, both to present the grievance

¹¹² Ibid., pp. 654, 656, 657, 658–60, 662.
to the Queen and to seek her permission to proceed by bill, nevertheless they are remarkable assertions of parliament's power over the royal prerogative. Furthermore, they consciously refer back to the impeachments of medieval parliaments. Whatever their protestations to the contrary, there was no disguising that MPs were questioning the validity of certain grants made under letters patent. They believed that such grants should be subject to the common law. It was an argument which was only won after a series of judicial rulings and a statute during the next reign.¹¹³

Royal grants of land were also discussed in these as in earlier parliaments and were subject to great controversy, especially at the local level.¹¹⁴ These include the 1586-7 and 1601 bills confirming letters patents issued since 1572-3 and 1582-3 respectively, notwithstanding any misnomers, the 1593 act confirming grants of religious lands made by Henry VIII and the 1601 bill 'for Confirmation as well of all Grants made to the Queen's Majesty, and of all Resumptions made by Her Highness, of the Possessions of any Archbishoprick or Bishoprick, as of Letters Patents made by Her Majesty to others'.¹¹⁵ One, the 1597-8 bill designed to protect lessees, came under rigorous scrutiny in the Commons partly because it affected the notorious dispute between Thomas Throckmorton and Sir Moyle Finch over property in Buckinghamshire. Like so many of the bills affecting the prerogative it was vetoed by the Queen.¹¹⁶

GOOD GOVERNMENT: AUDITORS, TELLERS AND EXCHEQUER MEN

The Queen's protestation that she could govern her household as well as anyone without assistance from her neighbours did not extend to all areas of government. If MPs were willing to risk her anger in proposing legis-


¹¹⁴ See below, chapter 4.

¹¹⁵ D'Ewes, pp. 414, 416, 417, 518, 520, 520-1, 635, 642, 643, 674-5, 678, 679, 681, 684, 686, 686-7, 687; BL, Harl. MS 7188, f. 95; BL, Stowe MS 362, f. 96-96v; BL, Cotton MS Titus Fii, ff. 91v-2; LJ, II, 184, 185, 186, 187, 189, 234, 235-6, 238, 243, 244-5, 245-6, 246-7, 248, 254, 256, 261; HLRO, 35 Eliz. OA 3, 43 Eliz. OA 1; SR, IV, 846-7, 959-62; HLRO, MP, Suppl. 1601-6, ff. 102-4; PRO, SP 12/283/9.

¹¹⁶ D'Ewes, pp. 562, 567, 571, 573, 575, 582, 584, 586, 595; LJ, II, 220, 224; Inner Temple, Petyt MS 537, vol. 6, pp. 297, 298, 301, 303, 304, 305 (Sainty, pp. 10, 11, 14, 15, 17, 18); HLRO, MP, Parch. Coll. Box 1D, no. 3248; Bond, Lords MSS, pp. 52-6. The Commons' committee suggested that Burghley be an arbitrator; the parties seem to have preferred Whitgift. This arbitration was the reason for Finch's giving way to Percival Hart as the replacement for William Brooke who had been killed over the Christmas recess in a duel, HPT, II, 118-19, 265.
lation to correct the misbehaviour of purveyors and officers in the household and the Court of Wards, they were certainly not going to restrain themselves when it came to lesser officials. Of the many ‘points-of-contact’ between the subject and the government, one signalled for particular parliamentary attention was the Court of Exchequer.

Several attempts had been made to control the Exchequer’s tellers before the 1571 act which punished tellers and receivers who failed to pay over receipts within two months of being warned to do so by loss of lands. Revision was sought in 1572 because a loophole had allowed them to escape with lands they had purchased; more successful was a bill extending the act’s provisions to collectors of clerical taxes. In 1584–5 a successful Lords’ bill ‘for explanation’ of the 1571 statute made explicit the crown’s right to sell the lands of defaulting tellers and receivers after their deaths and in cases where the debt was discovered after death. The Commons put a time limit of within eight years on this last provision.

In 1597–8 it was decided to consolidate these various statutes. Again the initiative lay with the Lords where a new bill was drafted and much debated. It caused as much trouble in the Commons where the committee came up with fifteen objections to it which were defended at a joint conference by the five sergeants-at-law. By the time the written version was sent to the Lords, the number of objections had grown by four. Predictably the solution was another nova which passed after much debate and a division in which 112 MPs voted against the measure and 195 for it. The Lords approved it in two days. The Commons’ concerns especially pertained to the rights of bona fide purchasers of debtors’ lands and the rights of heirs, as well as the many ambiguities they detected in its wording. One paper concluded that accountants ‘are so locked up by this lawe that noe man will Contracte or deale with them which will feare awaye men of qualytye to accepte the place hereafter and take awaye Credit and libertye

118 LJ, II, 65, 66, 75, 80, 84, 102, 103; D’Ewes, pp. 352, 368, 370; HLRO, 27 Eliz. OA 3; SR, IV, 708–9. The Commons’ amendment and provisos are attached in a separate schedule to the original act.
119 HLRO, 39 Eliz. OA 7; SR, IV, 904–9; LJ, II, 193, 194, 196, 197, 198, 199, 200, 201. Attorney Coke drafted the new bill and had to ‘renew’ it after the committee made its amendments.
120 D’Ewes, pp. 565, 568, 572, 573. The objections were answered in turn by Coke, who presented his paper to Burghley, PRO, SP 12/265/31, 32. See also BL, Lans. MS 83/67, ff. 193–4.
from those that are placed alreadye'. 122 Burghley was much involved in the matter and had an argument with Coke over it. 123

The fact that the Lords so quickly approved the Commons’ bill is testimony to the significant improvements the lower house made to the law. No one reading the detailed objections and amendments could deny the thoroughness applied by MPs to the process of redrafting the measure. It may be significant that, besides Thomas Tasburgh who was not yet a teller, none of the Exchequer officials besides Fortescue were noted by D’Ewes as having been appointed to the committees or conference. This does not necessarily mean that they were not appointed, but their total absence from the record is striking and implies that officials did not oppose the measure. 124

Self-interest is certainly not absent in the history of a bill ‘touching Exactions upon the Subjects of this Realm by the Officers of the Exchequer’ introduced on 14 February 1589 by Hoby ‘who alledged that the said Exactions did nothing tend to any further profit or commodity of her Majesty’. 125 The bill especially concerned the process of quo titulo ingressus est which had been an ongoing problem in the Exchequer; it provided that no such writ should be issued when the evidence had already appeared on record. 126 Hoby later complained that someone had reported and misrepresented his speech to ‘some great personage’ who had ‘very sharply rebuked’ him for it. Asking the house to absolve him and so defend their liberties, Hoby noted that this had occurred after Speaker Snagge had spoken (on Hoby’s motion) against ‘the uttering of the secrets of this House either in Table-talk or Notes in Writing’. It is very likely that the informant was Peter Osborne, Lord Treasurer’s Remembrancer, and that the ‘great personage’ was none other than Burghley himself. Such interference predictably provoked a number of speeches defending Hoby and the liberties

122 The paper bill lacks section fifteen onwards; earlier alterations include the additional specification of ‘Farmers Debtor’, a clarification on the impact of sales and of officials liable, HLRO, MP, Suppl. 1596–1601, ff. 150–9, 160a, cf. HLRO, 39 Eliz. OA 7. The various papers noted are: PRO, SP 12/265/29, 30, 31, 32, 33; Salts. MSS, VII, 510-14; BL, Lans. MS 83/67, ff. 190, 192, 193-4.
123 When an MP claimed that the bill would ‘overthrowe’ the property rights of purchasers, Burghley remarked ‘You see what the parlement can doe, even make a Man a woman.’ Coke argued, ‘Noe...it is as if the Parliament should make an Infant a man; neither this...but the Parliament maie make an Infant of full Age.’ ‘I, but’, said Burghley, ‘if I saie soe you shall saie the like by your Leave, and if the lawe be soe you shall doe the like whether you will or noe’, BL, Stowe MS 362, ff. 13v–14 (Townshend, Journal, pp. 16-17). Pollard and Blatcher suggest this happened on 13 December; given the context of the matters around it, the exchange probably happened on 24 January.
125 D’Ewes, p. 432.
126 BL, Lans. 55, f. 184v. The writ quo titulo was issued on the payment of fines for respite of homage due to the crown by those holding land by knights service in capite.
of the house but eventually Hoby seems to have lost control of the bill since Mildmay reported the committee's work back to the house.\textsuperscript{127}

His involvement suggests that, whatever its origins, the bill was now the product of those officials desiring some moderate reform in the Exchequer. The committee had prepared a \textit{nova} which was then read and debated. Mildmay informed the house that Osborne had convinced the committee that 'he could not erst use any other course of dealing in the said Office than hitherto he hath done, as having no warrant to the contrary'. He also gave his assent to the bill saying he would 'be ready and well pleased to follow the rule of the same when it shall be established for a Law'.\textsuperscript{128}

The new measure, referred to by D'Ewes as 'concerning Process and Pleadings' in the Exchequer, passed the Commons on the following day but ran into trouble almost immediately in the Lords. Along with the surveyors bill of this parliament, the bill for the Exchequer was stopped by the Queen: she was 'both able and willing to see due Reformation, and so would do to publick example of others upon any of the said Officers or Ministers which at any time should be found to offend in any particularity either in her said Household or in her said Court'. Although some action was taken to resurrect the matter, by searching for precedents and the like, the bill's history had ended.\textsuperscript{129} In their audience with the Queen the Commons' delegation were told that in 1568 she had set out new 'Orders and Constitutions' in the Exchequer. The Commons appointed four men, including Hoby, to confer with the Lords over these Orders and there the matter ended.\textsuperscript{130} Osborne seems to have got away without any reforms to his job, as did his son John Osborne in not dissimilar circumstances in 1601.

Two bills in that parliament were concerned with processes in the Exchequer and post-dated significant reforms in 1597 and 1598. One, 'for Reformation of certaine Abuses concerning Process and Pleadings in the Court of Exchequer upon supposals without just grounds in the Office of the Treasurers Remembrancer' was committed for the consideration of all the privy councillors and members of the Queen's learned counsel in the house, and several others none of whom were Exchequer officials; notably absent was John Osborne, whose office it most concerned. However, Osborne did appear before the committee where he 'did so discreetly demean himself and so submissively referr'd the State of this whole Office


\textsuperscript{128} D'Ewes, pp. 437-8.

\textsuperscript{129} \textit{Ibid.}, pp. 440, 441.

\textsuperscript{130} \textit{Ibid.}, pp. 442, 443, 444, 446, 448, 450. The other three were the lawyers Moore, Morice and John Shurley.
to the Committees, and so well answered in his own defence' that they decided not to 'ransack the Heaps or found the bottom of former Offences, but only have taken away something that was superfluous and needless to the Subject'. The second measure, 'for the better observation' of the privy seal order, was noted as having 'sprung out of the old'. Osborne's counsel was heard and the bill was committed to the same sort of committee, although not before an unusual dispute over the time of its meeting with 95 MPs voting in favour of the committee meeting that afternoon and 161 for Monday afternoon.

Both bills were returned to the house; a *nova* in the case of the process and pleadings bill and an amended bill for orders in the Exchequer. The former was engrossed but seems to have had no further proceeding; the latter was recommitted before it was engrossed and passed the Commons. In the Lords a proviso drafted by the judges was added; considered in the Commons by the Solicitor and the lawyer Humphrey Winch, it necessitated a joint conference when the Commons wanted to amend it. The bill was eventually approved, apparently unaltered, but was vetoed.

In the same parliament a bill was introduced which dealt with those of the Queen's auditors who had defrauded the crown by deducting pensions, annuities and other such payments on grants of royal property which in fact bore no such encumbrances. It authorised the Lord Treasurer, Chancellor of the Exchequer, Lord Chief Baron and Barons of the Exchequer to determine such cases if the Attorney General brought in any bill against such auditors and punish offenders by fine or imprisonment. The Lords' committee made the bill prospective as well as retrospective and added a proviso exempting persons purchasing such property *bona fide* before the tenth year of the reign. The bill failed in the Commons, a joint conference failing to resolve 'the errors in the form of digestion of the same'; but time also was short.

It is not clear who was the target of the hopeless bill which had its first reading on the penultimate day of business in 1589. Providing 'against such as steal and imbezle the Goods, Chattels or Treasure of her Majesty being

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131 D'Ewes, pp. 631, 642, 651.
133 D'Ewes, pp. 642, 651; BL, Egerton MS 2222, f. 132; LJ, II, 238.
134 LJ, II, 239, 246, 250, 256; D'Ewes, pp. 684, 685, 686, 687; BL, Stowe MS 362, f. 244.
135 HLRO, MP 1601–6, ff. 96–9v.
136 LJ, II, 254; HLRO, MP 1601–6, ff. 96–9v. The proviso, on f. 100–100v, reveals that originally frauds committed before the twenty-fifth year of the reign were to be exempted; this was altered to the first year and then finally to the tenth. The same sheet notes the amendments to the body of the bill.
137 LJ, II, 256; D'Ewes, pp. 687, 688. The engrossed bill survives in PRO, SP 12/283/28, an unusual place for a parchment bill to have ended up.
put in trust with the same', it was committed and returned on the last day 'as not to be sufficiently considered of for lack of time, the same Bill consisting of many parts'.\textsuperscript{138} It may, or may not, have had anything to do with the failures of attempts to reform purveyors or the officers of the Exchequer which were subjects of legislation in the same session.

Bills concerning the state and crown were not especially numerous in these parliaments, but they did take up a great deal of time. Along with supply, bills for the Queen's safety, punishing Jesuits, recusants and traitors, and those which directly affected the crown's rights of purveyance, wardship and granting letters patent stimulated heated debate. Some were among the most important issues raised in these parliaments, although none dominated a session as did the Council-stimulated quest against the Scottish Queen in 1586–7. The 'great cause' of Mary, Queen of Scots, was vigorously pursued by protestants of all persuasions, but when it came to religious reform, agreement was much more difficult to secure.

\textsuperscript{138} D'Ewes, p. 454.
Religion and the church

THE REFORMATION

It now seems clear that 1571 saw the first open division between the Elizabethan protestants in parliament. William Strickland found himself sequestered for introducing a radical reform bill which men like Knollys thought against all reason and wisdom; it offended the Queen and finished off the reform bills so carefully planned by councillors, bishops and others. From that parliament on MPs were regularly urged to resist initiating matters concerning religion. In 1572, after the failure of the bill to reform the rites and ceremonies of the church, the radicals published the *Admonition* and the *View of Popish Abuses*, attacking the established church and the bishops. The subsequent pamphlet war with Whitgift lasted throughout the 1570s and 1580s. The Admonition controversy ended any possibility of consensus in parliament over ecclesiastical reform.¹

As we have seen in the previous chapter, it was the changing international scene which gave the 1584–5 parliament a sense of national emergency and urgency about its work. For some MPs such developments also served to crystallise the dangers of the slow, 'decaffeinated reformation' preferred by Elizabeth.² She, in turn, by prohibiting the Commons from meddling in matters such as church reform, and promoting Whitgift to Canterbury in 1583, forced the radicals to adopt a more direct and dramatic campaign.

The Privy Council was certainly aware that Whitgift, by forcing ministers to subscribe to his articles, had caused much anger in many counties. Petitions had come into the Council, especially to Burghley and Mildmay, and the forthcoming parliament led to renewed activity. Papers such as the


² This phrase was coined by Christopher Haigh in a paper delivered to the Tudor and Stuart Seminar, Institute of Historical Research.
undated 'Note of general grievances in the Church complained of by divers men and bills put into the parliament but never read' reveal a range of desired reforms from excessive fees in ecclesiastical courts to corruption in granting university places and plans were made to lobby both Convocation and parliament. Thomas Sampson wrote to Burghley thirteen days before parliament opened noting that 'the reporte of a parliament at hand hath revived the memorie' of some petitions for reforming the church which he had sent earlier. Burghley's clerks endorsed the letter 'His drawing his Petitions in behalf of ye Church of England into a method fit to be presented to ye Parliament'.

 Matters were brought to a head by a new MP, Dr Peter Turner, a man with an impeccable radical pedigree (his father was chaplain to Protector Somerset, the family was in exile during Mary's reign and Turner had been active in the vestarian controversy). On 27 November he had been appointed to the committee dealing with a bill for the better observing of the Sabbath and on 14 December he had heard petitions from Sir Thomas Lucy, Sir Edward Dymoke and Geoffrey Gates protesting at Whitgift's campaign against godly preachers and pleading for the provision of a learned ministry.

 It was at this point that Turner rose to his feet and reminded the house that he had offered 'a bill and a book ... digested and framed by certain Godly and Learned Ministers'. His request that it be read was opposed by Knollys and Hatton, the latter noting that the Queen would see that justice was done concerning the 'liberty of the aforesaid Ministers, or supply of able men'. Hatton's motion that the house meet that afternoon to deal with the bill for the Queen's safety succeeded in ending the issue; the Commons turned to a bill against fraudulent conveyances. Turner's bill would have overturned the existing church, replacing the Book of Common Prayer with the Genevan Prayer Book and establishing a presbyterian system of ecclesiastical government, with real power devolved to presbyteries and synods, ministers and elders. Nothing further was heard of it until the next parliament, that of 1586–7.

 On Monday 27 February 1587 began one of the most dramatic episodes of a momentous parliament. After the house had discussed the arrest of an MP and read two bills, Anthony Cope, an Oxfordshire JP and former

4 BL, Lans. MS 42/89, f. 199.
5 D'Ewes, pp. 333, 339; TCD, MS 1045, f. 77 (Cromwell ignores Turner's motion altogether); PRO, SP 12/176/75, 76; HPT, III, 533–4. See also the paper on 'Generall Inconveniences of the booke of common prayer', Peel, Register, I, 256–9.
Law-making and society in late Elizabethan England

A sheriff who was active against recusants and in suppressing morris dancing and Whitsun ales, rose to his feet and spoke on the need to have a learned ministry and of things he thought 'amiss in the Ecclesiastical Estate'. He offered a bill and a book: the bill declared void all laws concerning the ecclesiastical government, replacing the Book of Common Prayer with the Genevan Prayer Book. Speaker Puckering acted quickly, reminding the house of the Queen's prohibition of such matters and urging them not to read the bill.

The house refused. But before the clerk could give the bill a first reading the lawyer James Dalton moved against doing so 'saying that it was not meet to be read' because it appointed a new service, thus discrediting the Book of Common Prayer and 'the whole State'. If they read it they would bring the indignation of the Queen upon their heads. The Suffolk JP Edward Lewknor was of the opposite view, 'shewing the necessity of Preaching and of a learned Ministry' and was supported by Job Throckmorton, Robert Bainbridge and Ralph Hurleston.

In the end time prohibited the reading of the bill and book, or so D'Ewes tells us. The Queen demanded to see them and on the following day Puckering attended the Queen and the house did not sit. On the next day, Wednesday 1 March, Peter Wentworth delivered a series of questions concerning what D'Ewes termed 'the Liberties of the House'. When Puckering suggested they delay reading his questions until the Queen's pleasure concerning Cope's bill and book was known, Wentworth insisted that they be read. Puckering then 'said he would first peruse them, and then do that were fit'. What was fit was of course not to read them: the Speaker 'pocketted up' Wentworth's questions and showed them to Heneage 'who so handled the matter, that Mr Wentworth went to the Tower, and the questions not at all moved. Mr Buckler of Essex herein brake his faith in forsaking the matter etc. and no more was done'. D'Ewes was here drawing on 'a very authentick and true Copy both of the Speech and Articles at large' whose author knew of a plan to get Marden's MP John Butler to support Wentworth.

Wentworth had asked eight questions following a preface which, after praising the liberties of the house, implied that fear of offending the Queen hindered MPs from performing their duty. The first two asked generally whether MPs could freely speak on issues 'touching the service of God, the safety of the Prince and this Noble Realm' and whether free speech allowed greater honour to be done in such service than could be achieved without it. The third asked whether parliament alone could make or alter law. The next four were specifically directed to actions preventing discussion on matters of state: whether it was against the laws of the house to report matters in the house to the Queen or any other without the permission of the house,
and whether the Speaker (or any member) could interrupt an MP in his speech, could rise without the consent of the house, or overrule the house ‘or whether he is to be ruled’. The last was ‘Whether the Prince and State can continue, stand and be maintained without this Council of Parliament, not altering the Government of the State.’

With Wentworth safely in the Tower, Cope, Lewknor, Hurleston and Bainbridge were hauled before the Privy Council and then sent to join him. The Queen commanded MPs to say no more on the matter, Hatton commenting ‘that they did great hurt to the good and orderly proceeding in reformacion to meddle now so busily in it’. Two days later the Suffolk puritan Sir John Higham moved that the house petition the Queen for their release; the Commons, he said, had important matters in hand but could hardly proceed without their MPs ‘committed to the Tower for speaking of their conscience’. He also slipped in a plea for learned ministers: in Suffolk there were 3,000 parishes and few preachers. Hatton replied that they would soon hear from the Queen about the imprisoned MPs and seems, at least to D'Ewes, to have implied that Cope and his friends might have been imprisoned ‘for somewhat that concerned not the business or privilege of the House’.

Hatton also had a good deal to say about Cope’s ‘bill and book’. After ‘honorable consideracion’, the Queen had suppressed them, although she had asked himself, Mildmay and Egerton to consider Cope’s proposals. The diarist’s account of their speeches were paraphrased by Neale and need no retelling here. Hatton’s notes, undoubtedly drafted with the help of his chaplain Richard Bancroft, supply the general points: the Reformation already provided a lawful government, true doctrine and a godly book. Cope’s bill hurt the laity by taking away patronage, impropriations and abbey lands. It hurt the clergy by destroying their estate and their livings. It hurt the Queen by challenging her supremacy and her prerogative, her revenue and her laws, and it threatened her very safety. Cope, he thought, ‘hath ben slyly ledd into this action’ and he ended by noting the many similarities between the ‘sectaries’ and the Pope. Mildmay focused on the religious aspects and Egerton provided further details; all concluded that the bill and book would destroy church and state.

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6 D'Ewes, pp. 410, 410–11; BL, Harl. MS 7188, ff. 92v, 93v. Cope’s bill was printed by Peel, Register, II, 212–15; see also that on pp. 215–18. For a detailed analysis of Wentworth’s speech, disassociating it from Cope’s proposals, see T.E. Hartley, Elizabeth’s Parliaments. Queen, Lords and Commons 1559–1601 (Manchester, 1992), pp. 134–43.  
7 D'Ewes, pp. 411, 412; BL, Harl. MS 7188, ff. 94v, 95v–6.  
Bancroft, later Bishop of London, offered another critique. He began by asserting that only learned divines should dispute and determine such matters. Defending the authority of the Reformation, Bancroft argued that to reject the Book of Common Prayer would drive thousands towards atheism and popery, overthrow the government and destroy inheritances. Cope intended each parish to have one pastor, a doctor and two deacons. ‘Where shall we find all these?’, Bancroft asked. Undoubtedly the church was to be despoiled, as a book entitled A Complaint of the Commonalty had asserted during the last parliament. The bishops would go, and with them ecclesiastical government. The Queen’s royal supremacy would also go. Replacing them would be government by pastors, by presbyteries and synods, law passed ‘by common consent’. In all this the radicals hardly differed from the papists: both denied the royal supremacy and desired the destruction of existing laws.9

All in all, the Commons were, as Neale remarked, subjected to an ‘impressive, triple exposure’. But some were not convinced. Some wit seems to have moved ‘that the Papistes may have an interim to stay till her Majesty’s pleasure be knon’. On the next day of business Turner repeated Higham’s plea concerning the imprisoned members. Knyvet contributed what comes down to us as an ambiguous speech: ‘thinking our knightes weare sent for, for that Purpose to stay till they returned’. A week later Cromwell moved for a meeting with the Privy Council concerning the men in the Tower. A committee was appointed, including Cromwell, Higham, the good protestants Beale and Jermyn, Fleetwood and others. The committee gathered precedents to show that the MPs were wrongfully detained, but they do not seem to have been released before the parliament ended. In the meantime, the Commons turned to other business.10

This event can be located in the growing controversy between radical puritans and the conservative reformers, some of whom would later become anti-Calvinists. In these early days it was the moderate puritan position, as held by men like Higham and Jermyn, Knollys and Mildmay, that seemed caught between the two positions set out by Cope and Bancroft. The latter’s remark that he had been handed a radical tract during the 1584–5 parliament, and Hatton’s supplying several titles of puritan tracts for further reading, suggests that the two sides were not only becoming clearly defined, but that participants were ready to identify and attack what was perceived as an opposition. The speeches by Hatton, Mildmay and Egerton mark a significant stage in the development of that debate in parliament.

9 PRO, SP 12/199/1.
Indeed, Bancroft made the distinctions absolutely clear in the famous sermon he delivered on the first Sunday of the next parliament, in February 1589. Taking his theme from 1 John 4:1, he warned his listeners of the large numbers of ‘false prophets’ in the land, bent on destroying the ecclesiastical and secular authority. His claim that episcopal authority was ordained by God worried Knollys.11

Nevertheless, on 25 February, Humphrey Davenport spoke for ‘a due Course of proceeding in Laws already established’. These had been enforced ‘contrary both to the purport of the same Laws and also to the minds and meanings of the Law-Makers’ by ‘some Ecclesiastical Governor’. Davenport’s motion was squashed by Wolley and the document he offered was eventually returned to him by the Speaker. It was a wide-ranging, but not altogether immoderate, critique of Whitgift’s policy and was carefully commented on by the Archbishop. To the question whether further reformation ‘in dutifull manner be not warranted by the word of God and the lawe of England’, Whitgift replied ‘it cannot be in dutifull manner which is contrary to an expresse commandement; neither is every thinge worthy reformation that a few doe fansy’. Although recognising that their proposed ‘Meanes of Unity’ was an attempt at compromise, he noted

Yf a man shulde aske the question of these pensers and preferrers, whether yf all these theire meanes of unity were graunted, will they reste for ever here? And yf they will, shall others doe the like? Can they live withoute their eldershipps? Can any churche be withoute them? Doe they not remember what theire complices saye of this present government and what resolute poine they are at that they must and will have ther presbyteries (I thinke) thoughghe God and man shulde say naye? It seemeth therefore, this is but a colourable dissembled kinde of dealinge, to shake firste one or two stones in the buildinge, that the rest may folio we.

By the 1590s the split between mainstream ‘credal’ Calvinists like Whitgift and the ‘experimental’ predestinarians was thus well established.12

THE MINISTRY

The bill and book episodes of 1584–5 and 1586–7 had both been associated with attempts to secure a learned ministry. The desire to achieve this was shared by protestants of all persuasions but many felt that Archbishop Whitgift’s ousting of non-conforming ministers was decidedly counter-productive. Those refusing to accept all parts of the Book of Common

Prayer lost their livings and it was the loss of ministers in Warwickshire, Lincolnshire and Essex which had led to the petitions presented on 14 December 1584 by Lucy, Dymoke and Gates. Indeed, the Commons heard complaints from ‘diverse’ counties concerning the unlearnedness of ministers, the suspension of preachers ‘refusing to make subscriptions and to answer to othe for small cawses’ and abuses in the use of excommunication. Some MPs had, of course, seen for themselves the effects of Whitgift’s actions.

On Mildmay’s motion a committee was appointed to gather the cases together and deliver them as a petition to the Lords with a request for a conference shortly before the Christmas recess. On receiving these, the Lords responded that they had instructed the members of the Privy Council sitting in the upper house to acquaint the Queen of the Commons’ proposal.

After the recess, on 15 February, more petitions were heard in the Commons from Folkstone, Kent, Leicestershire and east Sussex. Eventually, on 22 February, the house received the Queen’s discouraging response: after conferring with the archbishops and bishops, she noted that some reforms were already in hand, others matters would be reformed, while others were ‘not fit to be reformed as requwyring innovation and imugning the book of common prayer’. Complaints should be made to the bishops; if they were at fault then they would first be privately admonished and, if that did not succeed, then further complaint should be made and redress ‘sholde be had’.

In reporting this to the house, Mildmay also noted that Whitgift in particular had given detailed answers to the Commons’ petition and suggested the committee meet to gather these together in a form appropriate for delivery to the house. Knollys revealed the full details on 25 February. Together with the various copies that have survived, and notes of Whitgift’s answers, a reasonably full picture of the episode can be reconstructed.

13 For example, three London MPs, Fish (1584–5), Aldersey (1584–5, 1586–7, 1589) and Palmer (1589, 1593) had all opposed Whitgift’s suspension of the puritan lecturer at St Mary Bow, Ian Archer, The Pursuit of Stability. Social Relations in Elizabethan London (Cambridge, 1991), p. 46.

14 TCD, MS 1045, f. 79v; D’Ewes, p. 340; BL, Harl. MS 74, f. 193v (motion for conference on 19 December not noted in D’Ewes’ printed edition.

15 D’Ewes, pp. 349, 354; TCD, MS 1045, f. 82v.

16 D’Ewes, pp. 357–60. Copies of the articles survive in BL, Lans. MS 42/92, ff. 207–9, and 115/16, ff. 27–9; Bodleian Library, Oxford, Tanner MS 78/41, ff. 84–92v (with Whitgift’s answers). Whitgift’s answers are also noted in BL, Lans. MS 43/45, ff. 112–15; LPL, Fairhurst MS 2002, ff. 53–7, 72–8v; and PRO, SP 12/177/36 (written in the first person). PRO, SP 12/176/72 is a summary paper. The best overall account is in Northampton RO, Fitzwilliam of Milton MSS, Political Papers 2, ff. 19v–25v which adds to the petition and Whitgift’s answers, Mildmay’s speech presenting the same to the Lords, referring to reform
The petition had sixteen articles. The first demanded that ministers appointed contrary to an act of 1571 (which provided that such men had to give an account of the faith in Latin according to the articles of 1562, or display qualities as a preacher) should be suspended. The second article asked for the enforcement of the 1575 synod order that no unlearned minister who had been ordained should be given a cure.

To these first two articles Whitgift (D'Ewes errs in saying it was the Archbishop of York, then Edwin Sandys) said that they were not to be allowed because 'divers qualified persons were dispensed withal by Law', some non-resident clergy had lawful vocations and that in parishes where there were no clergy, divine service and the homilies were 'for the most part' read. He promised, however, that the problem of non-residency would be redressed 'as soon as might be', requesting that he receive a list of the unlearned ministers appointed and the bishops who ordained them. To unseat such men, Whitgift argued, would bring sacraments and marriages into question, deny some parishes the ministry (it was better to have someone there to read the service without a sermon than to have no one there at all) and seemed to lack charity, denying unlearned clergy the chance to improve themselves through better instruction, preferring to set them, and their families, a-begging.

Reciting exhortions to the clergy to 'bee the Messengers, the watchmen, the Pastors and Stewardes of the Lord, to teach, to premonish, to Feede and provide for the Lordes Family', the third article demanded that only those who could perform such a vital role be ordained through 'deliberate examination of their knowledge and excercise in the holy Scriptures'. Whitgift thought this 'to be very necessary', pointing out that he had personally taken such action. He hoped that soon complaints would relate only to the lack of ministers and not to their unlearnedness.

The fourth article, however, he 'utterly disallowed' according to D'Ewes' report; another states that the 'causes why not fitle to be revealed'. Whitgift's own notes from his answers are more conciliatory: his reasons were so well known that they need not be repeated. Citing an act of 21 Henry VIII which instructed the bishop to have six chaplains when ordaining new priests, the article asked for its revival, the bishop to be assisted by six ministers 'of good report for their Life, learned, continually resiant upon their Benefices', diligent in teaching and preaching. Moreover, such ordinations should be done publicly 'and not in any private House or Chappel'. Whitgift hoped that adherence to the existing law would be enough.

He accepted the fifth article, which suggested that ministers be ordained efforts in 1581, the names of peers and MPs conferring, and the Commons' responses to Whitgift.
by the relevant bishop when there was a definite vacancy in the diocese or at least appointed to 'some certain place' where they could serve as a preacher. However, Whitgift felt that the problem of 'Ministerium vagum' was already provided for and it would be wrong to extend it to deans, archdeacons, prebends and masters of colleges. One suspects Whitgift would have agreed with one critic, who suggested that 'the Penner of this petition had in his intention the subversion of all suche Churches and places, and the overthrowe of the best state of the Clergie'.

Article six provided that the parish be given notice of the appointment and a certain time allowed in which they could object if they found some 'defect' in the person nominated. This, Whitgift 'utterly misliked', claiming it 'savoured of popularity and might raise Controversies and Dissensions', as well as being unworkable because the minister would be unknown to the parish.

In his own notes of his answers, Whitgift lumped together articles seven through eleven as liberating ministers from all kinds of subjection 'as no subject did enjoy' freedoms which were intolerable in a 'settled church'. 'Theis holy ones disdayne to bee under any governement either Civil or Ecclesiasticall, but to doo even what them lyst without controllement.' They would increase contentions and would frustrate the act of uniformity.

Article Seven attacked Whitgift's subscriptions: no oath should be required unless expressly demanded by statute but ordinaries could try ministers by oath 'whether he is to enter corruptly or incorruptly into the same'. Even the bishops, Whitgift responded, were not exempt from the oath and his subscriptions were lawful and would prove 'the Cause of much order and quietness in the Church'.

The eighth article pushed these criticisms of Whitgift's policy further: none should be dismissed for omitting parts of the Book of Common Prayer or changing parts of it, as long as their action was 'voide of Contempte'. In cases where such ministers had to be examined, the ninth article suggested that they not be criticised publicly but the examination proceed with discretion, and be carried out by the archbishop or bishop rather than in the commissary courts. These, Whitgift said, would free them from all temporal jurisdiction. Article ten called for the reinstitution of the deprived ministers or, at least, that they be allowed to preach. If they submitted, Whitgift said, they would be allowed back.

The eleventh asked that the examinations under the ex officio oath, and the suspensions which followed, be brought to a halt. Ministers should only be tried for 'open Offence of life or for publick maintaining of apparent error in Doctrin'. The oath ex officio, which effectively forced the minis-

17 BL, Lans. MS 43/45, f. 113.
ter to incriminate himself, was used by High Commission in its interrogation of ministers over Whitgift's articles. In a series of notes to the petition the objections to the procedure were that while refusal to take the oath meant imprisonment, to take it was to accuse oneself without charges being laid. The accused was not given a copy of the questions which would facilitate counsel and had to answer quickly questions which related to things done or spoken perhaps years before. Leading questions were asked as to whether the accused liked a particular ceremony and those suspended were denied an account of why they had been so treated. Such proceedings, Whitgift replied, were used in many courts of the realm as well as the ecclesiastical courts and High Commission. Such objections had been recently raised by the Jesuits and seminary priests; 'of whom I thought that our men also had borrowed their exceptions against that Maner of proceeding'.

The twelfth article suggested that exercises be set up in each diocese. Noting that the Queen, 'upon good considerations (as being the occasions of Sectes and divisions in the Churche)', had prohibited them, Whitgift expressed concern that they would breed controversy, especially if they were public. Nevertheless, he conceded that 'some kynde of excercise for the unlearned ministres' would be useful, 'but not in that forme'.

The thirteenth and fourteenth articles called for a statute to lay down the usage of excommunication. On the surface, Whitgift said, this seemed reasonable, but when the details proposed were examined, they would cause many problems. If excommunication was not to be permitted in cases of contumacy and other 'Delinquencies', a new censure would be needed, an occasion of great innovation. The penalty was no harsher than those of the common law (outlawry) for equivalent crimes. Nor was it true, as had been claimed, that laymen excommunicated: officials such as chancellors merely pronounced it. Whitgift did, however, say that he and the bishops would only excommunicate for adultery and other weighty causes, or for 'such Contumacies as could not otherwise be possibly remedied'. They would also add 'some preacher' in the commission to serve alongside the other officers.

The final articles suggested an end to licences of non-residence and that, in cases where a licence had been granted, the beneficiary pay for a preacher to serve the parish in which he was not resident. These Whitgift said 'stand with good reason'. He claimed that he had never granted a licence in perpetuity, except to a man aged eighty years, and would not do so again. But they were not always bad; he himself had enjoyed one and sometimes

18 There is a good exposition on the procedure, and on the novelty of Whitgift's articles, in Collinson, *Puritan Movement*, pp. 266-7.
they were necessary for learned ministers. He did, however, agree that when temporary licences were granted ‘provision should be made of very able, godly and sufficient Curates’ and that the two benefices should not be more than one day’s journey apart.

Whitgift ended his answers with a general comment. Because he feared that some MPs were all too willing to ‘think and speak hardly of that Ancient and Godly Order of Bishops’, he hoped they would think well of him and his brethren ‘if not in respect of their places, yet for Charity sake, and for that some of them were Preachers when many of the House of Commons had been in their Cradles’.19

It was a harsh ending to what had been, in some respects, an immoderate response. Yet he had accepted a few of the points made in the petition and it is worth pausing to consider the articles he presented to the Queen from himself and the bishops in December 1584 concerning ‘reformation of divers Disorders in the Church’.20 As well as reforms concerning penance and marriages without banns, three of Whitgift’s articles pertained directly to problems raised in the Commons’ petition: the ordination of ministers, abuses in the use of excommunication and pluralities of benefices.

Regarding the first, ministers were to be appointed by the bishop in the diocese where a vacancy existed and were to be tested in accordance with the 1571 act. A testimony of the candidates’ ‘honest life and conversation’ was required from his university college or from some JPs ‘with other honest men of that parish’ where he had lived for the past three years. Any bishop ordaining unqualified men was to be suspended from the power of ordaining ministers for two years. Concerning excommunication, Whitgift ordered that in cases of serious crimes such as heresy, usury, incest or adultery only ecclesiastical officials (from archbishops to prebendaries) should pronounce sentence. In cases of contumacy chancellors or commissary officials could pronounce but must do so with ‘some lerned Minister’ so authorised by the bishop or archdeacon. Licences for pluralities should only be granted to the most learned of ministers (‘at leaiste a Maister of Arte and a common known Preacher of good abilitie’). He was required to be resident in each benefice for some ‘reasonable tyme of the yeare’ and the benefices should only be thirty miles away from each other ‘unlesse they be within the same Shyre’.

Whitgift’s reforms, compiled or at least presented while the Commons

19 PRO, SP 12/177/36 omits this general comment. The report in Bodleian Library, Oxford, Tanner MS 78/41, f. 92v, is slightly different: ‘He desyred all men to thinke well of them yt not in respecte of the places whiche they were in, yet to yelde them charitable judgement as to Bretherne and preachers. That some of them had bene preachers before some of us were borne, at the beste when they were in there cradles and swadlinge clothes.’

20 BL, Lans. MS 42/91, ff. 203–5v, dated 15 December 1584.
was drafting its petition, anticipated some of their complaints. His answers to it provoked 'divers Motions and sundry long Speeches' according to D'Ewes; Cromwell notes the house 'were no thinge satisfied'. The Commons appointed the committee to meet again, to consult with those members who were learned in divinity, the canon law and the common law. According to Cromwell, who was a member of the committee, their task was more aggressive: they were to 'set down the insufficiencies' of the response and they did so. Each of his answers were criticised in turn and the tone was confident: more consideration 'ought to be had of the sowles of Godes people' than shown to unlearned ministers, and the deprivation of learned ministers had not been 'just', nor lawful under the common law and statute law. They ended by noting that their worth should be judged not as 'particular persons agaynst whom they may except for yeares . . . but from all the Comons of the realme in generall'.

It is Cromwell and the anonymous diarist who tell us the end of the story. On 2 March Speaker Puckering reported that he had been called to attend the Queen the day before. With their petition, and with bills concerning swearing and bishop's visitations, the Queen felt that they had 'shewed a diffidence in her reformation which she meant to see reformed bye her supreme power'. She disliked their 'publique treatye' of such matters; they should rather proceed by complaint to the bishops, the Privy Council or, indeed, herself. She thought that the continuation of Wednesday as a fish day 'was verye necessary and commended yt' to them. The Queen also complained that some MPs had shown negligence in their attendance 'and she hard how parlyment matters was the common table talk at ordinaryes, which was a thing against the dignitie of the howse'.

At the heart of the Commons' petition was a desire to secure a learned ministry and to remove abuses such as pluralism and non-residence. Realising that it stood no chance of success, someone initiated a bill on 18 March which tried to disguise itself by claiming simply to revise the statute of 1571 which had provided that ministers should subscribe to the Thirty-Nine Articles, be of at least twenty-two years of age and be able to 'render an account of his belief in Latin or has the gift of preaching'. The new bill, which sought to punish those 'as desire to be admitted to anye benefice' not being so qualified, was committed on its second reading to Egerton, Knollys and others who drafted a nova which eventually died in the Lords after only one reading. The most significant change made by the committee was the raising of the age of ministers to twenty-four. Those who

22 D'Ewes, pp. 360, 361; TCD, MS 1045, ff. 86, 87; BL, Lans. MS 43, f. 170v.
presented themselves unqualified were to suffer a £20 fine, imprisonment and be disabled forever.

In a lively debate before the committal, Fleetwood entertained the house by describing his days on the 1559 commission investigating the clergy, who ranged from the devout and learned to the wholly ignorant, fools, idiots, criminals, drunkards and whoremongers. Alford, a man who admitted to preferring a good homily to a 'verball sermon', opposed the bill: the sheep should not seek to teach the shepherd. Dalton, declaring himself to be 'not of that faction', complained that the bill sought 'indirectly to thrust out 2,000 mynesters'. Mildmay, however, thought 'he is worthy to be disabled for ever that will presume to entend him self unto so highe a calling being unfitt', to which Dalton asked how they would find enough men to fill the places? When Strickland answered that many could be found in the Inns of Court, Alford replied that 2,000 of the parishes were worth but £8 per annum; 'how can yow place a learned man ther?' he asked. Mildmay answered him: 'ther is none of £8 in the Queenes bookes but is woorth 20li... besides, who will not contribute to a learned mynester?'. However, he wanted the bill not to 'be suffred to look back, and putt out suche as were in'.24 Alford may well have been one of 'the venerable fathers' who moved during the reading of the nova that patrons presenting improper ministers should also be punished. The diarist notes 'he did it not apon no other entent but to overthrow the bill'. In this Alford was again tangling with Mildmay.25

Not surprisingly, Whitgift 'greatlye inveaied against' the bill when it arrived in the Lords. Leicester replied that Whitgift's speech 'rather tended to move hir Majestie to offence towadres the Commons, than yealde a good reason whie the same should not proceed'. He defended the bill on the grounds that it had always been considered 'a thinge most necessarie' that if any ambiguity or failing in a statute was discovered it should be 'explained or strengthened by another statute'. Otherwise the doubts would grow or lack of power would 'rather breede offence to the Common wealthe than good, contrarie to the mynde and intent of them that first invented the lawe'. This measure, he asserted, did no more: 'that this bill

24 As Neale remarked, this 'cut and thrust' of debate is a rare survival of the period and I find it more likely that it took place not on the third reading, as he thought, but in the committee appointed on the second reading. Whatever Puckering's failings as Speaker, it would be a major infringement of the orders to allow Alford, Mildmay and Dalton to engage in this way on the floor of the House, cf. Neale, Parliaments, pp. 79–81. The debate is in BL, Lans. MS 43, f. 164–164v.

25 BL, Lans. MS 43, ff. 166, 171. However, the phrase 'the venerable fathers moved' remains ambiguous. It might even refer to the bishops, so described by Robert Berry later in the session, ibid., f. 168.
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Another bill of this parliament was clearly a direct attack on Whitgift. Providing 'that preachers readinge th'articles' appointed by the 1571 statute 'shall not be expulsed thowghe theye red them not befor', it stood no chance of success and had only the one reading very late in the session. It is instructive that a measure of 1597–8 was in the same vein: it presented 'some greifs of Ministers in some Cases' arising from the act of uniformity and the 1571 act, 'wishing an Explanation in the one and a mitigation in the other'. The bill was offered by Henry Finch who had referred to his knowledge of episcopal misdemeanors in 1593; it got no further than that. 27

Another 1584–5 bill sought to add a proviso to the pluralities act of 21 Henry VIII ‘requyring that such as be put from the spirituall promotions, and such others as be admitted unto the ministry and have no spirituale promotions, maie (during such tyme only as thie shall not have any spirituall promocion) take lease and buy and sell, as other men doe'. It died in committee. 28 The clergy were opposed to such bills and Convocation petitioned the Queen against the pluralities bill in 1584–5. 29

In the next parliament a debate over the lack of good ministers focused on pagan or superstitious survivals. Carmarthen's Edward Donne Lee spoke of dangerous activities in Wales where men 'abuse other mens wives', said services neither in Welsh nor English and cast spring water over their heads and shoulders. The infamous Catholic persecutor, Richard Topcliffe, warned of christenings in Buxton water, requesting that all MPs supply notes 'of all the disorders in his contry'. Hastings spoke against the idle ministers and non-residence and, predictably, Alford suggested, as undoubtedly his Queen would have done, that they should complain to the bishops about unlearned ministers, for 'ther was reomedy by course of law'. 30 However, nothing seems to have come of a committee which was eventually appointed on the Higham's motion to consider the problem. 31

Of course, non-residence was coupled in the minds of the godly with ignorance, popery and 'evil living'. The parliament of 1586–7 not only was

26 Northamptonshire RO, Fitzwilliam of Milton MSS, Political Papers 2, f. 35. Papers were also apparently gathered to prove that the scriptures allowed non-residence and pluralism, LPL, Fairhurst Papers MS 2004, ff. 14–15v, 2002, f. 65 (undated).
27 TCD, MS 1045, f. 92v; D'Ewes, p. 567; LPL, Fairhurst Papers, MS 2019, f. 5v. See also the bill printed in Peel, Register, I, 304–11.
28 TCD, MS 1045, f. 81v; D'Ewes, p. 349.
30 BL, Harl. MS 7188, ff. 93v–4.
31 D'Ewes, p. 413. However, see the bill for reformation of ministers printed by Peel, Registers, II, 196–8, and that against subscription, p. 198. He also prints a number of related papers, pp. 198ff. As with much of his material, these are undated.
intended to receive a 'generall Supplication' but a large number of specific cases were prepared for submission. These called for the dismissal of ungodly ministers and the appointment of good preaching ministers, and the reinstatement of those who had been suspended. The petition from Maldon and neighbouring parishes told MPs that 'it is not the want of bread and scarcitie of Corne that hath lifted up our voice to crie in yor eares for help, but it is the wronge that is done to our soules ... in the want of our spirituall food'. Their own vicar, Gifford, had been suspended for non-subscription and the vicar of a neighbouring parish was 'no preacher', had bribed men to keep quiet about his 'whoredom at Islington', promising never to preach against adultery, and had conveyed the lease of his benefice to his son. It is typical of the many petitions and surveys of the ministry gathered together in the late 1580s. They suggested that of 2,537 parishes covered some 1,773 ministers were 'no preachers', at least 467 were double-beneficed and 353 were non-resident.32

In 1589 another attempt to deal with pluralism and non-residence was made on the initiative of the young lawyer Henry Apsley. After 'sundry Arguments, many with the Bill and some against', it was committed to Knollys, Morice, Beale, Jermyn and Hastings; redrafted, it eventually failed in the Lords after one reading. Whatever the strength of Apsley's protestantism, the *nova* was brought in by Knollys who may have exercised a more moderate influence.33

In the Lords, Burghley spoke against it, arguing that the Henrician act was sufficient protection in a learned and detailed oration, but one lightened by 'a merie tale of Dr Chambers a physitin and Dr Buttes'. The Queen, he told the peers, 'was acquaynted with the matter', and 'was verie forwarde to redresse the faultes'. He had no objections to 'a learned man' holding two benefices as long as they were 'bothe in one parish, that is to say, in one diocese'. However, Lord Grey of Wilton remained dissatisfied. Whitgift seems to have suggested that the bishops would deal with the matter; Grey objected, wondering that the Queen should 'conferre with those who were all enemies to reformation' and he wished the bishops to be 'all thrust out of the dores' as they had been when charged with praemu-

33 D'Ewes, pp. 440, 441, 442, 444; *LJ*, II, 159. Apsley was involved in the 1603 Sussex gentry's petition complaining about an unlearned ministry and the church courts, but his protestantism was such that he was able to resist attacking the noted recusant Lady Montague of Battle Abbey. In the next parliament he would be one of those attending Peter Wentworth's pre-parliamentary meeting to discuss the succession, Roger B. Manning, *Religion and Society in Elizabethan Sussex* (Leicester, 1969), pp. 163, 209n, cf. *HPT*, I, 347–8 which asserts his was a 'puritan sponsored bill'.
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nire under Henry VIII. Burghley thought ‘yf they were wise’, the bishops ‘would themselves bee humble suitors to her Majesty to have some of the temporall lorde join'd with them’. Hunsdon opposed Grey’s motion: it was up to the Queen to confer with whomsoever she liked. Turning to the bill, he put forward similar arguments to those in a number of papers written against it.

Most of these defended the existing law (21 Henry VIII, c. 13) whereby no one could hold two benefices over £8 per annum value unless they were ‘of special note and degree’ such as royal chaplains, bishops, doctors of divinity and noblemen, and where non-residence was only allowed ‘for special reason’ such as royal service, public office or public lectures. Pluralism was defended on the grounds that many benefices were too poor to maintain a learned minister; ‘inequality of gifts’ deserved ‘inequality of reward’; hospitality would decline; education would suffer since scholars would be unable to sustain themselves; gentlemen would not send their sons to be ministers; there would be fewer chaplains both for the Queen and the nobility; bishops would lose their learned officials; and the crown would suffer a loss in revenue, taxation, military support and in the number of diplomats. The bill was criticised because it limited the prerogative by removing the Queen’s dispensary powers, it would bring the ministry into contempt and did not tackle the problem of laymen holding several impropriations.

It was far better, one paper purporting to come from the clergy claimed, to have one sufficient minister in charge of two benefices than two insufficient men in charge of one. By forcing ministers unable to preach out of office, the bill’s authors would deprive 6,000 parishes of preaching, prayer, administration of sacraments. Another concluded it would discourage ‘the beste sorte’ of clergy and encourage the worst, those that ‘are factious and contentious’. Of course the bill had its defenders.

34 Praemunire was the offence (and technically, the writ) used to appeal to the papal court in Rome, but was used in Elizabethan England to punish those denying the royal supremacy, refusing to take the oath of supremacy, confirming the authority of the Pope, maintaining that the Queen was a heretic or even for discussing the succession. Cowell notes that contemporaries commonly used it to mean that a person would suffer the same punishment as imposed by the act of praemunire (16 Richard II, c. 5), i.e. banishment and loss of lands and goods, see John Cowell, The Interpreter, 1607 (Menston, Yorks., 1972).

35 LPL, Fairhurst Papers, MS 2007, ff. 119–20v. See also Inner Temple, Petyt MS 538/52, ff. 32v–6 which eventually focuses on the Court of Faculties.

36 PRO, SP 12/223/14, 15 (copies are in Queen’s College, Oxford MS CLV 2 (12), pp. 14–24; LPL, Fairhurst Papers, MS 2004, ff. 22–3; MS 2007, ff. 121–2); BL, Lans. MS 42/93, f. 211 (copy in LPL, Fairhurst Papers, MS 2007, ff. 115, 116). As many of these papers are undated, it is difficult to assign them to 1589 or 1601 with complete confidence. Indeed, their arguments seem to have been recycled as required.

37 BL, Lans. MS 68/40, f. 92.
The bishops did issue orders to confirm the need for clergy to be resident and to supply preachers in their place if they were necessarily absent. Steps were taken to ensure qualified ministers were ordained. Nevertheless, in the last parliament of the reign a bill 'for redressing certain inconveniences' in the act of 1530 was apparently drafted by Robert Eyre of Lincoln's Inn. Committed to a very large number of MPs, it was replaced by a nova which had only one reading before disappearing from the record. Those opposing the bill included several ecclesiastical lawyers and officers. Daniel Dunne, dean of the arches and vicar-general to Whitgift, argued that 'it was no reason that men of unequal desert should be equally Beneficed or equalized with the best'. The conservative ecclesiastical lawyer Thomas Crompton, a future vicar-general of Bancroft, agreed as did Bancroft’s chancellor, Dr Francis James. Crompton wished that pluralities of offices held by the laity be taken away before pluralities of benefices; appropriations meant that ministers could not maintain hospitality or their families. James added that impoverishment bred corruption; the best scholars would not enter the ministry and only 600 of 8,000 parishes could support a minister. Several MPs objected to his arguments, one offering that 'if they begin first, we shall follow in avoiding Pluralities'.

George More told the house that 'such is the iniquity of this Age, that for want of a good Law of this nature, many Souls do not only languish but perish everlastingly for want of Spiritual Food'. Martin thought 'learning should have her Reward, but I say more, that our Souls should have their Spiritual Food'. On the whole, the house seems to have agreed. Few, if any, supported Sergeant Harris who reminded MPs of the Queen’s prohibition on such bills and when ‘an old Doctor of the Civil Law’ spoke for ‘too long and spake too low, the House hawk’d and spat and kept a great coil to make him make an end’. Indeed, the committee seems to have included only those speaking in its favour; Dunne, Crompton and James were not named.

Although the lawyer Roger Owen claimed that ‘this Act will make no Innovation, because it repeals only the Proviso and not the Body’, the nova certainly did much more than repeal the Henrician proviso. Lacking any preamble, it prohibited those holding a parsonage worth £20 per annum or a vicarage worth forty marks from taking another benefice, on pain of losing the first. Those holding parsonages valued at £10 or more (or vicarages of £15) could not hold a second, wealthier benefice. In order to promote preaching, those possessing more than one benefice, of which one

38 Wilkins, Concilia, p. 338.
39 BL, Stowe MS 462, ff. 98v–9; D’Ewes, pp. 639–41, 650; BL, Egerton MS ff. 48v–9, 97v; BL, Harl. MS 75, ff. 220v–2v. Eyre’s father was Salisbury’s MP in 1597–8, HPT, II, 97–8.
was worth at least £10, had to find £20 to supply a preacher in the benefice in which they were not resident. Chaplains to bishops or noblemen had to register with the office which granted them dispensation under the Henrician act, specifying 'whose Chaplein he is, whether he be his Lord or ladies first, second, thirde, fourth, fisete, sixth, seaventh or eight Chaplein'. A proviso ensured that those disabled by the bill would have six months' notice.40

Whitgift’s supporters had spoken up against the bill in the Commons and the Archbishop himself inveighed against it to Cecil in a letter dated 13 November 1601, the day after it had been initiated.41 Six days later Whitgift wrote to the Queen reminding her of the recent steps taken in Convocation against any abuses, warning her that the bill would curb her prerogative powers and had 'wounded the hartes of the better sort of the Clergie'. He enclosed 'some fewe notes of absurdities of the bill' and a large number of papers were gathered criticising the measure. The most aggressive concluded that it was 'an absurd, unreasonable and irreligious byll...[which] will overthrowe lawe, learning, pietie and Religion, and in lieue thereof bring in either Poperye or Atheisme and barbarisme. Suche is the bill and suche is the Author of it.' Another showed that dispensations in the Court of Faculties earned the crown over £933 between 1597 and 1601.42 The bill’s failure was a matter of congratulations.43

Although no Elizabethan parliament legislated on the subject of pluralities, a statute did pass which attempted to do something about corruption in the appointing of fellows, scholars and officers in colleges, collegiate and cathedral churches, schools and hospitals, and also in the nomination of ministers in benefices. All elections and presentations involving bribery were declared void; penalties were imposed on anyone resigning an office or benefice for money; and in the case of simonical presentations to benefices the parties were to forfeit double its yearly value and the presentation would devolve to the crown. This Lords’ bill was amended by the Commons who also added a proviso which imposed a £40 fine on those corruptly ordaining ministers or procuring licences to preach; the beneficiary was fined £10 and barred from holding any benefice for seven years. It is

40 PRO, SP 12/282/59, SP 12/282/60. Another paper survives which has a long preamble and a number of articles (and comments) intended for the ‘provision of ye learned and removing of ye unlearned Ministers’, PRO, SP 12/282/71. See also BL, Lans. MS 68/41; LPL, Fairhurst Papers, MS 2004, ff. 35–6. The relevant part of the Henrician statute is in SR, III, 293–6.
41 Salis. MSS, XI, 494; Hatfield MS 89/107.
43 Salis. MSS, XII, 7.
undoubtedly significant that this rare success, a later Elizabethan statute concerning religion, began in the Lords. There it had been redrafted to include simonical presentations.\textsuperscript{44}

However, in 1584–5 a Commons’ bill concerning impropriations failed to reach the statute book only because it was vetoed by the Queen. It would have given owners of parsonages greater freedom in the disposing of that income, such as to schools or hospitals, allowing their income to go towards supporting a preacher. Indeed, a proviso was attached to the \textit{nova} providing that ‘none be presented to suche churche but preachers’ and punished those taking a second benefice or being non-resident by loss of office. Approved, after ‘a certain’ amendment by the Lords, its veto may simply have been the Queen’s way of teaching MPs a lesson for pursuing bills on pluralities.\textsuperscript{45} The desire for a preaching ministry explains an abortive 1597–8 bill legislating for one to be installed in the Tower of London; the committee decided it was ‘not fit to have an Course or passing in this House’.\textsuperscript{46}

\section*{THE ECCLESIASTICAL COURTS}

Whitgift’s harsh treatment of the godly gave greater meaning to long-standing lay complaints about the ecclesiastical courts. In 1584–5 two attempts were made to reform them. A bill ‘touching Appeals out of the Ecclesiastical Court’ provided ‘that the delegates myght be persons certeyn, theye to have a fee and not to be advocates in other ecclesiasticall cowrtes, the regester there not to deale else where’. It died in a committee whose membership suggests the possibility that the bill was killed off by the ecclesiastical lawyers such as Edward Barker, Richard Cosin and John Hammond. Wolley, later a member of the High Commission, was also a member, but then so too were Knollys and Beale.\textsuperscript{47}

Towards the end of the parliament a bill ‘ageynst takinge excessive fees in ecclesiasticall cowrtes’ set out a table of fees and provided also ‘that the byshop make no visitations but in person, and that not but uppon iust cawses complexned of’. It was committed to Beale, Strickland, Laurence Tomson, Sir William Herbert, James Morice and others, many of whom were undoubtedly godly protestants. However, their work came to nought;

\begin{itemize}
  \item \textsuperscript{44} HLRO, 31 Eliz. OA 6; SR, IV, 802-4; HLRO, MP, Suppl. 1575–93, ff. 107–13, 114v–18v; LJ, II, 150, 151, 156, 160, 161, 164; D’Ewes, pp. 449–50, 450, 451.
  \item \textsuperscript{45} D’Ewes, pp. 334, 340, 345, 346, 354, 369; TCD, MS 1045, ff. 73, 80, 80v, 82, 91, 93v; LJ, II, 80, 82, 85, 102. See also S.E. Lehmbgerg, \textit{Sir Walter Mildmay and Tudor Government} (Austin, Tex., 1972), p. 257.
  \item \textsuperscript{46} D’Ewes, pp. 556, 571, 574.
  \item \textsuperscript{47} TCD, MS 1045, ff. 78v, 79; D’Ewes, p. 341. Three Barkers sat in this parliament but it is likely the ecclesiastical lawyer was nominated rather than the Ipswich cloth merchant or the Shrewsbury lawyer.
\end{itemize}
the radical puritan William Stoughton returned the bill but it had no further proceeding. A critic protested that the bill pretended reformation but effectively destroyed the ecclesiastical courts and jurisdiction and listed a series of inconsistencies, errors and inadequacies. Perhaps other MPs agreed with him that the measure was 'made of affection' rather than for reformation. Both measures were less comprehensive than the radical measure calling 'for the abolishing of the Cannon Lawe in that behalfe'.

Yet one MP was not content to let the matter drop. In 1593 Morice delivered a volatile speech against

the hard Courses of the Bishops and Ordinaries and other Ecclesiastical Judges in their Courts, used towards sundry learned and godly Ministers and Preachers of this Realm by way of Inquisition, subscription and binding absolution contrary (he said) to the honour of God, the Regality of her Majesty, the Laws of this Realm, and the liberty of the Subjects of the same.

What offended the good common lawyer in Morice, Attorney of the Court of Wards since 1589, was that defendants had to answer questions on oath without knowing of what they were accused. The oaths forced them effectively 'to accuse themselves in their own private actions, words and thoughts . . . because they know not to what questions they shall answer till after the time they be sworn'. This led to 'deprivation, degradation or suppression'. If the ministers refused to take the oath they were imprisoned. Morice offered two legislative remedies. One bill concerned the oaths and the other imprisonment for refusing to take the oath; he moved the latter to be read and the other to wait upon another time.

It was a speech bound to cause trouble. Two men immediately spoke against Morice. Dalton 'spake with much earnestness against it' and called for the bill to be 'suppressed' because the Queen had warned them not to meddle with anything concerning the 'Reformation of the Church and State of this Realm'. Whitgift's informant reported 'it was strange and shamefull to see howe a number of the howse without all Modestie or discretion coughed and hauked, of purpose to putt him out'. Wolley also opposed it, but his fellow councillor, Knollys, supported Morice. The bill, he said, 'tended . . . but to the reforming of abuses and restraining of the Prelates: That if they meddle against the Laws, they shall incur a praemunire'.

The fullest answer to Morice's assertions came from the eminent ecclesiastical lawyer, William Lewin, one of a number of civil lawyers, including

48 TCD, MS 1045, f. 82, 92; D'EWES, pp. 371, 373.
49 Bodleian Library, Oxford, Tanner MS 280/51, f. 327–327v. Undated, but the contents sit well with what we know of the 1584–5 bill.
50 Peel, Register, II, 1–4, undated and probably never offered.
51 D'EWES, p. 474. The debate which follows is noted by D'EWES, pp. 474–6, from the anonymous diarist and a report was filed for Whitgift, LPL, Fairhurst Papers, MS 2019, ff. 3–5v.
Daniel Dunne and Richard Cosin, who had been consulted over oaths in 1590. He began by reminding the house that such measures had long been sought and that in ‘shooting’ at the bishop’s jurisdiction the real ‘aim was at their places’. Asserting that all the best monarchies ‘shewed this Government now exercised by the Bishops to have been used’, Lewin drew upon the analogy of the body politic to argue that the bishops were an essential part of the state. Turning to Morice’s specific allegations, Lewin argued that procedure by inquisition was lawful, it had been long in use, and in the greatest monarchies. It was a procedure the ecclesiastical courts shared with courts baron, leets, Star Chamber and the prerogative courts; ‘subscription was a thing we were bound unto by Statute. The like was used in our Churches as at Geneva, so as allowable here. Absolution, termed binding, is no other than in the Common Law.’ Lewin did not, however, call for an outright rejection of the measure. Instead, he suggested, it should be first considered by the bishops and judges.

The remaining speakers were divided. According to D’Ewes, Henry Finch supported Lewin but the report sent to Whitgift shows that he argued in favour of reformation: faults had grown because of the corruption of the bishops and these had to be removed like a wart from a healthy body. Moreover, he thought inquisition much more ‘odiouse’ than proceeding by accusation. Oliver St John differed; the bishop’s jurisdiction was against the ‘Ancient Charter of this Realm... You know what things Thomas Becket stood upon against the King, which things are now also crept in.’ Going on to challenge Lewin’s assertions on statute and common law, he ridiculed the latter’s time-honoured argument: thus thieves should be allowed to take purses on Shooters Hill in Blackheath ‘because time out of mind they had done so’. Nor was Lewin’s clever reference to Geneva allowed to stand: ‘For in Geneva there be many things allowed’, St John retorted, ‘which the party speaking would (I dare say) be loth to have used here.’

Although Cecil praised Morice – ‘learned and wise, and one whom I love’ – he scolded MPs for the discourtesy shown to Dalton and objected to the legalistic debate begun by Lewin and Finch. Instead he proposed that the Commons take the Queen up on her promise to ‘redress ... things that are amiss’; the bill should be ‘commended’ to her, ‘and so recommended unto us’. He offered to perform this service; if another course was taken, Cecil feared ‘the things sought will be denied for the violence used in it’.

The house called for a reading of the bill and this was the cue for Speaker

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52 See LPL, Fairhurst Papers, MS 2004, f. 65–65v, amongst a collection of arguments against the oath, f. 40–87.
Coke to seize the initiative. Declaring it to be long (eight sheets), weighty and in many parts, he asked for time to consider the bill before the first reading. Divided over whether he should receive it alone, or with the Privy Council, the house decided in favour of Wroth's motion that it could not be committed before being read and so only Coke should have it. He was summoned to the court that afternoon and on the following day declared that the Queen had been 'highly offended' that they had attempted 'a thing so expressly contrary to that which she had forbidden'. He had been instructed not to read any bill 'touching the said matters of State or reformation in Causes Ecclesiastical'. Morice was placed under house arrest that morning, under Fortescue's care.  

It is a useful caution against assuming unity on the conciliar benches to read Knollys' letter to Burghley written on the day of Morice's arrest. He spoke out against 'these Civilians and other confederates of the Clergie government' who would 'fayne have a kynde of monarchye in the sayd Clergie government' distinct from temporal government. Knollys thought that Morice 'dyd speake bothe modestlie & wyseley & warylie & truly'.

Although a commission was set up in 1594 to investigate excessive fees and corrupt practices in the courts, someone felt it necessary to offer a bill 'against excessive Fees of Ecclesiastical Judges and other Officers and Ministers' in 1597–8. It was 'this day in the Afternoon delivered unto Mr Speaker', but seems to have had no further proceeding. A paper, endorsed 'touching the bill against excessive fees in ecclesiastical officers, 1597', reveals that the measure imposed the punishments of the statute of provisors on ordinaries charging excessive fees. The bill's authors were accused of seeking to overthrow ecclesiastical government and the critic cited the 1584 canons, permitting only fees approved since 1558, as sufficient. In the last Elizabethan parliament a radical measure abolishing 'certaine idle Courts kept every three weekes by Archdeacons and their Officialls and Commissaryes and theire Registers' had even less chance of success.

Of more note is the 1597–8 Commons' bill concerning ecclesiastical courts which reached a single reading in the Lords. Objecting to ecclesiastical courts hearing cases which forced the party affected to procure a writ of prohibition, it provided that the costs in obtaining the prohibition were to be recoverable from the plaintiff in the ecclesiastical court and had a

53 D'Ewes, pp. 478–9. A copy of Coke's speech is in PRO, SP 12/244/52; BL, Harl. MS 1888, p. 49. For the whole affair see Neale, Parliaments, pp. 267–79.
54 BL, Lans. MS 73/30, f. 109.
55 D'Ewes, p. 565. The criticism is in Bodleian Library, Oxford, Tanner MS 280/51, f. 326–326v. For the commission see LPL, Fairhurst Papers, MS 2007, ff. 84–92v; Wilkins, Concilia, p. 347.
56 BL, Egerton MS 2222, f. 59v.
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continuance until the end of the next session of parliament. A reason for its demise may lie in a paper which raised no less than seven objections to the bill. Still, some steps were taken in Convocation to reform abuses; the clergy there were told that had the parliamentary moves 'not been prevented with good circumspection . . . there might perhaps have ensued the taking awae of the whole, or most of those courtes'.

THE SABBATH AND CHURCH ATTENDANCE

It may well be that the Privy Council, knowing that religion would become a lively issue in the 1584–5 parliament, saw to it that the bill read pro forma concerned the proper keeping of the Sabbath. Traditionally an officially approved measure, or one which had been read in the previous parliament, the bill pro forma was one of those rituals which declared the Commons' power to initiate after the election of their Speaker. It seems likely, as Neale thought, that this bill was one prepared by some of the bishops even though it began in the Commons.

It had a very difficult passage, being replaced in the Commons by a nova, requiring a joint conference when the Lords decided to amend the bill and a further conference when the Commons wanted to amend the Lords amendments. After much debate about whether this could be done or not, and after the Lords demanded that the much altered bill be rewritten, it finally passed on 18 March, only to be vetoed by the Queen. Since the parliament ended on 29 March, the bill for the Sabbath dominated a session more than most others.

The original Commons' committee included moderate puritans like Mildmay, Fleetwood, Higham and Hastings, but also Turner, Strickland and Beale. The bill which they considered provided that no markets or fairs could be held on Sundays. Those traditionally held on that day were to be shifted and a proviso protected the sale of herrings. Other provisos prohibited games, plays, bear-baitings, wakes, 'kinge games and suche lyke hawkinge, huntinge or rowinge with bardges uppon the Sundeye . . . duringe the tyme of the service or sermons'. Miles Sandys told MPs that just because it had been rejected in former parliaments was no

57 D'Ewes, pp. 578, 579; Inner Temple, Peryt MS 537, vol. 6, p. 292 (Sainty, p. 5); HLRO, MP, Parch. Coll. Box ID, no. 3246 (Bond, Lords MSS, pp. 50–1).
58 PRO, SP 12/266/24.
60 D'Ewes, p. 333; Neale, Parliaments, p. 58.
reason to dismiss it, noting that 'we repeal many billes that we have made in former parlymentes'. His second speech was recorded simply as 'Sabboth internall, external ceremonial'\(^6\).  

When the Commons thought to amend the Lords' amendments, they seem first of all to have thought the upper house could simply amend their own amendments accordingly. Sergeant Gawdy and Dr Berkley reported, however, that the Lords 'can find by no Precedent that they can now add anything at all (upon our Conference) to their former Additions inserted into the said Bill'. Moreover, and perhaps this was the real issue, they 'do think withal, that those things we desire are already provided for in their said Additions as the Bill now standeth'. They hoped that 'so good a Bill as this is' did not 'miscarry'. A search for precedents over the Christmas recess concluded that not only could they add to the Lords' additions, but they could also add a proviso if they so wished:

having receited two special Precedents of this House meeting with the very points of this Bill, wisheth therefore in respect of the maintenance and preservation of the liberties of this House, that this House do in all convenient and seemly sort stand to the Liberty and Choice of this House to add to their Lordships additions, and not otherwise at all.

The Lords, in turn, decided that since the precedents cited were all from Elizabethan parliaments, they would search for older ones. By 4 March they had resolved the matter and urged the Commons to help them determine the wording of a precedent which would be used 'in like Cases hereafter'\(^6\).  

Sir Francis Hastings and Sir Richard Knightley might have remembered the convoluted proceedings of 1584–5 when they were appointed to consider a bill for the better keeping of the Sabbath on 4 November 1601. The committee made amendments and discussed a proviso but had only examined the first of two parts of the bill. The Commons nevertheless approved the changes but on the third reading the engrossed measure was again committed. It had no further proceeding. According to Townshend the proviso declared void all contracts made in fairs and markets on Sundays and the goods were to be forfeited to the Crown. The Grays Inn lawyer, Edward Glascock, wanted to know whether this applied to marriage contracts, 'att which all the howse Laughed'\(^6\).  

However, two weeks later a bill prohibiting fairs and markets on Sundays was initiated, a measure drafted perhaps by the lawyer Henry Doyley who was added to the old Sabbath bill committee to which this measure

\[^6\] TCD, MS 1045, f. 74; BL, Lans. MS 43, f. 172v.  
\[^6\] D'Ewes, pp. 343, 353–4, 361, 363; TCD, MS 1045, f. 88.  
\[^6\] D'Ewes, pp. 624, 626, 628; BL, Harl. MS 75, f. 202; BL, Stowe MS 362, f. 81–81v.
was committed, and who reported the amendments. The clerk considered this a *nova*, perhaps replacing the now stalled Sabbath bill. Similar in many ways to the 1584–5 measure, this second attempt passed the Commons only to end up in a Lords’ committee appointed four days before the parliament ended. Time may have caused its failure, although there was certainly time enough to take it further had they wished. The surviving bill is much amended, with someone scrupulously changing ‘Sabbath’ to ‘Sunday’ and the clause that so amused Glascock struck out.\(^65\)

Prohibiting fairs and markets on Sundays, not to mention games and popular pastimes, was intended to increase the numbers of people attending church to hear divine service and the all-important sermon. Two bills to further that end were also introduced in 1601. One adopted a negative approach ‘against wilful absence from Divine Service upon the Sunday’; the other a positive one: ‘for the more diligent resorting to the Church on Sunday’. There is some possibility that the second bill was effectively a *nova* replacing the first which had been rejected.

The first measure, offered to the Commons by Wroth, attempted to give greater effect to the statutory penalty for non-attendance by removing the act of uniformity’s provision that indictments be served before the weekly 12d. fine be levied. The bill made husbands liable for the ‘wilfull Absence’ of their wives, children over twelve years of age and servants and it was to remain in effect only for the lifetime of the Queen, which was ‘greatelye whispered att, and observed in the howse’. Dyott was one of several MPs who disliked the provision which made husbands liable for the absence of their wives and masters for that of their servants. ‘Every Man’, he declared, ‘cann tame a shrewe, but hee that hath hir. Perhappes shee will not come, and For her willfullnes noe Reason the husbond should bee punished.’\(^66\)

The committee added a proviso ‘For haveinge service att home etc.’ but even more objections were raised. Hoby noted doubts as to whether the recusants act intended men to pay £20 for each month’s absence and as much again for their wives. More explained: the 1581 act provided that ‘every Person that hath goodes shall paye’; wives had no goods and therefore would not be liable. This exchange annoyed the lawyer Francis Moore who declared the legislation of 1581 to be irrelevant; this bill was not intended to apply to recusants but only those ‘which though they bee well addicted, yett bee negligent’. He wished ‘good sucesse’ to the bill and thought those who did not ‘had neyther harte to thincke nor Toungle to speake’.

\(^{65}\) D’Ewes, pp. 643, 668, 669; BL, Egerton MS 2222, f. 199v; *LJ*, II, 248, 251, 261; PRO, SP 12/283/12.

\(^{66}\) BL, Stowe MS 362, ff. 100, 117v; D’Ewes, p. 642.
Martin declared himself to like the bill as much as anyone but he wanted to know whether or not those paying the monthly fine of £20 were also to pay the weekly shilling fine; he would not agree to double jeopardy. Sir William Wray asserted that the committee intended the new penalty to apply only to 'the poorer sorte of People'.

Dr Bennet thought such objections were 'of noe greate Moement' because the bill strengthened the act of uniformity. A law without execution, he declared, 'is lyke a Bell without a Clapper, For as the Bell gives noe sounde soe the Lawe doth noe good'. In his county of Yorkshire there were some 1,200 or 1,300 recusants most of which would be forced by this law to attend church, 'I meane onely those of the poorer sorte'. 'It is a duetye in Christianitye', he remarked, 'For the Father to looke unto the Child, And for the Maister to looke unto his Servante.' These obligations had 'growen Cold' but the law would revive it, 'For punishemente will make them doe that by Constraine which they ought to doe in Regard of Religion.'

The soldier Sir Robert Crosse, a rare contributor to parliamentary business, wanted to know whether a man who served in the Queen's army or navy would have to pay for his wife and children. 'This indeed', he declared, 'is a Faulte in the Bill, Soe yf a Man bee Absent From home as att London aboute his Lawe affayers etc.' George Carew objected to the power given to JPs: 'they have alreadye enoughe to doe', he said, 'and therefore noe Reason they should meddle in Ecclesiasticall causes'. Instead, the parson should be responsible, 'for it is no pollicie that Justices of the peace should have such power over their neighbours'. After this long debate, the bill was narrowly rejected by three votes (137 in favour of passage and 140 against).

A week later Hastings introduced the second bill saying that just as the measure for tithes in Norwich (which had just been read) intended to further the preaching of the word, this measure intended to further the hearing of it. Citing the act of uniformity, it notes that the penalty of 12d., which went to the poor, had not been effective because of the stipulation that they be indicted before the general sessions and because the penalty was so small that no one was prepared to go to the trouble of prosecution. The bill, with a short enacting clause, repealed this provision and gave JPs the power to determine such cases in their quarter sessions or before any two or three JPs on proof of the offence by two or more 'Credible' witnesses. JPs could then authorise churchwardens to levy the fine and churchwardens were given the power to distrain goods, using the fines for the poor. Provisos exempted recusants paying the £20 monthly fine, protected

the powers of ecclesiastical judges and imposed a time-limit of three months in which offences could be tried. In effect Hastings had totally revised the previous measure, taking into account the fears, doubts and criticisms expressed during that bill's abortive passage.

Acknowledging the earlier difficulties he noted that 'hee that seeketh to please all, shall please none . . . and he that seeketh to please all in gods cause shall not please a good Conscience'. The poor were now targeted: Hastings warned that he knew many of the 'poorer and unlearned sort of people' had been converted by the Jesuits and seminary priests 'whom this small tax of xiid being Dueltie levied will more pinch them'. Nevertheless, the bill was much debated on the second reading over the issue of commitment. It got off to a bad start when the Shropshire lawyer Owen objected to the penalty imposed by the bill because he felt that even the poorest recusant should pay £20 'and for want of Lands and Goods his Body is lyable'. Like Martin before him, Owen objected to the imposing of a double penalty and, like Carew, he thought JPs were already overburdened. Owen also thought the procedure infringed Magna Carta because it allowed prosecution on the testimony of two witnesses before the JP; 'and by this Statute if a Justice of Peace come into the Quarter Sessions, and say it is a good Oath, this is as good as an Indictment'. 'Therefore', Owen declared, 'for my part, away with the Bill.'

Such an aggressive stance stung Hastings into an immediate defence of JPs - 'men of Quality, Honesty, Experience and Justice' - demanding to know whether Owen wanted any penalty at all; he called for a commitment for 'God, the Queen, and our Countries sake'. Carew Reynell then seized the opportunity for a long discourse on the need to observe the Sabbath, citing a Scottish law of 1597 punishing those keeping fairs or markets on Sundays with loss of moveables, which were to be given to the poor. In Scotland men gathering sticks had been stoned to death for not observing the Sabbath. In France, when a woman refused to honour it 'fire appeared in the Air' and when this failed to move her it appeared again to devour all she had 'only a little Child in the Cradle excepted'. He reminded them that on a Sunday in January 1583 the infamous Paris Garden had collapsed on those attending a bear-baiting; 'four hundred persons sorely crushed, yet by God's mercy only eight slain outright'. Before urging a commitment, he asked the privy councillors to see that this 'brutish Exercise' be moved to another day.

However, despite Reynell's disclosures, members soon returned to Owen's speech. More thought Owen had a corrupted heart and argued that a law forcing people to come to church was needed: 'once a Month

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68 PRO, SP 12/283/16; D'Ewes, p. 655; BL, Stowe MS 362, ff. 156v–7.
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coming to Church excuseth us from danger of the Law, but not from the Commandment of God, who saith, Thou shalt sanctifie the Sabbath day'. The bill so tied the subject, 'which being agreeable with the Law of God, and the Rule of Policy', he could see no reason why anyone objected to the bill being committed. Knollys agreed: Owen's cry of 'away with the bill' was either bold or desperate and he noted that JPs were 'Ministers to her Majesty without whom the Commonwealth cannot be... when her Majesty shall have understanding hereof, it will be no content unto her, and a scandal unto us all'.

But Owen also had his supporters, although two of them may have been the sort of support he would rather not have had. The schoolmaster John Bond of Taunton offered a long speech appropriately peppered with classical and legal quotations, beginning with Augustine and ending with the Nicene Council. He also objected to any increase in the 'luxuriant Authority' of JPs. The law punished only 'the poor Commonalty, whose strength and quietness is the strength and quietness of us all' and who were already going to be burdened by the heavy subsidy granted in this parliament.

A heated debate then occurred over the merits of JPs before the committal was finally agreed upon. Amended by the committee, the bill was ordered to be engrossed on 5 December, but with some twenty voices against. In the preceding debate Sergeant Harris expressed two doubts: one an apparent error in the rewording of part of the bill, and the second, the question of whether the bill removed some of the Queen's ecclesiastical jurisdiction which he 'could not well Finde Aunswered' in the committee. Owen confessed that he was of the same opinion as before and another unrepentant opponent was Bond who started off the third reading debate noting that the measure now differed from the one he had objected to but he still thought it was 'altogether needless'. It would allow the enemies of protestantism to say to the ministers that they had preached their audiences away and implied that the full weight of ecclesiastical authority 'hath not so much power as a twelve penny Fine'. He argued that the times had changed: in 1559 'the People were newly taken from Massing and Superstition; Now they are planted in truth, and rooted in Religion'.

He also raised a number of practical concerns. Those neglecting to come

69 D'Ewes, pp. 663–5; BL, Stowe MS 362, ff. 184v–6 (Townshend, Hist. Coll., pp. 273–7). D'Ewes misidentifies Carew Reynell as Carew Raleigh, but Townshend has Reynell and it is the latter who was subsequently appointed to the committee according to PRO, SP 12/283/2. The list is headed 'Wednesday, 2 December 1601' yet has 'nova 2/' written beside the title of the bill and is endorsed as pertaining to the committee appointed to meet on 3 November, certainly an error for December. In addition to the measure's provisions noted earlier, the clerk's notes suggest that it either had, or someone suggested that it should have provisions protecting noblemen with chaplains, concerning recusants in prison and allowing some right to respond to the charge.
to church might easily get away with excuses at the sessions for ‘many businesses so concern the doer not to be known’. If, say, some forty were absent but only some presented, complaints would be made by the accused: ‘why my Wife, my Son, my Servant, my Friend, not his . . . Will not this be a great breach to Unity and Peace?’ The ecclesiastical authorities could proceed to excommunication if they wished, as good a punishment as any in the act of uniformity, and those accused would have to attend the sessions at costs much greater than the fine itself. ‘So’, he ended, ‘because this Bill is slanderous to the Clergy, slanderous to the State, repugnant to Charity . . . I humbly pray it may receive the like entertainment the former Bill had, viz. to be rejected.’

Not surprisingly Hastings rose to defend the measure. Knowing the Jesuits and seminary priests to ‘be out of square, and be at a Jarr amongst themselves’, he hoped no breach amongst themselves would take place. Hastings accused Bond of being ‘far from Religion’. His point concerning ministers was ‘absurd’ and ‘slanderous’; concerning the ecclesiastical authorities, Hastings wished their strictures had been enough. The next part of Hastings’ speech must be quoted as it is a clue to his religious thinking and perhaps that of most supporters of the bill:

He hath made a Protestation, that he is no Papist: I appeal to you all if I said he was. And I say he is no Puritan if he be not a Papist; for if there be ever a Puritan in England, it is a Papist. I learned of Dr Humfrey who was sometimes my Tutor, a division of four sorts of Puritans; First, The Catholick which holds that a man cannot sin after Baptism; Secondly, The Papist, which is such a Merit-monger, that he would not only save himself by his own Merits, but by the Merits of others also; A third sort are the Brownists or Family of Love, a Sect too well known in England, I would they had never so been; The fourth and last sort are your Evangelical Puritans, which insist wholly upon Scriptures as upon a sure ground; And of these I would we had many more than we now have.

Townshend notes that at this point Glascock, Spicer and others spoke ‘but because it grewe verye darcke I could not wryte’. He was still able to note the arrival of some bills from the Lords before revealing that Dr Bennet reiterated his warning of the extent of recusancy in Yorkshire, though his earlier 1200–1300 had now become ‘thirteen hundred, nay fifteen hundred’.

Put to the vote, the voices could not be determined and Wroth took the opportunity to introduce a proviso, suspiciously already engrossed on parchment, which was designed to save the measure. It provided that those

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70 D’Ewes, pp. 668, 682–4; BL, Stowe MS 362, ff. 197–8, 236v (Townshend, Hist. Coll., pp. 317–22). The bills concerned were those pertaining to soldiers and to the navy. D’Ewes, pp. 683–4, reorders this entry to ensure continuity to the speeches. He omits the reference to Glascock, Spicer and the darkness.
attending eight times a year 'and said the usual Divine-Service twice every Sunday and Holyday in his House, with his whole Family' would be safe from the law. Not surprisingly, this impractical suggestion was 'utterly misliked', yet Townshend notes that 'divers which were desirous to overthrow the Bill went forth with the Proviso, because they would have it joined with the Bill to overthrow it'. On a vote of 126 in favour and 85 against the proviso was agreed upon but before the final vote could be held another crop of speeches was made.

Bond, nothing daunted, spoke again. It was the same speech: the bill was offensive to the clergy, against charity and contrary to Magna Carta. Raleigh pointed out that churchwardens were obliged to attend the assizes: with the offenders this would mean some 480 persons attending. The new proviso legitimised absence and the parson would have no control over divine service said at home.

Finally the vote took place. Those in favour of the bill were 105 and those against 106. The ayes argued that they should have the Speaker's vote, thus stimulating a major procedural question: did the Speaker have a vote? One of those in favour of the measure, Hoby, was of the opinion that he did because he was one of them, an MP and (in Croke's case) a citizen of London. However Raleigh and Croke himself argued that in taking that office the Speaker lost his right to vote, he 'was to be indifferent for both Parties' and therefore the bill was lost.

Yet even this was not the end. Robert Bowyer, secretary to Lord Treasurer Buckhurst and a later Clerk of the Parliaments, declared that a 'foul and great abuse' had taken place: one MP who had wanted to vote in favour of the bill had been held back in his seat when the division had been called. Although loyal to his fellows in the Middle Temple Bowyer said he was prepared to name the man; so entreated by Cecil, he said it was Southwark's MP Mathew Dale. Raleigh then chipped in that 'it is a small matter to pull one by the Sleeve, for so have I done my self oftentimes' at which there was a 'great loud Speech, and stir' in the house.

Knollys broke the silence which then followed by declaring the offence to be one both to God and the Commons. 'Every man is to go according to his Conscience and not by compulsion.' Raleigh he thought should be ashamed: 'for large is his Conscience, if in a matter of so great consequence he will be drawn either forwards or backwards by the Sleeve'. Knollys wanted Dale, at least, to appear at the bar, although some took him to mean Raleigh. Characteristically, it was Cecil who drew the matter to a close. Although he felt that 'he whose Voice may be drawn either forwards or backwards by the Sleeve, like a Dog in a string' should be disqualified, he felt there was no case to be answered at the bar, especially in the case of someone of Raleigh's standing. To say so was to speak 'imperiously'.

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'For the matter it self', Cecil declared, 'the Noes were a hundred and six, and the I, I, I a hundred and five, the Speaker hath no Voice; and though I am sorry to say it, yet I must needs confess lost it is, and farewel it'. Townshend added the cheerful note to this most serious of offences: 'There was another Gentlemen, a No, pulled out as well as the other was kept in, and therefore it happened even.'

A long-lasting effect of the religious changes between 1547 and 1558 was the large number of contested leases and grants arising because of the various deprivations and restorations of leading ecclesiastics during those years. Although these parliaments saw nothing like the plethora of bills attempting to resolve these disputes, which so occupied the early parliaments of the reign, there were some. In 1584-5 a Lords' bill sought to clear up the complications arising through the deprivation of the Marian Dean of Exeter, Cardinal Reginald Pole, attainted under Henry VIII and reinstated by Mary. The act declared all assurances made by Pole's successors to be valid. It was probably promoted by Bishop John Woolton himself (he and the Archbishop of York were among those appointed to consider the bill on its second reading in the Lords) and the costs of obtaining the measure were to be paid by the beneficiaries. The bill seems to have passed both houses without much difficulty. A 1593 Commons' bill 'concerning the lawful Deprivation of Edmunde Bonner, late Bishop of London' failed in the Lords, but early Elizabethan deprivations were confirmed by a Lords' bill in 1597-8. Originally concerning only archbishops and bishops, the Commons' committee, which consisted largely of civil and common law lawyers, added deans to the list.

Much more complicated were attempts to settle the estates of the Bishopric of Norwich. In 1597-8 a public act confirmed the annexation of St Benet's Monastery to the bishopric and its grant of St Giles Hospital to the crown. Some of the bishopric's properties had been obtained by a royal

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71 D'Ewes, pp. 683-4; Townshend, Hist. Coll., pp. 321-2. The victim was Lionel Duckett, a young MP for Calne who was pulled out by Portsmouth's Edward Jones and one of the several Barkers sitting in 1601; HPT, I, 393, opts for Edward Barker, MP for Downton, an ecclesiastical lawyer in Whitgift's service.

72 HLRO, 27 Eliz. OA 33; LJ, II, 82, 85, 87, 89, 98; D'Ewes, pp. 362, 368; TCD, MS 1045, ff. 88, 89, 90. D'Ewes errs in calling this a bill for the Bishop, Dean and Chapter of Winchester on its arrival in the Commons, but corrected it when noting its proceedings in the house.

73 D'Ewes, pp. 497, 500, 501, 503; LJ, II, 183; BL, Cotton MS Titus Fii, f. 64.

74 HLRO, 39 Eliz. OA 8; SR, IV, 909; LJ, II, 198, 199, 200, 213; D'Ewes, pp. 562, 563, 567, 573, 575; HLRO, MP, Suppl. 1596-1601, ff. 147-9v.
grant procured by 'certeyn persons of a greedye and covetous desire to enriche themselves' and other properties were troubled by persons claiming that they too had been conveyed to the crown. Evidently promoted by the tenants affected, who solicited the help of the Lord Chief Baron, Sir William Peryam, the measure was opposed by Theophilus Adams, George Leicester and other 'busye and unworthie persons ... skilled in the odious trade of concealment'. Leicester was heard in both houses and the Lords attached a proviso to the Commons' bill declaring void all conveyances made by the beneficiaries of the fraudulent grant. To speed the bill's passage there was consultation with the Commons beforehand. In 1601 Adams sought remedy, but his bill was rejected after three readings. Other such bills had no success: in 1589 a Commons' committee reported a bill pertaining to leases of the bishopric of Oxford as being 'not meet to be further dealt in by this House' and a 1597–8 bill 'for Remedy of Dilapidations in the Bishoprick of London' died in a Lords' committee.

Behind the Norwich measures, and perhaps these others, was the practice of licensing men such as Thomas, Lord Wentworth (whose assignee Adams was) to search out concealed lands, those which should have been held by the crown after the Dissolution. The troublesome and sometimes violent disputes between the patentees and the Dean and Chapter of Norwich reached parliament, heightened when the two sides in Norfolk's divisive county politics were drawn in. A 1584–5 bill confirming letters patent to the Dean and Chapter attracted position papers and forced the Dean to spend rather larger sums than usual on attorneys. This attempt, which had followed an unfavourable Exchequer ruling in 1583, was initiated in the Lords, but had only one reading. So too did one in 1589.

In 1593, however, a general solution reached the statute book, probably initiated by Burghley on the petition of deans and prebendaries. The act confirmed grants of monastic property made to Henry VIII, and those subsequently made by him, whatever defects they contained, and for good measure declared valid his capitular foundations. It thus totally undermined the patentees for concealed lands. Initiated late in the session, and approved

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75 HLRO, MP 1596–1607, ff. 59v–60v; HLRO, 39 Eliz. OA 25; SR, IV, 924–5; D'Ewes, pp. 573, 581, 582, 584, 668, 670, 685–6; LJ, II, 216, 218; Inner Temple, Petyt MS 537, vol. 6, p. 292, 296 (Sainty, pp. 5, 9); BL, Stowe MS 362, f. 231.
76 D'Ewes, pp. 445, 446, 448; LJ, II, 203; Inner Temple, Petyt MS 537, vol. 6, p. 280 (Sainty, p. 3).
78 LJ, II, 95; PRO, SP 12/177/13; Norwich RO, DCN 10/135, 1584–5. The 1589 bill, 'leases by corporations', may relate to the dispute, BL, Lans. MS 55, f. 184v, 58, ff. 14v–16.
quickly in the Lords, who urged the Commons to deal with it speedily, it predictably ran into some difficulty there. Committed in part because some ‘doubted that this bill went in affirmation of Bishopps, therefore suspected by some what purpose it had’, the committee had to deal with a number of provisos, the most troublesome of which pertained directly to the Norwich dispute. That for Sir Thomas Shirley was rejected, as was one for John Stanhope, although this ‘was much pressed and uppon three questions made, wherein the No was allways the greater, yet the Speaker in favour of it and the Courtiers devided the howse uppon it’. Speaker Coke, who sat for the county, was by no means impartial. As Hassell Smith suggests, he probably counselled the Dean and Chapter to seek statutory confirmation and certainly declared the act’s importance at the end of the parliament.\footnote{HLRO, 35 Eliz. OA 3; SR, IV, 846–7; LJ, II, 184, 185, 186, 187, 189; D’Ewes, pp. 518, 520, 520–1; BL, Cotton MS Titus Fii, ff. 91v–2, 95–95v, 97; BL, Lans. MS 73/24, f. 70.}

Bishops were even more obviously a target of a 1584–5 bill which required them to take an oath in Chancery for ‘dewe obedience to the Qweene and for eqwall and dewe administration of such thinges as aperteygne to his office’. No bishop was to be allowed to ‘sweare anye canonickall obedience to anye archebishop’. It seems to have been engrossed and then left to oblivion. Of course it is no coincidence that the Commons had received the answers to their petition on religion the previous day.\footnote{D’Ewes, p. 361; TCD, MS 1045, ff. 82, 86v.}

Tithes and leases were also the subject of legislative initiatives in these parliaments. A 1584–5 bill concerning tithe payments and suits arising from the non-payment of tithes was so much revised by the committee ‘it cannot be read or known how to be read, or taken in the right places for the reading’. Rewritten, returned, recommitted, redrafted, returned and then committed after the third reading, a second nova billa was eventually rejected on the third reading. According to D’Ewes, the first nova incorporated clauses ‘for the avoiding of the multiplicity of Excommunications and Perjuries’. In the next session a similar bill, ‘for the trew payinge of tythes as of xl years before’, had only one reading.\footnote{TCD, MS 1045, ff. 73, 74, 82v–3, 88, 89, 91v, 92v; D’Ewes, pp. 335, 336–7, 353, 355, 362, 364, 366, 368, 372; BL, Harl. MS 7188, f. 89v.} A 1584–5 bill which would have helped all urban authorities collect tithes by giving them the same powers earlier assigned to London was rejected on the second reading.\footnote{D’Ewes, pp. 339; TCD, MS 1045, ff. 75v, 78; BL, Lans. MS 43/72, f. 168. Note also the 1589 Lords’ bill ‘for the more speedy and better Payment of Dismes and Tenths’ which had only a first reading, LJ, II, 149.}

It was leases made by bishops which attracted interest at the end of the reign. A bill prohibiting archbishops and bishops from making leases in remainder ‘tyll within three yeares of expirance of the Former Lease’ was
rejected on the second reading in 1597–8 and once again in 1601 when
the speech of John Boys, a Middle Temple lawyer serving as steward of
the Archbishop of Canterbury’s liberties seems to have ended its chances.
Drawing on his experience as a ‘Farmer to a Bishop’, Boys declared that
it was prejudicial to the bishop, his successor, his servants and tenants,
citing the usual catalogue of consequences: decline of hospitality, reduction
of their retinue, loss of revenue to the crown, ‘Ministers of the Word’ would
not seek bishoprics, and the end of rewards paid to gentlemen’s sons for
their services to the bishop. Intriguingly, Boys announced ‘But this Act is
good for the Courtier; but I may speak no more of that point.’

Most of the bills concerning the church and religion in these parliaments
failed. The Queen’s prohibition must have served to kill a number of legis-
slative proposals gathering form in the minds of MPs and lay peers. The
bishops, no doubt, were much preoccupied with initiatives in Convocation.
Consequently, religious bills took up only a very small part of the parlia-
mentary timetable, with the exceptions of those concerning pluralities and
the Sabbath.

Nevertheless, many dramatic episodes, such as the attempts to overturn
the 1559 settlement by Turner and Cope, played vitally important roles in
the history of protestantism in England. Both signalled the dissatisfaction
of the radicals with the settlement, the Queen’s reluctance to innovate and
especially the vigour with which Whitgift pursued the puritans. The ‘bill
and book’ episodes mark the public beginnings of the presbyterian move-
ment. Even Mildmay had been forced to take sides over Cope, and with
his death, along with those of Bedford, Walsingham and Leicester, the rad-
icals faced an increasingly hostile Privy Council.

Whitgift was their main protagonist, once Hatton was dead, and he was
quick to turn to the Queen at the first sign of trouble. He also sought
Fulke Greville’s help in soliciting the Queen for him against ‘the mallice of
the puritaine faction who greave at the prosperitie and peace of the Church
and at the Decay of thare pharisaicall parasites’.

That these religious bills played a much greater role outside parliament
than within is reflected in the nature of the sources. In contrast with bills
concerning the commonweal, the law or even private matters, surprisingly

83 An attempt a week later to secure ‘an Explanation of an Act made 13 Eliz. touching Leases
of Benefices and Ecclesiastical Livings with Cure’ was noted by Townshend, D’Ewes, pp. 562, 623, 625–6; BL, Stowe MS 362, f. 72; BL, Egerton MS 2222, f. 45v (Townshend, Hist. Coll., pp. 186–7, 207).
84 See his undated letter which must have been written during the 1593, 1597–8 or 1601
parliaments, complaining of motions ‘tending to our discredite’ in the Commons and MPs’
refusal to desist from dealing in religious bills, LPL, Fairhurst Papers, MS 2004, f. 11.
85 Ibid., f. 5.
few failed bills concerning the church or religion survive in the official repository, the main papers of the House of Lords Record Office. Perhaps the clerks were not allowed to hold on to them; pocketed up quickly by successive Speakers, one or two made their way into the hands of privy councillors and thence into the State Papers. But most of our information on these bills comes from the large number of reports, commentaries, defences and criticisms which they generated rather than the bills themselves.

Perhaps only in the case of the Commons' petition of 1584–5 did a religious issue turn out to be the predominant event of a session. But the clerk of the Commons did not even bother to note down its details, earning chastisement from D'Ewes for his 'negligence'. D'Ewes had secured a copy of the petition and Whitgift's answers (though the latter were said to have come from the Archbishop of York not Canterbury) and it is this which transforms his journal into a full exposition of the episode; several copies have survived elsewhere. But it is surely significant that Onslow did not see fit to note its details in his journal, that Cromwell passed it over in his diary and that only Fitzwilliam had something to say about it in his notes from the 1584–5 parliament. Perhaps it was only when Whitgift's campaign bit hard, when his successor Bancroft tightened the screws, and when the implications of anti-Calvinism in the universities became clearer, that the petition of 1584–5 held a significance in a new reign that it has rightly enjoyed ever since.

86 D'Ewes, p. 357.
The commonweal

Englishmen vied for the limited parliamentary time available to obtain legislation dealing with economic and social matters. More bills of this type were initiated than any other and they took up a good deal of time partly because of the sheer number involved and partly because they could be very contentious. Measures beneficial to one economic interest all too often had considerable disadvantages for another and a statute might well provoke later bills of alteration, clarification or repeal. The economic difficulties of the 1590s stimulated legislative impulses; 1597–8 and 1601 saw an especially large number of measures introduced seeking to cure social ills or regulate the economy.

**INDUSTRY, TRADE AND COMMERCE**

**Textiles**

More bills concerned the cloth industry than any other economic activity. Most attempted to alter, revise and change key statutes of 1552 and 1558, or to secure exemption from the regulations they imposed. Many were intended to protect specific manufactures or regional interests but there were two key developments over the course of the sixteenth century which provided the context in which these particular games were played out. The first was the decline of some of the more traditional, highly durable but heavier woollen cloths and the expanding production of dressed cloths such as kerseys and the new draperies such as baize and fustians. The other was the conflicting interests of the Merchant Adventurers who dominated the export trade in unfinished cloth and the Clothworkers’ Company who were anxious to secure work for their members in the finishing trade.¹ Together

with trade fluctuations, the collapse of the Antwerp market and rivalries such as the Adventurers’ attempts to control Kent, Sussex and Suffolk clothiers who refused to trade through Blackwell Hall, there were plenty of incentives to fill the parliamentary agenda with bills on all aspects of textile production and trade. As one would expect, most of these bills were introduced in the Commons and a very large number failed to get to the Lords.

The success of west country kerseys was reflected in various bills attempting to regulate their manufacture. Most were initiated by merchants and especially by Exeter’s Merchant Adventurers. Together with Totnes merchants, they sought legislation in 1581 and 1584–5, succeeding after a royal proclamation responded to their petition and to complaints from the Dutch in 1593. They did lobby well enough in 1584–5 to secure an act which enabled the narrow cloth known as plain and pinned white staights to escape Edwardian restrictions on the type of yarn used and regulated their length and weight. In 1593 they also sought Devon’s exemption from an earlier act confining yarn making to corporate towns pleading that theirs was a very populous county whose inhabitants had very small tenements and had been made destitute as a consequence. Although Norfolk and Essex started bids by ‘many other Contryes that they might be exempted too’, only Surrey was included in the paper bill. The Commons’ committee also took the promoters at their word and added a proviso that no weaver was to benefit if possessing over £20 of land, but in any case the bill seems to have arrived in the upper house with insufficient time to proceed.

Long-standing attempts to reduce the breadth of the broadly woven western white cloth were successful in 1584–5 despite opposition. Alford warned that it was ‘a very dangerous bill, neither gratfull nor profitable to the subject. They have bene laboring this xx yeares to bring this to passe’, while Fleetwood entertained MPs by saying that it had been ‘thrown out


4 HLRO, MP 1592–3, ff. 29–34v; BL, Cotton MS Titus Fii, f. 53, 71, 76v, 90. One of Devon’s knights, John Chudleigh, had earlier moved for a similar bill in 1586–7 but it got only as far as a first reading, D’Ewes, p. 394.
many tyme already’ but since clothiers had secured a bill in 27 Henry VIII, they clearly hoped ‘to have good luck all wayes in the 27 yeare’. Having the statutory breadth down to seven quarters and now proposing six and a half, undoubtedly they would be trying in the next parliament for six. Although he had been lobbied in favour of the bill by a draper and an alderman of London at the parliament door, Fleetwood felt the loss of a quarter would cause considerable harm to those who bought large quantities for liveries (undoubtedly the City was such a customer). After more arithmetic the house clearly lost patience for Fleetwood broke off his discourse to cry ‘Do yow laughte? Laught not at me no more than I do at yow, yow dele uncivilly with me. It is yow allwayes ther in that corner of the howse.’ Undeterred, Fleetwood proceeded with an account of different types of wool and its quality; such cloth, he was sure, would soon fall apart and, if it did not, he temptingly offered, then ‘hang me up at the parlyment dore’. Less ostentatiously, another MP simply staked his reputation that clothiers would benefit.5

The act was made perpetual in 1593, and its provisions were extended to coloured plunkets, azures and blues in another statute. These were now allowed to be six and a half quarters in breadth but the penalties for being underweight and overlength were doubled.6 In 1601 a new cloth act removed the penalties on excessively long cloth. It penalised clothiers who sold improper cloth to merchants, a provision desired by the Merchant Adventurers in 1584–5.7 A 1593 attempt to gain statutory approval for the export of Somerset, Wiltshire, Gloucestershire and Oxfordshire vesses and rayes under £6 white or £5 coloured, an upgrading of the provision of two Henrician statutes, did not get beyond the Commons.8 If its failure

5 SR, IV, 724–5; HLRO, 27 Eliz. OA 17; HLRO, MP 1582–5, ff. 155–9; BL, Lans. MS 43/72, f. 174–174v. The diarist’s reference to ‘Umpton’ could refer to either George Upton, owner of grazing land in Somerset, or the courtier Henry Unton, who sat on a cloth committee in 1593, cf. HPT, III, 542–4. The Lord Mayor and aldermen wrote to Burghley against the bill on 10 March, the day it was sent to the Lords; he was also lobbied by the Merchant Adventurers for a proviso, PRO, SP 12/177/12, 22; LJ, II, 95, 101. On the Wiltshire industry see G.D. Ramsay, The Wiltshire Woollen Industry in the Sixteenth and Seventeenth Centuries (Oxford, 1943).

6 SR, IV, 856, 857–8; HLRO, 35 Eliz. OA 9; PRO, SP 15/32/69; D’Ewes, pp. 501, 502–3, 505; BL, Cotton MS Titus Fii, ff. 37, 62, 67, 80v; LJ, II, 185, 186, 189; PRO, SP 12/244/110. Two copies of the paper bill survive in HLRO, MP 1593, ff. 65–70, 71–3. On one a discrepancy between the printed copy of the act of 5 & 6 Edward VI and the roll was noted, f. 70.

7 PRO SP 12/177/22; SR, IV, 975–7; HLRO, 43 Eliz. OA 10. Some specific amendment was also sought but the bill ‘for the repeale of certayne Statutes for the reforming of abuses in Clothing in the County of Somersett’ was committed but did not reappear, BL, Egerton MS 2222, ff. 53v, 67v; D’Ewes, p. 642.

8 BL, Cotton MS Titus Fii, f. 30v; HLRO, MP 1592–3, ff. 16, 19–23v; D’Ewes, pp. 474, 495, 500. The committee list contains markings and notations by the clerk which deserves some discussion. Although ‘all the knightes and burgesses of the shires of Somerset,
was a success by rival producers in East Anglia, an attempt in 1597–8 to restrict the ‘export’ of worsted yarn beyond Norfolk was thought by the committee fit to ‘bee lefte to oblivion’.9

As this suggests, the other major cloth lobby besides the western clothiers were the producers of broad ‘Suffolk’ blue cloth and other East Anglian manufactures. They were able to secure exemption from a 1593 bill imposing length restrictions on broad cloths,10 and promoted bills in 1584–5 and 1586–7 seeking exemption from statutory restrictions on the export of Suffolk, Kentish and Essex coarse cloth.11 Failing in parliament, they secured some leeway through proclamation in 1590, but the opportunity was also taken to order the cloth to Blackwell Hall and prohibit stretching.12 Suffolk and Essex clothiers tried to make apprenticeship compulsory for baize makers in 1597–8, although allowing those presently employed to carry on if certified by four JPs. The Lords added a proviso protecting customs, as in the case of broadcloths, but the bill failed to get the royal

Wiltshire, Gloucestershire and Oxfordshire’ are noted by the clerk, six of these men are specifically identified, five with their constituencies. Another four are listed separately. If this records those who turned up at the committee, then it is significant that so few attended: only two of a potential thirty-four from Wiltshire, four of twelve from Somerset, two of seven from Oxfordshire and two of eight from Gloucestershire. The others named came from a variety of southern counties, except for the Chancery clerk sitting for Monmouth, Edward Hubberd. Beside the names of eleven MPs are ‘x’s, and there are dots besides seven of these and six others. One of the dotted men, and two others, have ‘against’ written beside their names. What Hubberd, Unton and George Calfield opposed – the bill, an amendment, a motion – is unknown. Less flattering is the comment beside Hart: ‘argueth on bothe sydes’. Although nothing much can be made of the list, the markings clearly indicate some divisions. Those with ‘x’s include most of the men we would expect to support such a measure: the Londoners, most of the MPs from Wiltshire and Gloucestershire and one each from Devon, Somerset and Hampshire. Those without are mostly from the home counties: Essex, Middlesex, Surrey, Berkshire and Buckinghamshire, with Davidge and Dyer from Somerset being the odd men out.


10 HLRO, MP 1593, ff. 58–61, 64–64v. The length is variously reported by the diarists, BL, Harl. MS 1888, pp. 150–1, cf. BL Cotton MS Titus Fii, f. 56v. D’Ewes, pp. 501, 510, 512, 513; Lj, II, 185, 186. On 27 March a bill noted by D’Ewes as repealing part of a Marian statute was reported, debated and recommitted. It is probably part of this bill because he refers to the committee appointed on 14 March, but the description actually better fits the Devon cloth bill, D’Ewes, p. 510.

11 TCD, MS 1045, ff. 73, 74v; D’Ewes, pp. 337, 394–5, 416; BL, Harl. MS 7188, f. 95. Jermyn sat both on the 1584–5 and 1586–7 committees and introduced one of the 1586–7 bills. The 1586–7 committee was to meet in the Guildhall, perhaps intended to facilitate the involvement of London clothiers.

12 Hughes and Larkin, III, 721.
assent. It was another failure for those keen to control the production of new draperies.13

Of course, with the collapse of the Antwerp market, attempts were made to change the law to enable cloth producers to enter new markets. One such was the measure altering the sizes of Essex and Suffolk short, broad and coloured cloths to make them more marketable in the ‘East Countryes and Burbaria’. Passing the Commons by only twenty-six votes, the Lords redrafted it, urging interested parties to attend their committee; especially named was John Leake, the author of a lengthy 1577 treatise on the cloth industry which had specifically complained of the lack of regulation in the making of baizes. The new bill contained a fuller justification of the measure and increased the weight of the cloth to be sold. Clauses for the proper sealing of cloth, selling in recognised markets and allowing a certain flexibility in weight were also added.14 However, this new bill was replaced in turn by one whose preamble only criticised the making of illegal cloth; it laid down regulations (60lbs weight – 4lb heavier than the first draft – under 28 yards length and 6–6¼ quarters breadth) and ordered that all cloth sold in London had to be properly sealed and sold at Blackwell Hall. The search was to take place before market time and cloths were to be searched dry or searchers would face a hefty £5 fine.15 In 1601 the 1590 proclamation was reissued with additions on viewing, sealing and selling in open markets which had been mooted in the legislative proposals.16

Although bills for the western and East Anglian cloth industries were especially numerous, parliament continued to struggle with the wider issues. In 1566 the Clothworkers had succeeded in obtaining an act which forced every merchant to sell one finished cloth for every ten unfinished. According to a later governor of the Merchant Adventurers, this was very costly since foreigners would not buy English finished cloth and when sold it brought in 10–12s. less than the unfinished cloth it accompanied.17 A

13 D'Ewes, pp. 569, 571, 573, 590; LJ, II, 210, 212, 216, 221; Inner Temple, Petyt MS 537, vol. 6, pp. 298, 299 (Sainty, pp. 11, 12); HLRO, Parch. Coll. Box 1D, no. 3239 (Bond, Lords MSS, pp. 37–8). The Privy Council had intervened over a dispute over seals used by baize makers in Colchester and Halsted in May 1592, APC, XXII, 444.
15 Inner Temple, Petyt MS 537, vol. 6, p. 299, 300 (Sainty, p. 13); HLRO, MP, Suppl. 1596–1601, ff. 142–3v.
16 Hughes and Larkin, III, 807.
17 Elton, Parliament, pp. 82–4; PRO, SP 12/244/50, Richard Saltonstall (a former London MP) to Burghley; HPT, III, 335. A 1593 debate over a patent for exporting unfinished cloth put the two positions very clearly, PRO, SP 12/244/105. See also PRO, SP 12/265/74,
bill of 1584–5 would have made matters even worse, for it proposed a sliding yearly ratio of exports starting with one finished for every nine unfinished in 1585–6, two for eight in 1586–7 and ending with five for five by 1589. It also included provisions restricting clothworkers to cities and boroughs and regulating the use of dyes. A veto prevented a 1589 bill bringing Kent and Sussex under the 1566 regulations from becoming law; the Clothworkers' ‘petition’ of 1601 failed in the Commons, but some of its provisions may have been taken up in the major cloth statute of that parliament.

The Clothworkers' attempts to control the dyeing of cloth were more successful. In 1572 their bill to prevent the use of logwood or blackwood failed because they tried to sneak in provisions prohibiting the export of undyed cloth, a lesson learnt in 1581 when it became law. The cloth exporter John Hastings, who also held a monopoly in the manufacturing of frizadoes, had argued in 1572 that the 'commoditye of the holle realme' was to be 'preferred before the commoditye of the Citie of London' and in 1584–5 he promoted another bill on dyeing which ended its days in a second reading committal. Arguing that it would provide employment and customs revenue, Hastings had secured the support of the Dyers' Company. A bill did reach the statute book in 1597–8, when the Clothworkers also confirmed their right to search fustians, coarse cloths of flax and cotton.

MPs and peers also responded to particular developments in the economy. After the depression of 1594–6 the parliament of 1597–8 saw a number of unsuccessful bills introduced, although few were as emphatically rejected as that regulating the length and breadth of serges and other new
draperies to which the ‘howse Cryed awaie with the bill’ on its second reading.\textsuperscript{23} By contrast, a bill restricting imports on foreign-made cards, used to raise the nap on cloth, was successful, although it was a close-run thing in the poorly attended committee.\textsuperscript{24} Another success was the very long and detailed measure providing regulations for the making of cloth north of the Trent and especially against the unlawful stretching of cloth; it had yet another proviso for the searching of such cloths at Blackwell Hall added to it by the Lords.\textsuperscript{25}

With such a large number of statutes on the books it is not surprising that someone wanted to codify and simplify the laws governing the industry. A heavily amended and roughly drafted measure of 1593 took on the daunting task of clarifying previous statutes concerning the searching and sealing of woollen cloths.\textsuperscript{26} In 1601 a committee dealing with two bills on the use of tenters for stretching cloth, one repealing parts of former statutes, and the ‘petition’ from the Clothworkers, came up with a long and detailed statute.\textsuperscript{27} This act was a tribute to the legislative impulses of clothiers as well as local officials and the government, the last reflecting experiences such as that of the Surrey JPs trying to enforce conciliar orders to suppress the use of tenters.\textsuperscript{28} A Dover MP tried to offer a proviso on the second reading and was told to give it to the committee. This was not an attempt to get rid of it; the proviso, a saving for ulnagers’ rights and the Queen’s custom, appears in part on the act.\textsuperscript{29}

Opening with a curious enactment preamble, it provided that no ‘deceptfull’ products such as hair and yarn could be used in the making of any broad cloth, kersey, dozen and other types of cloth upon pain of

\textsuperscript{23} BL, Stowe MS 362, f. 14v (Townshend, Journal, p. 18).
\textsuperscript{24} Only eleven committee members bothered to turn up, six were in favour of the bill and five against it. Nevertheless it passed without any problem although it was only to last until the end of the first session of the next parliament, SR, IV, 914; D'Ewes, pp. 565, 570, 571; LJ, II, 213, 215, 217.
\textsuperscript{25} SR, IV, 920–3; HLRO, 39 Eliz. OA 20, to which the paper sheet of Lords’ amendments is attached. For the bill’s proceedings see D'Ewes, pp. 569, 574, 593, 594; LJ, II, 211, 212, 216, 222, 223; Inner Temple, Petyt MS 537, vol. 6, p. 305 (Sainty, p. 18). The Lords’ committee was considering a bill ‘for Relieving of Clothiers’ in Suffolk and Essex which it decided to redraft, LJ, II, 220.
\textsuperscript{26} PRO, SP 12/244/106.
\textsuperscript{27} D'Ewes, pp. 635, 642, 647, 669, 674, 686; BL, Egerton MS 2222, f. 45v; BL, Stowe MS 362, ff. 211v, 247v; LJ, II, 254, 255, 256, 257.
\textsuperscript{28} BL, Stowe MS 362, ff. 115v–16; D'Ewes, pp. 647, 649; Salis. MSS, XI, 583, but undated. The bill ‘against stretching or Tentring of woollen Clothes’ was rejected, its provisions somewhat absorbed by the larger bill.
\textsuperscript{29} BL, Stowe MS 362, f. 211v. Ulnagers were frequently the concern of such bills because they were responsible for the sealing of cloth and some early Elizabethan bills tried to improve their authority, Elton, Parliament, pp. 251–2. In these parliaments one abortive bill provided for the payment of ulnage for divers woollen commodities which up to now had been exempt, PRO, SP 12/222/100, undated.
Tenters were not to be used in the making of any rough or unwrought cloth or else a £20 fine would be incurred, and the act set out the appropriate lengths and breadths of various types of cloth which could be stretched. The weights and lengths as laid down in earlier statutes were also to be maintained with the exception of tauntons and bridgewaters for which the statutory weight was reduced from 34lb to 30lb and Suffolk, Norfolk, Essex and northern cloth which were to be 4lb for whole cloths and 2lb for half cloths thus bringing statute law (5 & 6 Edward VI c. 6 and 4 & 5 Philip and Mary c. 5) in line with dispensations by proclamation. Fines were raised according to the insufficiency of the weight. This statute also extended the act of the previous parliament with regards to the stretching of northern cloth to the whole country. Relevant clauses of previous cloth acts were repealed. Another provision of the statute pertained to the export of cloth. No exporter of cloth was to take advantage of deficient cloth even if certified by the clothier. Double jeopardy under the 1597–8 act was not to be allowed and a time-limitation clause was added as an afterthought.31

As well as dealing with a bewildering variety of legislative proposals on cloth manufacture, MPs and peers examined proposals which took an entirely different approach to the industry’s problems, namely its labour force. The women who spun and wove the cloth were accused, in one draft, of making faulty cloth but this was attributed to ‘lacke of Sufficient wages and allowaunce for theire workemanship at the handes of the Clothiers’. It enacted that spinners were to deliver the wool to the clothier of the same lawful weight which it had when given to them, without the addition of oil, water or such like. Weavers were to put in all the yarn delivered to them and not add other material. But the bill also laid down detailed provisions for the payment of spinners and weavers according to the weight of the wool or yarn delivered. The legislators’ intentions are made clear by a proviso which noted that if higher rates had been usual then the act was not to give clothiers the chance to pay the lower rates set out in the bill and by the committee’s increasing the fine on clothiers failing to pay the proper rates from 4d. to 12d. Powers of search and enforcement were given

30 ‘The Queenes moste excellent Majestie, withe the Advice’ of her Lords and Commons in parliament, considering that ‘the good and godlie purposes’ of earlier statutes has been frustrated by the continued making of faulty cloth ‘to the greate dislike of forraine Princes, and to the hynderance and losse of the buyer and wearere: For Redresse thereof is pleased and willethe it to be enacted, and by the Authoritie of this presente Parliament it is enacted’, SR, IV, 975.
31 Ibid., IV, 975–7; HLRO, 43 Eliz. OA 10. The original act also reveals that the Lords added a proviso although both D’Ewes and the Lords journals are silent on the matter. This provided that any unwrought cloth, stretched contrary to the provisions of the act and exported after Easter next, was to be brought back into the realm by the merchant who could then return it to the clothmaker and recover its value.
to local officials. The bill also took a swipe at engrossers of yarn, persons who 'wantinge the feare of god and careinge onlie for therei owne private gaynes without havinge anie regarde of the mayntenaunce of the Comon wealth'. Clothworkers had been forced to buy yarn of these 'Drones, idle members, and evill weedes in a Comon wealth' who were thus 'mayntayned and greatly enriched'. Only clothworkers or their wives, children, apprentices and servants could purchase yarn; others would suffer the loss of the yarn and the penalties laid down in an act of 8 Henry VI.32

This bill was replaced by one which simply stated that there were some doubts as to whether the 1563 statute of artificers covered spinners and weavers and enacted that it did.33 It removed the more virulent comments on regulators of yarn, reduced the list of acceptable purchasers to those who converted yarn into woollen cloth or products 'either for sale or for the use of himself or his famylie' and added a proviso which exempted Dorset from the act but it was later replaced by York and Yorkshire, undoubtedly the work of York's MPs who were added to the committee.34 Another attempt in 1597–8, this time without yarn, also failed, but more successful was the Commons' bill which brought 'Laborers, Weavers, Spinsters and Workmen or Workweomen' into the compass of the 1563 statute of artificers. It strengthened enforcement by allowing JPs to set wages in their several divisions, publicise the wage rates set and have them registered locally rather than in Chancery. It carried a time-limitation of one year after the end of the next session of parliament and was slightly amended in the Lords.35 Attempts to regulate silkweavers and embroiderers in 1601 were rejected.36

32 D'Ewes, pp. 496, 510, 513, 514, 516, 519; LJ, II, 188, 189; HLRO, MP 1593, ff. 90–6. The provisions for yarn match those in PRO, SP 12/222/101, attributed to 1589 but probably belonging to 1593.

33 A diarist noted this new feature especially, BL, Cotton MS Titus Fii, f. 82.

34 HLRO, MP 1593, ff. 88–9v; PRO, SP 15/32/72. There are four further drafts, generally similar to the first bill although one has a different wage structure, PRO, SP 12/244/126, cf. 127, 128, 129; D'Ewes, p. 514. Note also the bill of this parliament 'for the mainentaunce of clothing and other trades occupying Wooll or Yarne' which really sought, as its original title confirms, to control 'Regators of woollen yarne, commonly called Jobbers of yarne or yarne Choppers', PRO SP 12/244/104.


36 The first seems to have restricted silkweavers and weavers of gold lace to two miles of cities and boroughs. MPs thought it would infringe liberties, was too 'generall', the forfeitures too high and that the production of Norwich stuffs would suffer, BL, Stowe MS 362, ff. 115, 246v (Townshend, Hist. Coll., pp. 324–5); D'Ewes, pp. 650–1, 676, 678.
The large number of bills concerning various aspects of cloth manufacture are testimony to a rapidly changing industry. The clothiers of the west country and East Anglia, the Clothworkers and Merchant Adventurers, were most active in parliament, but clothing interests were strong throughout the country and even had electoral influence. One of the parties involved in the 1597-8 Yorkshire election dispute felt it worthwhile pledging that he would advance the interests of the clothiers much more than his opponent while Richmond may have sought incorporation in order to pursue legislation to protect their local cloth industry in 1584-5.37

In contrast to the cloth industry, proposals to regulate and protect hat-making were by and large successful. The Haberdashers had obtained earlier acts prohibiting the use of certain materials in the felting of hats and the use of imported felt. In 1584-5 they sought a bill which would have confined hatmakers to corporate towns or within two miles of London and regulated the number of apprentices but it was rejected. In 1601 a bill allowing informers a share in the fines on infringing existing statutory apprenticeship regulations needed a division on the third reading but was rushed through the Lords in two days. All to no avail; it was vetoed by the Queen.38

Leather

In terms of numbers employed the second most important industry in Elizabethan England was the production of leather goods. From the cutting of hides to the blackening of shoes, the industry involved a large variety of occupations: butchers, tanners (who removed hair and turned the hides into leather), curriers (who treated the leather with oil and tallow), shoemakers, glovers, saddlers and others.39 The industry was dominated by three London companies which corresponded with these stages in the production process: the Butchers, Curriers and Cordwainers. In 1563, when a major


The export of sheep skins had been prohibited by an act of 1563 with

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41 D'Ewes, pp. 365, 366-7; BL, Lans. MS 43/72, f. 171; Dean, 'Public or Private?', pp. 534-5. The shoemakers petitioned Burghley in favour of continued restrictions on curriers, PRO, SP 12/177/16.

42 Dean, 'Public or Private?', pp. 531-40. The 1601 bill survives, PRO, SP 12/283/25.
The intention of providing work for poor artificers. It carried the implication that such artificers had to convert the skins into leather themselves, whereas the legislators had intended that they could also sell them to leather workers. Such was the assumption of those seeking revision in 1584–5 and 1597–8, but both attempts failed. The earlier bill also sought to force butchers to cut up sheep in a way that would not damage the skins.43 A 1601 attempt to prevent butchers from selling sheep skins to 'covetous Ingrossers' may have been favourably received, but as the house so long delayed the second reading it stood no chance of success. Another bill concerning the cutting of hides also failed. The Butchers' Company actively lobbied against these measures and promoted some of their own.44

Iron and timber

It has been estimated that there was a fivefold growth in iron production between 1540 and 1640, but much of the expansion in the Weald had taken place before 1580. The increase in iron production meant a growing demand for timber and although historians have argued that the decline of woods was more apparent than real, contemporaries certainly blamed depletion of timber supplies on the iron mills. The latter, of course, had their supporters, particularly among noble and gentry investors and manufacturers such as the Brownes, Sackvilles, Nevilles, Sidneys and Knivets.45

Bills to preserve woods and timber were promoted in both houses in 1572, one seeking to preserve wood within twenty miles of London. The Commons' debate reveals conflict between MPs representing towns in Surrey, Sussex and Kent and London pitted against the iron interests. The Cinque Port towns were much better prepared in 1581 when a general preservation bill got no further than a second reading but one prohibiting

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43 The 1597–8 bill was rejected in the Lords, D'Ewes, pp. 552, 564, 567, 574; BL, Harl. MS 75, f. 135; LJ, II, 211, 212, 217; Inner Temple, Petyr MS 537, vol. 6, p. 299 (Sainty, p. 12); HLRO, MP, Parch. Coll. Box 1D, no. 3241 (Bond, Lords. MSS, pp. 39–41). Although the 1584–5 bill had only one reading in the Commons, it too survives, TCD, MS 1045, f. 91; HLRO, MP 1582–5, ff. 173–82v.
44 D'Ewes, pp. 635, 688; BL, Egerton MS 2222, f. 103; GL, MS 6440/1, ff. 337v, 352v, 6440/2, unfoliated accounts for 1601–2.
mills within twenty-two miles of London, four of the Downs and many Cinque Ports, reached the statute book. However, its effect was severely restricted by a proviso excluding most of the wealden mills.46

In 1584–5 a bill prohibiting the cutting of timber for iron works in Sussex added another side-effect of the industry: the decay of highways. It provided for cinder to be carried with coal and iron shipments and also repealed the proviso of 1581 exempting most of the existing mills.47 Another bill was promoted by Winchelsea and Rye extending prohibition to seven miles, one less than a measure introduced for Cranbrook, Kent.48 In the end a redrafted Sussex bill, now extended to Kent and Surrey, passed the Commons but without the proviso repealing that of 1581. MPs felt that existing mill owners ‘should be spared’, an outcome predicted by a diarist who noted ‘no reason to comytt it to any that hath an iron myll, but it was’. The Lords reduced the restrictions around Hastings from four miles to three, as well as lowering that around the Downs.49 Despite this success, the 1593 parliament saw bills pertaining to Sussex and Cranbrook introduced, along with one prohibiting mills within eight miles of rivers.50 In 1597–8 another bill reached the statute book; as in 1584–5 it was concerned with highways.51

The 1593 bill for Cranbrook, which hoped to preserve the cloth industry, attacked glasshouses as well as iron mills for causing the scarcity of wood. Glasshouses had been the target of a 1584–5 bill which passed both houses but was vetoed. Its preamble singled out those built by Frenchmen and would have limited the number of glasshouses near London and the Downs, and forced foreign-owned mills to employ one Englishman for every two foreigners.52 Further attempts in 1589 and 1601 did not even get past the Commons.53 It was probably the Carpenters’ Company of London who promoted a bill ‘for the trew assizing of timber’ in 1593 which


47 HLRO, MP 1582–5, ff. 149–52v; D’Ewes, p. 337; TCD, MS 1045, f. 75.

48 HLRO, MP 1582–5, ff. 153–4 (not endorsed as having been read); TCD, MS 1045, ff. 87, 91v, 93; D’Ewes, pp. 370, 372, 373.

49 TCD, MS 1045, ff. 75, 89, 89v, 92v; D’Ewes, pp. 363, 370–1; BL, Lans. MS 43/72, f. 172v; LJ, II, 95, 98, 99, 103, 106; HLRO, MP 1582–5, ff. 144–8v; SR, IV, 726–7; HLRO 27 Eliz. OA 19.

50 HLRO, MP 1586–92, ff. 42–4; HLRO, MP 1592–3, ff. 40–5; HLRO, MP 1593, ff. 77–8; BL, Cotton MS Titus Fii, f. 56v; BL, Harl. MS 1888, p. 217; D’Ewes, p. 520.

51 D’Ewes, pp. 589, 591, 593, 594; BL, Harl. MS 76, f. 135; Inner Temple, Petyt MS 537, vol. 6, p. 304 (Sainty, p. 17); LJ, II, 244; SR, IV, 919–20; HLRO, 39 Eliz. OA 19. A similar bill protected the Downs, BL, Stowe MS f. 25, no. 55 (Townshend, Journal, p. 30).

52 TCD, MS 1045, ff. 75, 80, 81, 93v; D’Ewes, p. 347; LJ, II, 82, 87, 92, 95; HLRO, MP 1582–5, ff. 74–5v, 76–9v. See also HLRO, MP 1593, ff. 77–8.

53 Ibid., pp. 448, 450, 452, 670.
emerged from committal but got no further. They succeeded in 1601; the act replaced fines imposed by an earlier statute with forfeiture of the load as well as laying out detailed provisions for the proper sizing of talwood, billets and faggots.54

Few bills bothered with the products of the iron industry but those that did sought to offer protection from competition both domestic and foreign. The 1584–5 bill on nailmaking in Staffordshire, Worcestershire and Shropshire was rejected on its first reading and in 1597–8 a Lords’ initiative to prohibit the imports of foreign pins was rejected on its second reading.55 This too was the fate of a 1597–8 Commons bill providing for the proper making of daggers, swords and rapiers.56 Many leading peers and privy councillors had invested in the Company of Mineral and Battery Works and perhaps some gave support to a 1593 bill designed to protect the supply of iron to the company’s wire works in Tintern and its domestic market by prohibiting the importing of foreign wire and wire cards. Objections to the measure were anticipated and answered and the company even offered to underwrite the loss of customs to the value of three years. The bill died in committee.57

Various manufactures, industries and activities

A small number of bills in these parliaments concerned a range of products and activities in which, as so often, London interests dominated. Most were the occasion of conflict between companies involving competition over markets, raw materials and jurisdiction. Since most were initiated in 1597–8 and 1601 it can be surmised that the economic difficulties of the 1590s gave occasion for further reflection on problems and remedies. One such example may be the 1601 attempt to improve Edwardian laws on purchasing butter and cheese which died in a committee of Southwark MPs; perhaps the riots there a few years earlier made their expertise particularly relevant. They had previously been appointed to consider a bill promoted by the Brewers’ Company ‘for the reduceing of those which be Brewers within the City and Suburbs of London and within two miles Compass

54 D'Ewes, pp. 510, 518, 520, 669, 676, 679, 685; BL, Cotton MS Titus Fii, f. 76; LJ, II, 253, 254, 255, 256; BL, Egerton MS 2222, f. 103; HLRO, MP 1592–3, ff. 73–6v; SR, IV, 981–2; HLRO, 43 Eliz. OA 14.
56 D'Ewes, p. 572.
of the same unto the Company of the said City of London', an appropriate move since innholders were exempt from the regulations imposed by the Edwardian act. They also had the Bakers' Company's bill 'touching unlawful sized bread'; all three failed to reappear.\(^{58}\) The Bakers had tried in 1586–7 (proposed but absent from the parliamentary record), 1593 (rejected on the second reading by ninety-two votes to sixty-five) and 1597–8 (when the committee thought the bill should be reserved for another parliament).\(^{59}\)

The Brewers had purchased a copy of the Bakers' 1593 bill presumably because they wanted an upwards revision of prices set by London's authorities and were interested to see how the assize of bread was tied to grain prices. They promoted their own measure in that parliament but it arrived too late in the Lords, but they paid considerable sums lobbying for it and also in defeating a Coopers' bill preventing brewers from keeping more than two cooperers in their shops which also failed for lack of time. The Coopers almost won in 1597–8 but the bill was vetoed.\(^{60}\) However, they did succeed in getting an act requiring exporters of beer to import clapboard and casks in a number proportional to the amount exported. It also prohibited the export of wine casks filled with beer or beer vinegar or 'shaken' (taken apart and bound up for transport) unless it were for the victualling of a ship or of the royal garrisons or forces abroad. There was a proviso exempting the export of herrings and the act carried a limitation until the end of the next parliament.\(^{61}\) It passed the Lords quickly, with

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\(^{61}\) There was much ado over the inclusion of the pilchard trade, a provision 'much mislyked in the house' because it would ruin the west country and the Italian market could not supply casks. A compromise was reached: the wood had to be brought in before export. Sir Francis Drake was 'earnest for it', and the diarist thought the addition 'was of his putting in', BL, Cotton MS Titus Fii, ff. 74v, 77v–8; D'Ewes, pp. 509, 511, 512, 513;
two readings on the penultimate day of the session. Indeed, the Coopers had also enjoyed success in 1589 when a bill gave them power to search and fine brewers using unauthorised foreign casks. The Brewers, who were summoned to the committee, seem to have secured provisos imposing penalties on coopers failing to gauge casks within forty-eight hours after 'anye Reasonable Request', exempting casks for export and limiting the act until the end of the next parliament.

Similar conflicts over jurisdiction took place between the Painters and the Plasterers. In 1597–8 it seems that the City's authorities were unaware of the Painters' plans to obtain statutory control of Plasterers; the Commons' committee referred the matter to the City authorities at the 'speciall suite' of the London MPs. After a decision in the Plasterers' favour, the Painters tried again in 1601, arguing that the Plasterers had not followed the City's orders which had limited them to using four principle colours. Their case was supported eloquently by the notorious Middle Temple lawyer John Davies, Townshend and the London MP Sir Stephen Soame. Although they fought off a move to refer the case back to the City, this is where the bill ended up after it was rejected by the Lords.

Although few of these bills ever spared a thought for the quality of the product going to the consumer – although the Painters certainly thought the Plasterers were really only good for using lime and mortar in contrast to their more aristocratic skills – there were moves in the last two parliaments to protect the consumer from contaminated spices. A bill hoping to

HLRO, MP 1593, ff. 80–8v cf. SR, IV, 860. This episode of Drake's parliamentary biography is not mentioned in HPT, II, 54.

62 D'Ewes, pp. 518, 519; LJ, II, 188, 189. Wine casks were the subject also of a 1597–8 bill 'for Reformation of certain Abuses touching Wine Cask'; initiated in the Commons, it was committed and finally rejected in the Commons, ibid., II, 219, 222; Inner Temple, Petyt MS 537, vol. 6, pp. 293, 300, 301 (Sainty, p. 6, 14); D'Ewes, pp. 592, 595. The paper bill survives in HLRO, MP, Suppl. 1596–1601, f. 177–177v, but not endorsed.

63 SR, IV, 805–6; HLRO 31 Eliz. OA 8; D'Ewes, pp. 432, 435, 437, 440, 442, 443, 451, 452; LJ, II, 163. The measure began in the Commons as a bill to reform disorders in inns but the committee decided to limit it to casks and so redrafted the measure. London's MPs seem to have been more supportive of the Coopers who paid for a message to be taken in to the London MP Sir George Barne asking him 'to move that our bill mighte be reade', GL, MS 5606/2, f. 153.

64 According to John Davies, the somewhat notorious member of the Middle Temple and head of the 1601 committee dealing with a similar bill, BL, Stowe MS 362, ff. 177–177v; HPT, II, 22–3.

65 Counsel for both sides was heard in the Lords and the clerk noted it was given to the mayor and recorder (Speaker Croke) who were to be assisted by the judges. Townshend's passionate speech on the hardship suffered by the Painters seems to have been decisive in securing the bill's passage in the Commons, D'Ewes, pp. 572, 650, 662, 680–1; BL, Stowe MS 362, ff. 78–78v, 177–177v, 179, Townshend, Hist. Coll., pp. 313–16; LJ, II, 248, 252, 255, 257, 257–8, 261; HLRO, MP 1596–1607, ff. 85–91; HLRO, Parch. Coll. Box 1E, no. 3262; GL, MS 6122/1, 25 March 1598 and 6 February 1599; CLRO, Journals 25, f. 106–106v.
reform abuses in the garbling (cleaning, sorting and selecting) of spices was rejected in 1597–8 but it had more success in 1601 when it passed both houses – though needing a division in the Commons – but was vetoed.\(^{66}\) Prohibiting the practice of selling spices, drugs and such products with which other substances had been mixed, ‘to the Jeopardy of her Majesties person and of her Subjectes, using the same in their meates, Drinckes and other needfull occasions’, the bill went on to list over thirty spices and products which would continue to be cleaned, selected and sealed by the garbler of London and his deputies. Provisos exempted merchants exporting such products ungarbeled and the garbler or his deputies were to forfeit double the value of goods wrongly sealed. It was probably vetoed because of some problem discovered by members of the Queen’s learned counsel who were added to the committee (originally appointed to consider painting) when it was assigned the spices bill. It did pass in the first parliament of the next reign.\(^{67}\)

Malt was the concern of two statutes in this period. In 1584–5 a Commons’ bill reviving an Edwardian act became law; its initiators seem to have originally hoped to alter the penalties for making malt in the summer and mixing oats with barley. A time-limitation clause was added in the house.\(^{68}\) An unsuccessful 1586–7 measure would have prohibited the purchase of barley for malting; it was possibly killed off by the two London MPs who sat on the committee.\(^{69}\) One, Thomas Aldersey, had also sat in 1584–5 when a bill prohibiting the carrying of malt to London via the River Lea would also have been opposed by the Londoners. It seems to have been initiated by one of the knights of Bedfordshire (probably George Rotheram who later sat on a 1601 malt committee) on behalf of Luton and thirteen other towns which sent malt to London by road. It was argued that the river route had not led to lower prices and the only beneficiaries had been ‘private persons of the Citie, fewe in nomber and most not natural born subjects’.\(^{70}\) In 1597–8 a bill to ‘restreyne excessive making of Malte’ had a complicated passage. Redrafted twice by Commons’ committees, a bill described as also providing against the ‘disorderly brewing of strong beere’ became law. Authorising JPs and borough officials to limit the number of maltsters and amounts of barley bought for malt making, it

\(^{66}\) D’Ewes, pp. 582, 639, 665, 681; LJ, II, 248, 249, 251.

\(^{67}\) HLRO, Parch. Coll. Box 1E, no. 3261 (Bond, Lords MSS, pp. 65–6); HLRO, MP, Suppl. 1596–1601, ff. 105–10v.

\(^{68}\) D’Ewes, pp. 368, 370; TCD, MS 1045, ff. 87v, 90v, 91v, 92v; LJ, II, 106; SR, IV, 722; HLRO 27 Eliz. OA 14. It was continued in 1593, SR, IV, 854.

\(^{69}\) BL, Harl. MS 7188, f. 94v; D’Ewes, p. 412.

\(^{70}\) PRO, SP 12/177/8; SP 12/177/10; Bodleian Library, Oxford, Rawlinson MS Essex 11, f. 93. I would like to thank Mr K.R. Fairclough for supplying me with this reference.
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was continued in 1601. The more recent use of hops in brewing had an undistinguished legislative history: a 1589 bill 'against the false packing of Hops' was rejected on the third reading.

Trade and commerce

Foreign trade was of as much concern to the subject as it was to the crown anxious to protect much-needed customs revenue. Smuggling was a consistent problem, with a 1559 act prohibiting the landing of goods at night and in places not served by customs officers; Burghley promoted bills in 1576 and 1581 allowing officials to designate wharves and quays. Such moves greatly concerned MPs representing England's ports: Bristol bought a copy of a doomed 1572 bill 'for restrayning of forreyn wares from all portes save from Hambroughe' and their records suggest that Burghley's 1576 bill was not a government measure but one which Gloucester had him put into the parliament. Their intention was to remove Gloucester and other Severn ports from Bristol's control and Bristol turned to the Earl of Leicester for help, both in defeating the 1576 measure and in the ensuing conflict with Gloucester over a customs house. In 1584-5 another attempt, initiated in the Lords, died in committee, and in 1601 a bill seeking to improve a Henrician statute on loading and unloading merchandise had only a single reading. A bill 'for the benefit of Merchants and advancement of her Majesties Customs and Subsidies both Inward and Outward' did not get much further.

If controlling imports was a problem, so too was the export of certain goods, notably ordnance and bullion, essential to national security and a flourishing economy. Two 1601 bills sought a prohibition on exporting coin, following a proclamation of March 1600 which could only cite a number of medieval statutes in support. However, the Commons' bill, which like that initiated in the Lords died in committee, seems to have been initiated not by officials but by Davies who offered 'a longe and a Tedyous Speeche' for it, pointing out that 20s. English money was worth 23s. Flem-

71 D'Ewes, pp. 554, 556, 569, 578, 582, 586, 587, 588; Inner Temple, Petyt MS 537, vol. 6, pp. 298, 299 (Sainty, pp. 11, 12, 13); LJ, II, 221; SR, IV, 915, 973. The Commons altered the proviso for the private making of malt on the third reading, HLRO, 39 Eliz. OA 16.
73 Elton, Parliament, p. 256.
74 Bristol RO, 04026/9, f. 175, 04026/10, ff. 87-8, 92-3. Bristol's Recorder, John Popham, was awarded £6 10s. worth of claret for his work in overthrowing this bill in the Commons.
75 LJ, II, 66, 67; BL, Egerton MS 2222, f. 87.
76 Customs officers and merchants were to be warned to attend the committee; D'Ewes, pp. 631, 634, 654.
ish 'and as much good Silver in the First as in the last'. London's Thomas Fettiplace 'made a very long Speech touching the manner of Trade by Exchange in Merchants Language', urging that merchants should attend the committee and adding ominously that the penalty for exporting money in France was death. Henry Montagu noted that a statute of Edward IV had made the crime a felony but that the problem had grown because earlier laws were no longer in force. A Yarmouth burgess thought port officials should receive certificates of goods to be exported and 'the shippes Bound in Bondes, to bee sent to hir Majesties Custome howse'. Davies had the last say, romanticising the days of barter and stating that the 'Fundamentall Cause of this Bill was that wee should not bee Consumed of our Monyes, whoe have the best Standert of the world'. The exchange, he said, was run by brokers 'and as please them the exchaunge must Rise and Fall'.

At the other end of the social scale were pawnbrokers, usually, according to a Lords' 1597-8 bill, 'very base and meane and lewde people'. Through them stolen goods were spirited away and so 'Theeves, Cosoners, and such other lewde and wicked people are still imboldened and incouraged to pursue their wicked kinde of life to the great grief and hurte of sondry her Maiesties subiectes in all partes of this Realme'. The bill limited the number of pawnbrokers in the capital to 100, imposed high qualifications on those taking up the business and insisted that all transactions be fully recorded. Searches for stolen property could be made. However, a proviso protected the identity of wealthy customers since goods worth over £100 did not have to be registered. A second proviso imposed a £10 fine on any unauthorised pawnbroker and a third declared that the act had no effect on dealings between merchants. It carried continuance only until the end of the next parliament but was vetoed in any case, despite the Lords approving the Commons' amendments.

Two further attempts to control brokers were made in 1601. A Lords' bill died in committee to which several peers who had participated in 1597–


78 It had been redrafted in the Lords because so many defects had been found in the original bill, LJ, II, 208, 209, 214, 217; Inner Temple, Petyr MS 537, vol. 6, pp. 300, 301, 305 (Sainty, pp. 13, 14, 18); D'Ewes, pp. 593, 594, 595. Two MP's appointed to the Commons' committee had close links with peers who had sat on the Lords' committee: a commissioner for debts, Thomas Crompton, had associations with Bancroft, and William Wiseman, who served as counsel to Lord Rich. The bill survives in HLRO, MP, Suppl 1596–1601, ff. 162–5; HLRO, Parch. Coll. Box ID, no. 3250 (Bond, Lords MSS, pp. 57–60). Among the Commons' amendments were ensuring the proper designation of Southwark's officials, inserting the alternative word 'brogger' throughout and adding a stipulation that searchers had to be accompanied by a constable or churchwarden.
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8 were appointed. The second was a Commons' bill 'for redresse of abuses in taking of Pawnes and the appointing of a Lumbard' which also died in committee appointed late in the session. Its authors not only wished to control pawnbrokers but to assist their customers by saving them the trouble of pursuing expensive litigation to recover small sums. Thus it provided that those taking pawns or lending money over the rate of 10 per cent would forfeit the pawn and suffer one month's imprisonment; one third of the forfeiture was to go to the poor. The preamble also noted that almost every great town in Christendom had a lombard and the act provided that one be maintained in London or within a mile thereof. It would lend money at a rate of 4d. in the pound for a month on pawned goods up to a value of £5. A proviso ensured that such goods pawned were to be kept safely for one year before being offered for sale by an officer appointed by the mayor or two JPs; any surplus was to go to the owner or to the poor if the owner (or heirs) could not be discovered. Some allowance was to be taken 'for keeping bookees and registers for the well ordering of the same'.

Of course, pawnbroking implied the taking of interest, in other words, usury. This was the point made by Miles Mosse in his The Arraignment and Conviction of Usurie of 1555 but published two years before the 1597-8 parliament 'under pretence of laying to pawne, usurie is commonly and too commonly committed'. Despite the fact that the extortionate practices of pawnbrokers was not usury, it remains possible that the 1597-8 bill was vetoed because the continuance act of that parliament made perpetual the 1571 act against usury. The Commons' bill of 1601 proves that some recognised that the act did not deal at all effectively with pawnbrokers.

Shopkeepers' customers were also seen as needing the assistance of the legislators in Elizabeth's last two parliaments but again the Queen prevented their initiatives from taking effect despite a special effort by the Lords to get the 1597-8 bill through. The preamble alleged that shopkeepers purposely delayed claiming money owed to them in order to place additional items on the account 'when they have supposed the particulers and certeyntie of the wares delyvered to be forgotten'. Another trick was to neglect to cross off debts which had been repaid. As a remedy it proposed that shopkeepers could only bring any action of debt for goods delivered or work done within one year of delivery or completion if they pos-

79 LJ, II, 209, cf. 232, 233. The printed journal errs in noting the last entry as a first reading and committal; it was the second reading, HLRO, MS Lords Journals, 6, p. 242.
80 D'Ewes, p. 688. By this stage the committee was dealing with several bills.
81 PRO, SP 12/283/31.
83 D'Ewes, pp. 566-7, 568, 578, 579, 580, 581; Inner Temple, Petyt MS 537, vol. 6, p. 292 (Sainty, p. 5); LJ, II, 218.
sessed a bill of debt or obligation of debt from the debtor ‘expressinge the true cause whereupon the saide deyte did growe and aryse’. It was to con-
tinue until the end of the next parliament. 84

Trade between merchant and merchant, merchant and tradesman or
tradesman and tradesman ‘for anye thinge directlie fallinge within the
cyrafte or compasse of theire mutuall trades and merchandize’ had been
exempted from the bill and when an identical measure was initiated in
1601, its title was amended ‘for that it was thought to bee an imputacion
to Merchantes’. This measure was engrossed, after division, and provoked
some debate in the Commons. One participant in the second reading debate
was Hugh Beeston, a Cheshire gentleman, who ‘showed how good this bill
would bee to keepe young men from running too far in Debt’ and he
supplied the house with an example of a mercer who had given someone
a piece of velvet in return for a favour; when the merchant died sixteen
years later, his executors sued the recipient. Demanding to see the mer-
chant’s books, the unfortunate man discovered an entry assigning interest
to him. Being told by his legal counsel that his only alternative was to sue,
he decided to settle out of court so as not to destroy his credit. Beeston
also informed the house that there were two sorts of merchant’s books,
one ‘where the particulers bee and that uppon paiment is lightlie crossed’
the other a general book ‘where the gross some is and that is called the
Booke dormant, out of which if you see not yourselfe crossed you or your
exectors would paie for it twenty years after’.

On its third reading further problems were identified and the bill was
amended to refer specifically to ‘debtes uppon shopp Bookes’ rather than
just ‘debtes’. Once corrected, a debate began dramatically when
Southwark’s Zacariah Lok started to speak but ‘who for very fear shook
that he could not proceed, but stood still a while, and at length sat down’.
Since Bacon felt obliged to remark ‘Bills were wont to be committed with
pleasure, but now we would scarce hear them with Patience’ and Thomas
Jones of Hereford began his speech in the bill’s favour with the words ‘It
is my Chance now to speak something, and that without hemming or Haw-
ing’, it seems many MPs were bored with the bill and found the lengthy
discourses on commercial legal practice offered by lawyers such as Thomas
Henshaw (counsel to the City) and John Harris very tiresome. Jones’s
speech was blunt (‘I think this Law is a good Law’), moralistic (‘Stright
reckonings make long Friends’) and full of helpful homilies (‘As far goes
the penny as the penny Master’). Sergeant Thomas Harris was also in
favour, warning that merchants’ books ‘be like Basingstoak Reckonings,
over night five shillings and six pence, if you pay it; if not, in the Morning

84 HLRO, MP, Parch. Coll. Box 1D, nos. 3247, 3258 (Bond, Lords MSS, pp. 51–2, 63).
it is grown to a just Noble'. Such 'sleeping Debts' would 'lull Young Gentlemen... with the golden Hooks of being trusted by the Merchant, and his Expectation after his Fathers Decease'. But others, such as Hakewill, felt that the bill was unnecessary: if the customer was so negligent that he did not bother to discharge his debt properly why did the members of the house feel obliged 'to make a Law to help his Folly'? Hakewill warned that poor artificers might well lose their chance for purchasing on credit and, besides these defects, he knew of a cheap way to get around the provisions anyhow! After four hours of discussion the house voted in favour of the bill by 151 to 102; it passed the Lords in three days but, like its predecessor, was vetoed.85

If pawnbrokers were considered to be dangerous to the well-being of the commonwealth, MPs regarded the wandering retailers known as petty chapmen, peddlers or 'hawkers' with even more hostility. Defined as rogues and vagabonds by a statute of 1572, unlicensed peddlers and petty chapmen had evaded its provisions by securing licences and their faults were listed by a 1597–8 preamble: wandering from county to county 'utteringe deceitefull wares, by unlawfull weightes and measures', 'Accessories to Cutpurses, and other Malefactors' and 'Cariers of Lres, and Messengers from our trayterous and disloyall Subjectes to another'. They were guilty of Sunday trading, during divine service, and impinged on the lawful trade of others, potentially leading to the decline of corporate and market towns.86 Chapmen were to be licensed by JPs or suffer loss of goods, half of which was to go to the poor, lame and maimed soldiers of the parish.87

These MPs also turned more generally to the problem of unlawful weights and measures, in part focusing on Welsh variants. A 1597–8 Commons' bill was committed, amended and the counsel for the Clerk of the Market was to be heard; that seems to have finished off the measure.88 In

85 D'Ewes, pp. 651, 661, 662, 665, 666–7, 670; BL, Stowe MS 362, ff. 176v, 177v–8, 186v–7 (Townshend, Hist. Coll., pp. 270, 271, 282–4); LJ II, 244, 245, 246. Although Beeston had been entrusted with the measure, Sir Walter Raleigh reported the first committee's work to the house, characteristically offending MPs by moving for a proviso for sums under £5, which because the majority of the committee had opposed it, he 'thought it good to move it heere'. However, 'all the howse cried Noe'.

86 This reflects the popular view of such men, as represented by Autolycus in Shakespeare's A Winter's Tale and discussed by Margaret Spufford in The Great Reclothing of Rural England, Petty Chapmen and their Wares in the Seventeenth Century (London, 1984), pp. 88–9. Spufford found no examples of such men being accused of carrying letters from traitors. Her researches reveal that Elizabethan chapmen travelled considerable distances, pp. 69, 75, 86.

87 BL, Stowe MS 362, f. 23 (Townshend's Journal, p. 28); BL, Egerton MS 2222, f. 50; HLRO, MP 1593, ff. 117–18, an undated paper which survives amongst the bills for 1593 but probably belongs to 1597–8 or 1601.

1601 a bill ‘for the better suppressing of abuses in Weights and Measures’ was introduced by Bacon who claimed to have received many complaints, presumably as JP for Middlesex and Essex. His bill would have extended the provisions of an earlier act (11 Henry VII) to Wales and sought to increase its effectiveness by defining a number of offences and increasing penalties. Wiseman had revealed ‘a greate imperfection in the Bill because there wanted a Remedye to meete with the Clearcke of the Marckett’.89 This official had been made responsible for inspecting and correcting weights and measures once or twice a year in another bill; it failed to get beyond the committal stage despite an eloquent plea from Derbyshire’s Peter Fretcvile on behalf of his county where, he alleged, the rich used a larger measure when buying grain for themselves and a smaller when selling it to their poor neighbours. This might be the 1597–8 bill which Monmouth’s Robert Johnson had hoped to revive, noting that there were as many ‘vile practizes’ as there were MPs in the house.90 A third surviving measure noted conciliar attempts to reform the abuse and legislated for the imposition of standard weights and measures. Unlike the others it has a long enacted clause, but whatever its origin it too failed, being rejected on its second reading.91

The plethora of bills intended to remedy the unfair practices of pawnbrokers and shopkeepers, and the use of false weights and measures in the last two parliaments of the reign, imply some sympathy for the economic hardship suffered by those at the lower end of the social scale. A perennial parliamentary matter was certainly justified in these terms: the drive by London authorities and retailers to prevent foreigners encroaching on employment opportunities. In 1584–5 a rejected bill would have prevented aliens from selling linen cloth within three miles of London or any English borough, and attempts were made in 1586–7 and 1589 to exclude them from retailing while another 1589 bill was directed against foreign handycraftsmen. The Court of Aldermen lobbied behind the scenes.92 In 1593 a bill ‘against Strangers born to sell by way of retail Foreign Wares brought into this Realm’ provoked a good deal of debate and was promoted aggressively by London’s MPs.

90 D’Ewes, pp. 654, 662–3; BL, Stowe MS 362, ff. 73–4v, 228v (Townshend, Hist. Coll., pp. 188, 273, 311); PRO, SP 12/283/3. See also notes on the issue in BL, Lans. MS 84/14, ff. 33v–4 which include an account of abuses.
91 PRO, SP 12/283/7; BL, Egerton MS 2222, f. 153v. On official attempts to deal with the problem see PRO, SP 12/177/20; APC, XIX, pp. 300–1; Hughes and Larkin, II, 695 and for problems arising in Westminster, PRO, SP 12/281/70.
92 Elton, Parliament, pp. 81, 239–40; TCD, MS 1045, ff. 86, 89v; HLRO, MP 1582–5, ff. 89–92v, MP 1586–92, ff. 17–18v; CLRO, Rep. 21, f. 132v, Rep. 22, f. 36; BL, Harl. MS 7188, f. 102; D’Ewes, pp. 415, 445, 447, 453. For an example of earlier complaints see the petition of 1525, BL, Harl. MS 2252, ff. 15–16.
The bill prohibited aliens from selling any imported foreign wares or merchandise unless they had served a seven-year apprenticeship in retailing. Recorder Edward Drew reported the committee’s work in which fines were substituted for loss of goods and a proviso added allowing the English-born children of aliens to take up apprenticeships. Counsel for both sides were heard (although Bacon thought it ‘agaynst the orders of the howse’ to hear counsel for public bills). London’s counsel Francis Moore of the Middle Temple listed the ‘inconveniencies’ which arose by allowing foreign retailers: they offered better and cheaper goods, caused unemployment, paid little subsidy and exported their profits. Although some MPs wanted to help religious refugees, Moore thought charity had to be mixed with policy; it was enough to allow them to practise all trades but retailing. He was followed by Lewis Prowde of Lincolns Inn who refuted each point while a colleague warned that the bill would open the floodgates as each manufacturing interest sought to prohibit strangers from their trades. Speaker Coke informed MPs that he had received such a bill for shoemaking and other crafts; the diarist thought this had been ‘putt in by the strangers themselves of policie’.

MPs were divided on the issue. Wolley was against: Antwerp and Venice would not have been rich and famous if they had prohibited strangers. In favour was a common pleader for the City, Nicholas Fuller. He noted that the City authorities had been forced to take steps to control the ‘uproar’ against aliens: ‘they will not converse with us, they will not marry with us, they will not buy any thing of our Country-men’. Sir Edward Dymoke, who later in the year petitioned Burghley for his suit to register aliens, blamed English engrossers and merchants for price rises and exports of money. James Dalton, soon to be London’s under-sheriff, stressed the strangers’ responsibility for causing poverty, while Henry Finch argued that ‘our Nation is sure more blessed for their sakes’ and reminded MPs of the hospitality the English received from strangers ‘in the days of Queen Mary, when our Cause was as theirs is now’. Another MP argued that there were few foreign retailers and these occupied such a variety of trades that they could not ‘in common reason so much impoverish any one trade or company’. Of the complaint that their goods were less expensive and they were too frugal, he observed

93 D’Ewes, pp. 479, 489, 501, 504; BL, Cotton MS Titus Fii, f. 65–65v; HLRO, MP 1592–3, ff. 31–8v, at 34–34v (a list of amendments on ff. 36–8 pertains to the expiring laws continuance act of this session). There is no mention of this bill in the repertory, although the usual committee was set up to discuss what should be promoted, CLRO, Rep. 23, ff. 22v, 31.

'we are much streightned for argumentes that are driven to accuse them for their vertues'. Drew offered a compromise: the bill would not be retrospective, while aliens already in England be restrained 'to their Retayling of some Wares especially'.95

After further consideration, London's chamberlain, Andrew Palmer, reported that the committee could not agree. Coke's attempt to put the bill to the question of engrossment failed and another debate ensued. Palmer added statistical support to Moore's claims of the numbers of alien retailers, the impoverishment of English retailers and the export of coin. He ended on a patriotic note: 'Let us then have an Eye to our Country and our poor Country-men. You be here as Patres Patriae conscripti: I beseech you have respect unto this City, upon whose flourishing Estate the whole Realm dependeth'. Sir Walter Raleigh bit¬terly attacked Dutch strangers who lived in England 'disliking our Church'. They rebelled against authority, monopolised world trade and encroached on the Newfoundland fisheries, the mainstay of the west country. It was he who returned the bill from yet another committee, now with a proviso exempting denizens.96 Recommitted, the bill pro¬voked another debate on the third reading, with Cecil successfully pro¬posing provisos exempting denizens' widows and limiting the bill's life to the end of the next parliament. It 'was much pressed this day, for to deferr this day and to deny it was thought all one' and the bill finally passed by 162 votes to 82.97

In the end all this effort was for nought: the Lords rejected the measure. It may be significant that a detailed critique survives in the Cecil papers which highlighted the point that the retailing trade was the chief means by which the Dutch and French congregations supported themselves 'whereby they are enabled to answer Her Majesty's subsidies and fifteenths, besides the contribution they give for the relief of the English poor'.98 It is surprising that no further attempt was made in 1597–8 and 1601 but perhaps London's authorities found easier ways of controlling foreign retailers.

95 D'Ewes, pp. 506–7; BL, Cotton MS Titus Fii, ff. 68v–70v; BL, Lans. MS 55/63, ff. 188–90 with notes, ff. 186–7v, endorsed as belonging to 1589, but the content better fits the 1593 debate; it has been attributed to Henry Jackman who sat in both parliaments, HPT, II, 371. See also BL, Lans. MS 73/39, f. 132, for the view of Sir Henry Knyvett.

96 D'Ewes, pp. 508–9, 509–10; BL, Cotton MS Titus Fii, ff. 72–4v, 75; HLRO, MP 1593, f. 35. Palmer was apparently not named to the original committee, as D'Ewes points out, BL, Harl. MS 75, f. 63. Of the new committee, only three (Dalton, Robert Wroth and Edward Dyer) had been members of the first.

97 D'Ewes, p. 511; BL, Cotton MS Titus Fii, ff. 76v–7. The diarist has it passing by eight-two to forty-two. Cecil also wanted to know whether needlework was included with linen work¬ers; the house decided not.

AGRICULTURE AND FISHING

Grain and corn

Tudor people faced the constant threat of dearth and one of the main areas in which governments experimented with intervention was in the production, supply and export of grain products. The problem was twofold: to ensure prices which were not too high to supply the people with their needs but not too low as to discourage production, and to ensure a relatively even distribution throughout the country. The main approach was to control the export of grain. Attempts to link exports to price levels in 1559 and 1571 were unsuccessful. London attempted to get a bill through allowing it to import corn without paying customs in 1563 and another unsuccessful measure of that session attempted to impose tighter controls on licences to buy corn.99

Although in 1584–5 the Lords approved one bill in which the preservation of grain was linked to protecting game and the Commons initiated another which prohibited the use of grain in the making of starch, substantial parliamentary attention was only focused on grain supplies after the run of bad harvests in the middle 1590s which saw much conciliar effort to supply markets and prohibit exports.100 Prior to the parliament of 1597–8 rumours had been circulating against forestallers and engrossers of grain and action taken through proclamation in July 1596 and September 1597, the last needed to quell rumours that the Lord Mayor had forestalled grain to force prices up.101 A Commons’ measure apparently began with a motion to make forestalling a felony and such a bill was drafted by committee,102 but this was a traditional complaint considered also in 1589.103

The 1597–8 committee gave corn, grain and other victuals their own bill; what was left passed the Commons, but was rejected by them when the Lords made amendments and additions. The grain bill, a sweeping measure

100 LJ, II, 84, 85, 86, 101; D’Ewes, pp. 354, 363, 364, 366, 368, 369; TCD, MS 1045, ff. 86v, 90, 91, 94; BL, Lans. MS 43/72, f. 173; 43/73, ff. 176–7v; HLRO, MP Parch. Coll. Box 1D, no. 3216 (Bond, Lords MSS, pp. 20–1); APC, XXVI, 80–3, 94–6, 116–17, 226–8, 257–9, 328.
101 Hughes and Larkin, III, 781, 789.
102 BL, Stowe MS 362, f. 11–11v (Townshend, Journal, p. 14). Pollard and Blatcher dated this as probably 16 November, the day that the amendments drafted by the committee were read to the house and the bill was recommitted. However, this does not make a good deal of sense given Harris’ comment that no bill was offered and so a date before 5 November, when it did have its first reading, is more likely, D’Ewes, pp. 551, 552, 557, 558.
103 D’Ewes, pp. 429–30, 432, 434, 439–40, 442–3, 444, 446, 453, 454; LJ, II, 167. At one stage the first bill was noted as concerning ‘Informers and Forestallers’. There is an undorsed, almost illegible, draft in HLRO, MP 1586–92, f. 4.
which simply made void all contracts facilitating stockpiling, got no further than a first reading. However, another bill, controlling the export of corn and intending ‘to give Liberty for English Subjects sometime to buy Wheat, Rye and Barley and to sell the same again, in the same kind for the better Relief of the Common Wealth’, was committed, amended and passed by only twenty-nine votes. It reached a third reading in the upper house but no further. A bill ‘against stealing of Corn and Fruit’ was also considered and, after the Christmas recess two bills were initiated. One, ‘to restraine the Lading of Corne in some partes’ was committed and reported back with amendments but got no further, a fate shared by the bill prohibiting exports ‘at certaine times’. A speech opposing an attempt to restrict the selling of grain to markets hints that the move came from the ‘Corne Countryes’, those able to supply themselves and others. Impractical, unenforceable and unwise was his judgement on the bill: it would discourage husbandry by keeping grain prices down, hurt the poor who would waste a day’s labour going to market and discourage charity since farmers were more inclined to be charitable at home than in the market place and would also be inconvenienced by having to carry unsold grain home again. The real cause of rising grain prices was forestalling and the only remedy was to encourage the sowing of grain.

Drainage and tillage

As well as attempts to restrict exports and ensure a more equitable distribution of grain, initiatives were taken in these parliaments to increase arable production by encouraging drainage schemes and by ensuring that plenty of land was devoted to tillage and not pasture. The first smacked of a good deal of self-interest since MPs used parliament to confirm and extend their investments, as in 1584–5 when those behind the draining of the fens around Ely, notably Sir Thomas Lovell, promoted a bill allowing them to make grants by copyhold of common land; copyholders were to maintain the ditches and plant willows and overall control rested with the commission of the sewers. The bill ended when the committee, which included local gentry such as Mildmay, John North (son of Roger, second Lord North) and Sir Richard Knightley decided it should be held in reserve for another parliament. In 1593 Humphrey Bradley, the man responsible

104 D'Ewes, pp. 558, 566, 567, 572, 591; LJ, II, 206, 298; Inner Temple, Petryt MS 537, vol. 6, pp. 280, 281 (Sainty, pp. 3, 4).
107 BL, Lans. MS 84/13, ff. 30–1v, endorsed as ‘November 1597’.
108 PRO, SP 12/176/74; TCD, MS 1045, ff. 86v, 92; D'Ewes, pp. 371, 373.
for much East Anglian land reclamation, wrote to Lord Burghley urging for a general bill for drainage but none appeared until 1597–8. Local members again dominated both Commons’ committees dealing with a Norfolk drainage bill and a general measure covering much of the fenlands; local peers sat on the Lords’ committee.109

The general bill had been introduced in the Commons by Northamptonshire’s Sir Thomas Cecil, son of the Lord Treasurer and elder brother of the Secretary; he had been put in charge on the bill’s committal but it was the Boston MP Anthony Irby who reported back.110 Many of those involved had been participants in the disputes surrounding George Carleton’s schemes in Lincolnshire during the 1580s. Yet Carleton, a client of the Earl of Bedford and in Lord North’s favour, had enjoyed the support of some of the local gentry, including Irby.111 Thomas Cecil and his cousin Robert Wingfield were members of a commission of the sewers assigned to resolve the dispute and both sat on the Commons’ committees. Such self-interest is also evident in the Lords: the Earl of Sussex sat on the commission and on the Lords’ committee, Lord Buckhurst successfully moved that the county of Sussex be added to the general bill and Lord North that Somerset and Essex might be as well. The Lords’ amendments and provisos to both measures were approved by the Commons but the Queen intervened to stop proceedings on both bills.112

This was an unusual action – why did the Queen not simply wait until the end of the parliament and exercise her veto? Her action provoked a protest from Wingfield, almost certainly one of the prime movers of these bills. Active in reclaiming land in Northamptonshire in the early 1590s, in association with the Cecils and Lord North, soon after the 1597–8 parliament Wingfield gathered together a number of Lincolnshire, Northamptonshire and Huntingdonshire gentlemen to petition the Privy Council for more drainage projects. Signatories included his brother John (Peterborough’s MP in 1597–8), Richard Stevenson and Irby (Boston’s MPs) and it pointedly suggested that the impoverishment of the land would have been alleviated by the ‘late intended law for that purpose which passed

109 The counties were Norfolk, Cambridgeshire, Lincolnshire, Northamptonshire, Huntingdonshire and Suffolk, PRO, SP 12/244/97; BL, Lans. MS 74/65, ff. 180–3v; D’Ewes, pp. 563, 567; LJ, II, 214–15, 217, 223–4.

110 D’Ewes, pp. 564, 567, 569, 570–1, 572. Wroth later reported that the committee advised the removal of a ‘longe and frivelous Provisoe’, BL, Stowe MS 362, f. 193v.

111 M.E. Kennedy, ‘Fen Drainage, the Central Government, and Local Interest: Carleton and the Gentlemen of South Holland’, HJ 26 (1983), pp. 15–37. The dispute was settled by the 1590s.

both the houses of Parliament'. In 1601 Irby again sat for Boston and Wingfield for the Cecil seat at Stamford, and both were active in pursuing another general drainage bill. Redrafted in the Commons, the Lords predictably added Sussex and Essex (but not Somerset) and also Kent and Durham. This time there was no royal veto and the bill became law. However, another measure specifically for Norfolk failed once again, this time rejected on its third reading in the Lords.

Another success for the drainers was the 1584–5 act giving yet another extension to the syndicate draining Erithe and Plumsted marshes in Kent. Despite previous legislation, printed publicly to overcome local opposition, they now secured another extension but had to suffer a 50 per cent cut in possession and the exemption of Erithe marsh altogether. In the same parliament, an attempt to improve land usage by prohibiting moor-burning in Yorkshire, Northumberland, Cumberland and Westmorland between April and October failed. Offenders were given an hour to put the fire out or suffer a 40s. fine and allowance was made for burning moors 'to mende the grownde for corne'. By the time it arrived in the Lords, Yorkshire had been dropped and Durham included. Despite the Commons' acceptance of the Lords' amendments, someone secured its veto.

Officials and MPs also sought to prevent the conversion of land from arable to pasture and even attempted to bring some converted land back in to arable production. The tillage act of 1563, which clarified existing law, appears to have been a bill promoted privately with conciliar involvement and this mixture of initiatives can be seen in the later Elizabethan legislation as well. Although a 1584–5 bill intended primarily to enforce Henrician statutes, repealing mid-Tudor legislation which it argued were imperfect and too lenient, it was 'Condemned by the Comyttees' presumably because they considered the formula offered to be too severe. Although much amended by the Commons, the Lords' bill providing that

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113 Robert probably made the protest: John was less active in this parliament, D'Ewes, pp. 368, 395; BL, Lans. MS 67, f. 37; Hatf. MS 177/47.
115 HLRO, 27 Eliz. OA 2; Elton, Parliament, p. 232; LJ, II, 68, 75, 87, 96, 106; D'Ewes, pp. 367, 370, 371, 372; TCD, MS 1045, ff. 90v, 91v, 92, 92v. One of the parties heard in the Commons was an engineer seeking compensation, who had petitioned the Lords to send a message through Mildmay that the Commons should give him special consideration.
116 TCD, MS 1045, ff. 75, 82v, 92; D'Ewes, pp. 330, 354, 371; LJ, II, 82, 83, 86.
118 From 1 April 1585 all land in tillage for any one year and for four years at any time since 1539 was to be kept in tillage while all houses standing since 1539 were to be rebuilt and maintained from 1 April 1586 along with the same amount of land. Half of the fines for offending against the second provision were to go to the poor, HLRO, MP 1582–5, ff. 45–53v. It appears to have been ignored by D'Ewes.
no cottage could be built unless it had four acres of nearby freehold land attached was successful. Another Lords’ bill on husbandry and tillage was also amended by the Commons, who took their time over it and so angered the Lords that they held up the expiring laws continuance bill. Although it was certainly returned to the floor of the house, it had no further proceeding.

No attempts were made to revive the issue in 1593, but following the worst harvests of the reign the next parliament turned again to the problems of husbandry and tillage. On the very first full day of business, and after the Commons had read the pro forma bill against forestallers and regrators, Bacon put forward a motion against enclosures, depopulation of towns and houses of husbandry and tillage. He presented two bills ‘not drawn with a polished pen, but with a polished heart’ with a learned discourse as befitted the author of the Essays. Bacon was supported by Fortescue who moved for a committal; the heavy-weight committee was also to consider vagrancy. Although they dealt solely with enclosure and tillage, MPs had drafted ‘two or three Bills’ on vagrancy. As far as the main issue was concerned, bills on tillage and the ‘re-edifying’ of houses or ‘for the increase of people’ were drafted by Bacon on the committee’s instructions.

When Bacon delivered the tillage bill to the Speaker he said he was glad to be discharged of the bill ‘as an Asse when he layed downe his pack’. Committed and redrafted, the bill passed the Commons only ‘after many Arguments’. The preamble drew attention to the legislator’s motivations – to curb poverty and idleness – and enacted that land which had

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119 LJ, II, 147, 149, 153, 156, 157, 158, 160, 165; D’Ewes, pp. 444, 447, 448, 449, 450, 451, 453; HLRO, 31 Eliz. OA 7; SR, IV, 804–5. The Lords were unhappy at the Commons’ decision to strike out a clause providing that any cottage which had been built within the last twelve years without the four acres should either be no longer leased or have the land attached when it reverted to the freeholder. Many of the Commons’ changes amounted to exemptions: cottages built within a mile and for mineral works (to which the Lords wanted the Commons to add those for lime burning, brick and tile making) and cottages for sailors, fishermen, warreners and shepherds.

120 D’Ewes, pp. 453, 454.

121 Ibid., pp. 551–2. The first edition of Bacon’s Essays were published in 1597 but the essay on sedition, which notes the importance of husbandry and of suppressing ‘great pasturages’, was only published in the third edition of 1625. It is ironic, as one of his early editors noted, that Bacon’s comments on the enclosure legislation in his biography of Henry VII contradict the intent of the bills he initiated, S.H. Reynolds (ed.), The Essays or Counsels, Civil and Moral of Francis Bacon (Oxford, 1890), pp. 98, 100 and 109.


123 D’Ewes, pp. 564, 568, 570, 572, 574–5; BL, Stowe MS 362, ff. 10v–11 (Townshend, Journal, pp. 13–14). The printed edition of D’Ewes errs in saying Friday was the 11th of December; it was (and the manuscript gets it right), the 9th.
been in tillage for twelve years but which had been converted to pasture since 1558 was to be reconverted within three years and land in tillage for twelve years should continue to be so. Provisos exempted land worn out by tillage and put to pasture to revive, conversions for purposes of rotation ('course of husbandry'), grazing horses or draft oxen, or for cattle to supply meat for the household, but another proviso made it clear that graziers or sheepmasters would not be exempted from the act. Those absent on the Queen's service, having several residences and minors in other households were exempt. The penalty was 20s. per acre per annum (a third of which was to go to the poor). There were a number of exemptions in terms of land types (such as heaths and marshes, rabbit warrens and orchards, and land with ores and minerals) and the act listed the counties affected. It was made probationary until the end of the next session of parliament. 124

Sergeant Harris noted that he had been utterly against the bill, but was content now that a proviso exempting Devon and other counties had been added. A move by Ludlow's Robert Berry to include Shropshire was 'utterlie disliked by all the Burgesses of that Countie and the Knightes of that Sheire, and hee greatlie frouned at for it' and failed. However, Cambridgeshire and Northumberland were added after engrossment. 125 The considerable number of Lords' amendments were approved by the Commons; they included the addition of Pembrokeshire and changes which gave greater recognition of regional variations and more flexibility to owners. 126

One copy of the bill shows that originally only land which had been in tillage for seven years was to be converted and that no percentage of the fine was to go to the poor. Two speeches against the bill survive, as do other papers noting changes, arguing for legislative action and summarising earlier statutes. It was possibly Henry Jackman who argued that the entire basis of the bill was wrong: the dearth had been caused by reasons best known to the almighty, not by an apparent lack of land in tillage. Another speech argued that the bill was 'too weak for the disease' because it exempted enclosers who had sold to the crown, imposed too light a penalty,
exempted ground mowed for hay and forced the poor onto the charity of the encloser.127

The bill for the ‘increase of people’ also had difficulty in passing the Commons, arriving in the Lords along with the tillage bill and considered by the same committee after the Christmas break.128 The Lords had no less than thirty-one objections to the depopulation bill and since their differences could not be reconciled, the upper house ordered the judges, and especially Popham, to draft a nova. Its articles were sent to the Commons beforehand for consideration.129 Entitled ‘against the decaeni of townes and houses of husbandry’, this measure provoked little debate in the Lords and only a little in the Commons where it was amended; these were approved by the Lords.130 A comparison between the two measures reveals similar approaches, but a greater realism from the peers, including lower penalties, distinguishing between original owners and subsequent purchasers and restricting powers of enforcement to the assize judges.131

Both bills had their objectors. An obvious point was made in a paper which Burghley may have examined: it would be difficult to reunite property which had been scattered among several owners.132 Burghley also received a letter from the Oxfordshire deputy lieutenant, Sir Anthony Cope, who had hoped to offer his criticisms of the Commons’ bill on its third reading.133 He thought it unwise that every house should have to have twenty acres within two miles of the town: ‘I dislyke the lymitacion of the place, fearinge the poore man shalbe cast into the most barren and frutless


128 D’Ewes, pp. 565, 569, 570, 574; LJ, II, 212, 213, 214. Essex, sulking over Howard’s elevation to the earldom of Nottingham, did not attend until he had been made Earl Marshal. When he took his seat on 11 January he was immediately added to the committee, LJ, II, 214. A committee list survives (PRO, SP 12/266/11) and shows that Essex was later added, at the appropriate place between the Lord Treasurer and the Lord Admiral. There is another copy (without Essex noted), PRO, SP 12/265/58.

129 LJ, II, 215, 217; D’Ewes, pp. 578, 580, 580–1, 582–3, 583, 586, 587, 588; Inner Temple, Petyt MS 537, vol. 6, pp. 294, 295, 297 (Sainty, pp. 6, 8, 10). Townshend notes that as the articles had been privately delivered to Sergeant Richard Lewknor from Lord Chief Justice Popham, so were they to be privately returned, BL, Stowe MS 362, f. 14–14v (Townshend, Journal, pp. 17–18).

130 Inner Temple, Petyt MS 537, vol. 6, p. 299 (Sainty, pp. 12, 13); LJ, II, 221, 224; D’Ewes, pp. 590, 592, 593; BL, Stowe MS 362, f. 17 (Townshend, Journal, pp. 21–2); SR, IV, 891–3; HLRO, 39 Eliz. OA 1.

131 HLRO, 39 Eliz. OA 1; PRO, SP 12/266/59; HLRO, Parch. Coll. Box 1D, no. 3244 (Bond, Lords MSS, pp. 43–50). The Commons’ amendments are visible on the act and they included the removal of a clause allowing tenants, with the consent of their lords, to enclose land and of the sentence allowing dispensation for building a separate house for wives, at the expense of houses of husbandry.

132 Salis. MSS, VII, 546; Hatfield MS 141/193.

Soyle’. The bill did not carry any limitation of commons or meadow land ‘withowt which noe ploughe can be mayntayned’, nor did it set down limitations on the level of rents so that the poor, who were the intended beneficiaries, would be entirely subject ‘to the will and harde Conscience of him that hath Destroyed the Towne, or of him that hath unconsionablye purchased the Towne so destroyed’. Cope wanted some weekly contribution to be raised for the relief of the poor, while the bill’s provisions were being realised. He could see no reason why the bill should exempt purchasers, leaseholders or minors title and was concerned that the act should be effectively executed by the assize judges. As this suggests, his comments seem to have influenced in a small way the nature of the Lords’ bill which became law.  

**Fishing**

Measures concerned directly with fishing were often associated with those intended ‘for the Maintenance of Navigation’, since preventing fish exports, or ensuring that they were carried on English ships manned by English seamen, were seen as strategies to improve the English navy. The starting point for many of the later Elizabethan bills was the 1563 codifying act which was a combination of official and private initiatives and ranged over a confusing number of matters from fishing in English ships to deserting seamen, the production of hemp and the export of wine and grain. One such clause allowed the small boats known as hoys and plats to trade in an area marked by Normandy in the south and Norway in the east, hitherto prohibited by an act of 1559. In 1571 an act repealed the clause, reviving the prohibition, but then was itself allowed to lapse. A 1584–5 Commons’ bill then sought to revive it. The measure also tried to counteract the development of east Anglian flyboats by insisting that one mariner had to be on board for every five tons carried by cross-sailed ships of whatever name. Such seamen were to be allowed to carry goods to the value of their wages to sell abroad. Although it barely got off the ground, Burghley was in possession of a copy and it is interesting that an identically entitled bill was initiated in the Lords; it reached only a second reading. The Commons’ bill surely ran into difficulty because of its secondary enactment which forced landlords to give fishermen free access to tidal rivers and bays.  

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134 Another Commons’ attempt to put land to better use was the 1597–8 bill ‘for the most commodious usage of Landes dispersed in Common feildes’. It was rejected on its second reading, D’Ewes, p. 584.  
136 *LJ*, II, 69, 70; TCD, MS 1043, f. 74 (Cromwell erred in thinking the bill revived the 1563 clause); HLRO, MP 1582–5, ff. 17–25v; PRO, SP 12/175/29, 30.
Law-making and society in late Elizabethan England

MPs certainly approved their bill 'for Maintenance of Navigation' which revived for ten years, and then at the Queen's pleasure, the 1563 provision which freed the export of herring 'and sea fishe' in cross-sailed ships from customs duties. However, it was vetoed. A similarly entitled Lords' bill had only two readings in 1593 while in 1597-8 a bill prohibiting the export of herrings altogether until prices fell, was introduced by the Suffolk gentleman George Waldegrave, anxious, it seems, to counter the shortage of herring and the consequential rise of butter and cheese prices. The Lords eventually rejected it. Another Commons' bill, revising the 1563 act, was so treated by MPs. A 1601 Lords' measure which lumped together 'the Maintenance of the Navy, Increase of Mariners and avoiding of the Scarcity of Victuals' died in the Commons, while the Commons' bill 'for the maintenance of Shipping and increase of Mariners' was scrutinised by MPs from the ports and got no further.

Many of these unsuccessful bills floundered because they adversely affected powerful interest groups, in particular, the Fishmongers' Company of London. Shortly before Waldegrave took his parliamentary initiative, they had petitioned for a prohibition of herring exports and London's authorities had consulted them over the issue. The Fishmongers' major concern, however, was the 1581 fishing act obtained largely at the behest of Yarmouth fishermen. It restricted imports and carried a clause specifically directed at the Fishmongers' ordinances. Northern ports secured a relaxation of the act in 1584-5, but the Fishmongers' attempts in the next parliament to secure freedom to import between August and November, and to repeal that specific clause concerning them, was opposed by Yarmouth's MPs in the Commons and was rejected in the Lords. The com-

137 TCD, MS 1045, ff. 73v, 74v; LJ, II, 68, 69; HLRO, MP 1582-5, ff. 4-8v.
138 LJ, II, 184, 186; D'Ewes, pp. 562, 585, 588; Inner Temple, Petty MS 537, vol. 6, pp. 298, 299, 300 (Sainty, pp. 11, 12, 13); HLRO, Parch. Coll. Box 1D, no. 3245 (Bond, Lords MSS, p. 50); BL, Stowe MS 362, f. 14 (Townshend, Journal, p. 17).
139 D'Ewes, pp. 580, 582, 589; BL, Stowe MS 362, f. 16-16v (Townshend, Journal, p. 20).
140 LJ, II, 242, 243, 247, 249, 250; D'Ewes, pp. 657, 686; BL, Harl. MS 75, f. 269; BL, Stowe MS 362, f. 211. The Lords' committee in 1601 included experienced seamen such as Lord Admiral Nottingham and George Clifford, Earl of Cumberland.
142 TCD, MS 1045, ff. 73v, 86v; D'Ewes, pp. 337, 340, 346, 351, 353, 361; LJ, II, 97, 100, 102, 103; PRO, SP 12/177/21; BL, Lans. MS 43/72, f. 167v; HLRO, 27 Eliz. OA 15; SR, IV, 723.
143 BL, Harl. MS 7188, ff. 89, 99v-100; D'Ewes, pp. 412, 413, 414, 414-15; LJ, II, 137.
pany tried again in 1589 and, in 1593, when the bill failed at the last hurdle, the Queen.\textsuperscript{145} Finally succeeding in 1597–8, the new statute, however, retained the earlier act’s clause on ordinances while allowing Englishmen to import fish cured in foreign countries and export to friendly countries.\textsuperscript{146} After much effort, the company secured the repeal of the clause against their ordinances in 1601, lobbying not for a separate act but for repeal through the expiring laws continuance act, with Wroth’s assistance.\textsuperscript{147}

The 1563 act contained a clause of which the later Lord Burghley was fond, but puritans abhored: prohibiting the eating of meat on Wednesdays. The clause was removed in the expiring laws continuance act of 1584–5, although Burghley hoped for a compromise by which the prohibition would continue in coastal counties, London and York.\textsuperscript{148} A 1601 attempt to revive Wednesdays as fish days was rejected on the first reading, a fate shared by a bill hoping to extend the 1559 act on fish breeding.\textsuperscript{149}

**SOCIAL REGULATION**

Many of the measures designed to improve the economy of the nation were also intended to encourage social stability. For the elite, bills promoting tillage had a dual purpose: forcing landlords to keep land in arable production and to keep people in work. The preamble to the 1584–5 bill states this quite clearly: the pulling down of houses had caused idleness ‘which is the grownde and beginnyng of all myschiffes’. In some places, it alleged, only two or three herdsmen or shepherds worked where once two hundred had been employed and lived. As a consequence ‘husbandrye which is one of the greateste Comodites of this Realme ys greatlye Decayed, Churches Destroyed, the service of god withdrawne, the Patrons and Curattes wronged, the Defence of this lande againste forren eneymies febled and ympayred, to the greate Displeasure of god and to the subvercion of the pollycye and good government of this lande’.\textsuperscript{150}

\textsuperscript{145} D’Ewes, pp. 445, 445–6, 471, 487, 497, 500, 501, 504; BL, Lans. MS 55, f. 185; BL, Cotton MS Titus Fii, f. 57; LJ, II, 179, 180, 183; PRO, SP 12/244/84; HLRO, MP 1592–3, ff. 96–8v; HLRO, Parch. Coll. Box 1D, no. 3224 (Bond, Lords MSS, pp. 26–7); CLRO, Rep. 23, f. 31; GL, MS 5570/1, pp. 11, 13, 14, 17.

\textsuperscript{146} D’Ewes, pp. 556, 557, 558, 561, 564, 564–5; LJ, II, 199, 200, 201; Inner Temple, Petyt MS 537, Vol. 6, p. 280 (Sainty, p. 3); HLRO, 39 Eliz. OA 10; SR, IV, 910–11; PRO, SP 12/265/18.

\textsuperscript{147} D’Ewes, p. 677; SR, IV, 974; GL, MS 5570/1, p. 297. Wroth was much involved with bills of this sort, D’Ewes, pp. 487, 557, 564.

\textsuperscript{148} SR, IV, 718–19; PRO, SP 12/177/33.

\textsuperscript{149} D’Ewes, p. 634; BL, Egerton MS 2222, f. 222. On the earlier act see Elton, Parliament, p. 234.

\textsuperscript{150} HLRO, MP 1582–5, ff. 45–53v.
The spectre of the wandering and potentially violent poor haunted the men attending Elizabeth's later parliaments, fears which were only exacerbated by the growing number of demobilised soldiers and mariners, the economic troubles of the middle 1590s, apprentice and food riots, and the Oxfordshire 'revolt' of 1596. Although a seemingly endless stream of proclamations and by-laws sought to exert control over these apparent threats to the social order, only parliament could provide long-term legislative solutions and both MPs and peers initiated bills proffering a variety of solutions which greatly affected the lives of English men and women.151

**Vagabonds and the poor**

By the time MPs and peers assembled for the 1584-5 parliament the distinction between the impotent and the able-bodied poor was well established: the former were to be assisted, the latter punished. In 1572 parliament enacted that a compulsory poor rate would provide relief, while vagabonds were to be disciplined. A 1576 statute ordered workhouses to be established, along with stocks of raw materials to put the poor to work. Eventually the parliaments of 1597-8 and 1601 passed laws which became the cornerstone of English policy on the poor until the nineteenth century. The main outline of these developments have been discussed and set in context by a number of excellent studies.152 What has not perhaps been fully appreciated is the extent of legislative proposals and the changes which the successful bills went through before reaching the statute book. Like the early Elizabethan acts, the measures promoted in the last six parliaments of the reign were a mixture of private and official initiatives.153

The Sussex MP Francis Alford seems to have had a particular interest in the poor: he sat in 1572, was on the workhouses committee in 1576 and in 1584-5 was, with his colleagues, especially named to a committee considering a bill 'against vicious life and idleness'. Vagabonds, he thought, were 'th canker and vermyn, that eat up the fruit of the lande'; they had to be put to work, as in Flanders, and JPs had to enforce the law. His solution, typical of the period, was to curb wandering by forcing vagabonds

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to settle in their counties.¹⁵⁴ This is what their nova tried to do: register rogues, set them to work in the counties where they had been born or had been three years’ resident or else be placed in a house of correction. All counties were required to build one within the year and officials could be fined if they allowed rogues to wander. There followed a mish-mash of provisions: husbands were to be reunited with the families they had deserted, while JPs were to investigate unmarried pregnancies ‘and to bynde the partye offendinge to be forthcooming’.¹⁵⁵

Yet not all MPs agreed with these solutions. The Hampshire JP Henry Ughtred found the idea of sending vagabonds from constable to constable ‘till he come to the place of his birth or last abode troblesom and chargeable’ and prefered more direct ways of putting people back to work, in other words, promoting tillage. There was little point, he thought, in sending vagabonds to villages already suffering from unemployment, a shortage of housing and the effects of enclosure. Another MP blamed the ‘idell education of youth’.¹⁵⁶ Perhaps some of these issues were dealt with in another nova which was itself much amended. Alford complained that the first bill had been faulted because it dealt with ‘yll life’ and not with ‘idelnes’; in the new measure ‘all is against idelnes and nothing against vicious lyfe’. Eventually it got only so far as a second reading in the upper house.¹⁵⁷ An entirely unworkable proposal ‘for a Bank of general Charity to be appointed for the relief of common necessity’ was rejected on its first reading. It provided that, on death ‘every man’s beste garment’ would be given towards the establishing of seven ‘bankes’ at London, York, Norwich, Coventry, Chester, Bristol and Exeter.¹⁵⁸

The link between depopulation, lack of tillage and poverty was made again in the parliament of 1597–8 when Henry Finch moved that the committee treating depopulation should also consider the problem of the poor and the link was made explicit in the preamble to the depopulation bill. Finch adopted a moral view, speaking of the ‘sundry great and horrible abuses of the idle and vagrant Persons greatly offensive both to God and the world’ but carefully distinguishing them from the ‘extream and miserable estate of the Godly and honest sort of the poor Subjects of this Realm’.

¹⁵⁵ TCD, MS 1045, f. 88–88v.
¹⁵⁶ BL, Lans. MS 43/72, f. 167.
¹⁵⁷ D’Ewes, pp. 365, 368, 369; TCD, MS 1045, ff. 90v, 91, 94; LJ, II, 102, 105. Alford had an altercation with the Grays Inn lawyer, Thomas Lancaster, with Alford hinting that his opponent’s views ‘savors of the Anabaptistes’ and Lancaster responding ‘ther have bene better bastardes, are and wilbe then ever he was’, BL, Lans. MS 43/72, f. 167.
¹⁵⁸ D’Ewes, p. 335; TCD, MS 1043, f. 74.
He was referring, of course, to the severe economic crisis of 1594–6 and his concerns must have been shared by almost everyone.159

Their worries led MPs to initiate eleven bills on the subject between 11 and 22 November. Hastings reported (on the 11th) that two or three bills had been prepared, possibly by members of the committee; these were probably those 'for extirpation of Beggers' and 'for erecting of Houses of Correction and the punishment of Rogues and Sturdy Beggars', which was committed to a large number of MPs who were to meet on the 22nd. If there was a third, it was probably that 'for erecting of Hospitals or abiding or Working-Houses for the Poor'.160 This last passed the Commons, but only after an unusual commitment and debate on its third reading. In the Lords it passed with some amendments.161

The rogues committee not only ended up with the beggars bill as well but also bills concerning bastardy, 'for imployment of the Poor on work, and to restrain them from idleness', 'for the necessary habitation and relief of the Poor, Aged, lame and Blind in every Parish', 'for relief of Hospitals, poor Prisoners and others impoverished by casual losses', 'for Supply of Relief unto the Poor', 'for petite Forfeitures to go to the relief of the Poor', 'for the better relief of Soldieryers and Mariniers', 'for the better governing of Hospitals and Lands given to the relief of the Poor' and 'for levying of certain sums of money due to the Poor'. When those for soldiers and governing of hospitals were assigned two MPs were added to the committee (John Arnold, knight for Monmouthshire and a distant relative of Popham and possibly Edward Hubberd, a Chancery clerk and JP in Essex and Hertfordshire) which might well suggest that they were responsible for drafting these measures or had at least initiated them.162

The house had thus read eleven measures concerning poverty and vagrancy in only a few days. Three others, 'for setting the Poor on work' and 'for Hospitality' and 'for the relief of the Poor out of Impropriations and other Church Livings', were rejected, the last after division.163 The committee was further burdened with a bill on felonies (three more MPs added), but they did their work quickly. The bill for rogues emerged much

159 D'Ewes, p. 552; HLRO, Parch. Coll. Box 1D, no. 3244 (Bond, Lords MSS, pp. 43–50). See, for example, Salts. MSS, VII, p. 118 (Hatfield MS 39/27).

160 D'Ewes, pp. 555, 557, 558, 559.

161 Ibid., pp. 560, 561. It is the fact that some of these bills were only noted by D'Ewes for their second reading that inhibits any attempt to identify positively the 'two or three' bills mentioned by Hastings. There is a problem in identifying Hubberd definitely because Henry Hobart, sitting for Great Yarmouth, also sat in this session and was referred to on several occasions as Henry 'Hubberd' or 'Hubbard'.

162 D'Ewes, pp. 559, 560, 561. It is the fact that some of these bills were only noted by D'Ewes for their second reading that inhibits any attempt to identify positively the 'two or three' bills mentioned by Hastings. There is a problem in identifying Hubberd definitely because Henry Hobart, sitting for Great Yarmouth, also sat in this session and was referred to on several occasions as Henry 'Hubberd' or 'Hubbard'.

163 Ibid., pp. 560, 561.
amended, 'with addition of the two last leaves', but its reading had to be deferred because it was so long; it eventually passed the Commons on 5 December. From the various measures concerning the poor, Finch reported that the committee had drafted a *nova* 'for relief of the Poor'; it passed the Commons on 12 December.\(^{164}\)

The Lords had not been idle either, reading a bill 'for the Relief of the Poor, in Times of extreme Dearth of Corn' whose committee ended up also with the Commons' bill on rogues, the clerk noting that they were to be allowed to call members of the Commons to attend if they thought fit. In the end both the rogues bill and that for relief of the poor were amended by the Lords. Their own measure was to be given further consideration, but it failed to emerge from the committee.\(^{165}\) Thus before the parliament broke up for Christmas the Commons were presented with three of their bills (rogues, poor relief and workhouses) which had been amended by the Lords.

The rogues bill ran into additional difficulties because it had to be made compatible with the newly initiated Commons' bill concerning soldiers and mariners. The Lords agreed to a conference, but insulted the Commons' delegation by assenting to it 'sitting still in their great Estates very solemnly and all covered' rather than bringing the answer to the MPs waiting at the bar of the upper house. According to Whitgift the Commons were satisfied with the Lords' explanations of only some of the amendments, an understatement since the lower house rejected the bill by 106 noes to 66 yeas.\(^{166}\) In response, the Lords initiated their own bill. Drafted with Popham's assistance, it eventually passed both houses after a minor correction by the Commons.\(^{167}\) Carrying the briefest of preambles and a short enacting clause, it repealed all previous legislation on vagabonds and provided definitions, the crucial criteria being caught wandering and begging.\(^{168}\) All such


165 *LJ*, II, 203, 204, 208, 209, 210, 213, 214; D'EWES, p. 575.

166 D'EWES, pp. 577, 579, 580, 581, 582; *LJ*, II, 217–18; Inner Temple, Petyt MS 537, vol. 6, p. 292 (Sainty, p. 5). A division was needed 'upon the doubtfulness of two several former questions for the passing thereof' proof of the power of a few voices!

167 Inner Temple, Petyt MS 537, vol. 6, pp. 295, 296, 298, 299, 300 (Sainty, pp. 8, 9, 10, 11, 14); D'EWES, pp. 589, 590; HLRO, 39 Eliz. OA 4; HLRO, MP, Suppl. 1596–1601, ff. 185–92v. When Popham reported the amendments in the Lords it was debated 'whether Amendments upon a Bill, being brought into the House by Committees, may afterwards be contradicted, or spoken against by any of the Committees. The Doubt left for the present unresolved', *LJ*, II, 220.

168 The list included scholars and seafaring men who begged, idle persons practising games and plays, fortune tellers 'or other like crafty Scyence', those pretending to collect for hospitals and prisons, wandering minstrels and players of interludes (besides those with noble patrons), jugglers, tinkers and peddlers, unemployed labourers refusing to work, counterfeit gypsies and the like. Egerton's secretary had unsuccessfully moved in the Commons to have peddlers of hardware exempted, which provoked an angry exchange with Sergeant Harris, BL, Stowe MS 362, f. 17 (Townshend, *Journal*, p. 21).
persons were to be whipped and returned to the parish of their birth or last residence for the previous year, equipped with a testimony from a JP, constable or minister certifying that the offender had been punished and stating their destination. Those resisting would be whipped into obedience, those without places to go were to be committed to a house of correction, an almshouse or a year's imprisonment; dangerous persons would suffer further imprisonment and even banishment or service in the galleys and any who returned without licence would be charged with felony. Fines were to be imposed on officers neglecting their duties under the act while steps were taken to prevent the arrival of vagabonds from Ireland, Scotland and the Isle of Man. Special provisions were made for treatment in the waters at Bath and Buxton, for St Thomas' Hospital in Southwark and ship-wrecked seafarers, among others.169

Proceedings on the bill for the relief of the poor were rather more straightforward with the Commons approving the Lords' amendments (stipulating that permission of the lord of the manor had to be given in writing for building a poor house and concerning the provision for contributions to prisoners in King's Bench and Marshalsea) and proviso (allowing discharged soldiers and mariners licensed to travel home and carrying such a testimonial from a JP to seek relief). With no preamble and a short enacting clause, the act provided for the appointment of overseers for the poor who were to put poor children and adults to work by raising stocks of hemp, flax, wool and other raw materials through taxation. The disabled, blind and impotent poor were to receive relief. Overseers were to report to the JPs, who were also empowered to tax wealthier parishes to help impoverished ones and to bind children to apprenticeships. The act also gave authority to the churchwardens and overseers to build residences for the poor on waste grounds. It carried a time-limitation clause, until the end of the next session.170

The Lords' amendments to the bill for houses of correction were also approved by the lower house. The act noted that the real intentions of the 1593 act enabling grants and bequests to be made to houses of correction for the support of maimed soldiers and the poor had not been realised because hospitals could only be established through royal letters patent. This officially inspired act thus allowed individuals to found hospitals under the value of £200 annually over the next twenty years. Such hospitals were to be incorporated, were able to sue and be sued in law, and were

170 D'Ewes, pp. 577, 584; Inner Temple, Petyt MS 537, vol. 6, p. 296 (Sainty, p. 10); SR, IV, 896–9; HLRO, 39 Eliz. OA 3.
to have a common seal. The founder could stipulate orders for their foundations. Its final appearance owed much to the Lords who added a lengthy preamble emphasising the Queen’s role, provided for the enrolment of all grants, added a minimum requirement of £10 lands to found a hospital and a stipulation that hospitals could not alienate their possessions. This last proviso added ‘that such Construccion shalbe made uppon this Acte as shalbe most benefcyall and avayleable for the Mayntenaunce of the Pore, and for repressing and avoyding of all Actes and Devices to be invented or put in ure contrary to the true meaning of this Acte’.¹⁷¹

These important statutes all grew out of various initiatives in the Commons. Three other proposals fared less well. One provided ‘for pettie Hostries, and secrett Stables in and neere London’ and another ‘for the suppressing of all Jackes called Turnespitts, whereby the poore maie be the better releevd’. The latter presumably intended to abolish the use of the machines used to turn roasting spits in order to provide employment for the poor. The third bill, ‘for the maintenance of Hospitality and for increase of all Victuals and Flesh whereby the Poor shall be much relieved’, was rejected on its second reading.¹⁷²

Less than three years later the parliament of 1601 put two more bills on to the statute book. The act ‘for the Releife of the Poore’ was very similar to the act of 1597–8 which had been given life only until the end of the next session.¹⁷³ However, more flexibility was introduced concerning the number and status of overseers. The list of taxable persons grew, those inhabiting houses built on wasteland were to be placed there by officials, grandparents could be given custody of poor relatives, girls could be released early from their apprenticeships if they married and a lengthy exposition of the powers of officers in cases where parishes crossed county borders was added. More bite was given to the statute by elaborating the fines imposed on officials who failed in their duties and any ambiguity as to the situation in London was removed by the inclusion of a sentence specifically granting responsibilities to its aldermen. The clause declaring all beggars to be rogues was removed, as well as the single line preamble preceding the enactment of a poor rate which had highlighted the prohibition of begging. Also omitted in 1601 was the proviso for soldiers and mariners, but three new clauses kept the old act in force until the new one took effect, brought Foulness Island, Essex, into its remit and allowed pleas

¹⁷¹ SR, IV, 902–3; HLRO, 39 Eliz. OA 5. There is an attached paper sheet listing all the Lords’ amendments and a parchment sheet with the two provisos.
¹⁷² BL, Stowe MS 362, ff. 22v, 25v, nos. 7 and 62 (Townshend, Journal, pp. 28, 30); D’Ewes, p. 591.
of general issue by officials facing law suits for distraining goods. The new measure had a relatively uneventful passage through both houses.\textsuperscript{174}

While this bill was proceeding through the Commons two measures concerning the idle poor were debated. One, intending to control economic migration to London and its suburbs, was rejected on its second reading after More ‘shewed the unconscionablenesse of the Bill that noe Mechanicall Person could Trade in London’. It may have come from the City itself since only Fettiplace seemed to think it was a good idea. The second bill, an entrepreneurial scheme profitably to employ the poor to make pins, needles and wool cards, had no better success.\textsuperscript{175} All agreed that the poor who cut down corn, robbed orchards, dug up fruit trees, broke down fences or hedges and cut woods were to be whipped by the constables on the orders of JPs and borough officers. The sole note of moderation: JPs could not act alone when they were the injured party.\textsuperscript{176}

This analysis of the statutes for the relief of the poor reveals that MPs and peers were much concerned with the associated problem of discharged soldiers and mariners. They enacted four statutes between 1593 and 1601 while prior government action is reflected in a series of proclamations between August 1589 and February 1592, the last explicitly linking the problem of distinguishing beggars who claimed to be maimed soldiers and those deserving relief.\textsuperscript{177} Official initiative certainly lay behind the 1593 act which began its proceedings on Cecil’s motion and was based in part on his draft articles; he felt that the ‘maimed and lame Souldiers’ were ‘the first and best kind of those people and meetest to be relieved’.\textsuperscript{178} The two houses conferred on the problem and ordered special collections to relieve poor soldiers begging in London. Their presence, and that of a ‘greate nomber’ of vagrants, undoubtedly contributed a sense of urgency to the legislators’ actions.\textsuperscript{179}


\textsuperscript{175} BL, Egerton MS 2222, ff. 30, 69v; LJ, II, 234, 235, 236; SR, IV, 971–2; HLRO 43 Eliz. OA 7.

\textsuperscript{176} D’Ewes, pp. 628, 629, 635–6; BL, Egerton MS 2222, ff. 50, 69v; LJ, II, 234, 235, 236; SR, IV, 971–2; HLRO 43 Eliz. OA 7.

\textsuperscript{177} Hughes and Larkin, III, 715, 716, 740, 745, 746. For other official concerns, see Salis. MSS, IV, 298, 300; BL, Lans. MS 74/36; APC, XVIII, 54–6, 221–5, 236–8, XXI, 463, XXII, 468. Legislative action had been proposed in 1589, PRO, SP 12/218/55. Our understanding of this problem will improve greatly when Geoffrey Hudson of St John’s College, Oxford, completes his DPhil. His forthcoming article in the English Historical Review adds much to the legislative story which follows and I am grateful to him for allowing me to see a copy before publication.

\textsuperscript{178} D’Ewes, p. 499; Salis. MSS, IV, 295–6. The Cecilian Michael Hickes drafted an eloquent speech in favour, BL, Lans. MS 73/38, f. 130–130v; HPT, II, 311.

\textsuperscript{179} APC, XXIV, 178–80, 193–6; D’Ewes, pp. 501, 503, 504, 507, 512; LJ, II, 177, 187. The Speaker threatened one burgess with imprisonment for being unable to pay any more than 2s. 6d. of his 5s. but most MPs opposed him. The Lords decided to demand double
The bill provided for the raising of funds by a tax of 4s. on all innkeepers and wine sellers and 2s. on alehouse keepers, victuallers, carriers of grain, butter and cheese and cattle drovers; each soldier was to receive £10 annually and would be housed in special guest houses. However, it had some trouble getting through the Commons where it was much debated on the second reading, defended by Sir Thomas Cecil but opposed by some who thought the tax too high or too burdensome on the 'most beggarly people in the land' as Raleigh put it. Eventually it was replaced with a bill providing for a weekly parish rate of at least 1d. and no more than 6d. Although JPs acted as treasurers, keeping accounts and releasing funds, collection was to be made by churchwardens and managed by high constables. Soldiers were to return to the county where they were pressed or resident for three years prior to service with certificate of their service and injuries. There they would receive a pension (£10 per year for every soldier, £15 for officers below lieutenant and £20 for lieutenants). Any maimed soldier or mariner caught begging, or counterfeiting their certificates, was to lose his pension and to be declared a vagabond. After further amendment it quickly passed the Commons; the lower house readily agreed to the changes proposed by the Lords, the diarist commenting 'god send us as good speed as here was haste'.

The Privy Council immediately effected the act and the parliamentary collections but problems soon arose. A petition from maimed soldiers complained that they had not received their pensions and requested that the sums be paid into the Exchequer so that they could present their certificates and claim their due relief from there. Another paper reported that soldiers were left to wander like vagabonds because those ordered to seek relief in the county where they were impressed were told on arrival to go contributions from absent peers and those who had been absent 'for the most Part' were to pay one third more than those present. Burghley was much involved, PRO, SP 12/244/118, 119; BL, Lans. MS 104/39. A register of maimed soldiers was to be kept in order to facilitate distribution, BL, Lans. MS 104/41, f. 98-98v.

180 D'Ewes, pp. 509, 511; BL, Cotton MS Titus Fii, ff. 71, 74v-5. The bill survives, Salis. MSS, IV, 298.
181 D'Ewes, p. 513; BL, Cotton MS Titus Fii, f. 83v-4; SR, IV, 847-89; HLRO, 35 Eliz. OA 4. In its first manifestation the measure allowed privy councillors to redistribute funds to especially burdened counties, HLRO, MP 1593, ff. 101-8v. The amendments on f. 102 relate to a brewing bill of this session.
182 Their amendments extended the bill to those maimed in the future and added that certificates could come from naval officers, D'Ewes, pp. 516, 518, 520; BL, Cotton MS Titus Fii, ff. 84-84v, 91v; LJ, II, 187, 188, 189; HLRO, 35 Eliz. OA 4. It is interesting that, in connection with their collection for the relief of maimed soldiers, the Lords had noted those injured in France, the Low Countries 'and on the Seas'.
183 APC, XXIV, 159-60, 170-1, 178-80, 191-3; Salis. MSS, IV, 300. These reveal that the parliamentary collection was intended to offer relief until the act took effect. A note of collections in Hertfordshire where Cecil was JP survives in BL, Lans. MS 74/67, ff. 187-8.
Law-making and society in late Elizabethan England

to their county of birth and vice versa. The 1593 act was due to expire in 1597–8 and a bill for its continuance was duly passed, again with Cecil's involvement. Beyond confirmation, however, the act enabled JPs to raise more money, within certain limits, if the need required; higher rates were set for London. Treasurers were now to be 'sufficiente men of the same Countye' (rated £10 lands or £20 goods in the subsidy), JPs were given the freedom to refuse or alter amounts of relief and because constables and churchwardens had proven negligent in collecting rates, the penalty for such behaviour was doubled to 20s.

Late in the 1601 parliament the Commons began to debate whether to continue the 1597–8 act in the bill for expiring laws or pass a new measure. On Cecil's prompting the latter was adopted; Cecil thought soldiers should now only be relieved in their birthplace and that something had to be done to ease the burden born by small shires, Lancashire (where soldiers for Ireland departed) and London. A bill uniting the two earlier acts had already been proposed, but in the end a new statute was approved after debates over whether to increase the average levy in the larger parishes from 2d. to 6d., over JPs and over Owen's move to exempt Shropshire, of which one wit said, 'hee wente aboute to decke upp his particuler Cabbin, when the Shipp was on Fyer'. It passed the Lords in two days. The act carried many clauses similar to provisions of 1593 and 1597–8, but the system of fines and revoking grants was tightened up, the rates were increased and the subsidy qualification in goods for treasurers was reduced. Together with the accompanying poor law act, its effects were long-lasting.

It might have been predicted that the availability of pensions for disabled soldiers and mariners would create another problem, perhaps perceived as much as it was real: people pretending to be eligible. Before they got around to reviving the 1593 relief act, MPs in 1597–8 had thought hard over a bill 'against lewd and wandring persons pretending themselves to be Souldiers or Mariners'. Edward Hext, the writer of a well-known letter on poverty and vagabondage, was put in charge of the bill; it reached the statute book after much ado, including a redrafting to ensure its provisions would

184 Salis. MSS, IV, 457, undated but endorsed 'The humble petition of the maimed marshall men allowyd by the last session of Parliament'; PRO, SP 12/244/125.
185 D'Ewes, pp. 582, 584, 587, 588, 590, 591; LJ, II, 222, 223; Inner Temple, Petyt MS 537, vol. 6, pp. 303, 305 (Sainty, pp. 16, 18).
186 SR, IV, 923–4; HLRO, 39 Eliz. OA 21.
188 SR, IV, 966–8; HLRO, 39 Eliz. OA 3.
work alongside the rogues bill. All such vagabonds failing to return to their local parish to take up work would be deemed felons, without benefit of clergy. This was also the charge faced by anyone found with outdated certificates and forged testimonials. Offenders could only escape these penalties if taken into service. Provisos made allowance for illness, authorised JPs to find employment for offenders or to collect relief for those soldiers or sailors unable to find work, and to license and relieve those travelling home. It was continued in 1601, the product of a mixture of fear, philanthropy and duty that lay behind so many bills of this type.

Alehouses, drunkenness and swearing

One of the main areas of personal conduct which came under scrutiny in these parliaments was drunkenness, swearing and other 'disorders in alehouses'. Three main approaches were taken, sometimes in the same bill. One was to control the licensing of alehouses and inns; the second was to control the strength of beer; and the third was to tackle perceived misbehaviour directly. A good example of the combined approach was the eventually successful 1589 bill for the proper gauging of beer barrels and casks. Initially it had also limited the number of alehouses, provided for annual licensing and fined vintners who admitted 'common haun ters' to their premises, 'especially on the Saboth in tyme of service'; the customer was to be set in the stocks.

The more frequent approach was the moralistic one. A bill 'against excessive and common Drunkenness', drafted in 1584–5 by a committee considering a bill 'against vicious life and idlenes', reappeared in 1601. The preamble declared that drunkenness wasted 'gods good blessings' and was especially prevalent among 'the woorst and inferior sorte of people' who were driven thereby to 'unlawfull shiftes and become more like brute beastes then reasonable creatures'. Drunkenness caused 'lose and wanton lief, Swearing and blasphemyng the name of almightie God, Quarrelles, fyghtinges, Bloodsheddes, manslaughter yea and sometymes wilfull and

189 D'Ewes, pp. 568–9, 571, 575, 577, 579, 580, 582, 585, 589; Inner Temple, Petyt MS 537, vol. 6, p. 296, 298, 299, 300 (Sainty, pp. 10, 11, 12, 14); Tawney and Power, Tudor Economic Documents, II, 339–46. It was handed over to an unusual committee before the Christmas recess; its members were given the bill for lessees and patentees but were also instructed to meet with all other committee members dealing with bills 'not as yet expedited'. This huge gathering was to take place in the hall of the Middle Temple the following afternoon, 21 December.

190 SR, IV, 915–16, 973; HLRO, 39 Eliz. OA 17.


192 D'Ewes, p. 351; PRO, SP 12/282/43.
pretended murdre and divers other grevous synnes and enormities’ and yet was not a punishable offence in secular law. The bill provided that anyone found to be a ‘common drunckarde by estsoones fallinge into the said vice’ was to be regarded in law as a common barrator, in other words, a brawler or hired bully.  

Considered by a committee dealing with the bill enforcing the Sabbath, it emerged as a new measure ‘against Drunkards and Common Haunters of Alehouses and Taverns’. The moralising pre-amble had been dropped and after a short enacting clause it set out penalties of 3s. 4d. for the first offence, doubled for the second, or committal to the stocks. Fines were to be paid to churchwardens for the use of the poor and a proviso protected the jurisdiction of the ecclesiastical courts. The bill was eventually rejected on the third reading in the Lords.

This is altogether different from the bill described by Townshend as ‘against Common Drunckardes and haunters of Alehouses’. It prohibited people from drinking in a local alehouse, within two miles of their house, on pain of losing an amount equivalent to their subsidy. Perhaps this was another, or an earlier, measure also considered by the Sabbath committee. It too had provoked a lively debate with Glascock expressing the hope that gentlemen would still be allowed to visit an alehouse while hunting; the measure itself he thought to be ‘a meere Cobwebb to Catch poore Flyes in’. Sir Francis Darcy, who had served with Leicester in the Low Countries and with Essex at Rouen and in Ireland, noted that it would not only please the almighty (who would undoubtedly ‘laye his heayye hand of wrathe and indignacion upon this Land’ if the sin of drunkenness were not reformed), but also conserve meat and drink which was sorely needed for the troops in Ireland.

The licensing approach was taken by a bill ‘against Victualling Houses, Taverns etc’ which the Commons rejected on its third reading. Its complicated history began when an earlier bill, ‘to reforme the abuses in Inns, victuallinge houses etc.’ was refused a committal. Noting that ‘great waste and excesse’ had grown among the ‘inferior and baser sorte of people’, it intended to set up a somewhat complicated system of licensing involving ‘drawers’ who could sell beer and ale in towns and ‘lodgers’ who

193 PRO, SP 12/282/43; D’Ewes, pp. 622, 626; BL, Stowe MS 362, f. 74–74v (Townshend, Hist. Coll., p. 188).
194 PRO, SP 12/283/4. The amendments made by the committee are evident on the bill and included giving offenders three days, rather than one, to pay the fine and sentencing those unwilling, or unable, to pay to imprisonment, but only for twenty-four hours if it was the first offence, D’Ewes, pp. 628, 629, 657; BL, Egerton MS 2222, f. 145; LJ, II, 240, 241, 244.
196 D’Ewes, p. 665.
197 Ibid., p. 623; BL, Stowe MS 362, f. 64v; PRO, SP 12/282/41.
purchased drink from the drawers to sell to 'travellors, markett folkes or borders in their howses by the weeke or longer tyme'. None were to allow drunkenness on their premises and drunkards were to be punished with three days in the stocks and a 5s. fine; if they could not pay then they were to be deemed as a vagabond and whipped. Offending inkeepers were to suffer three days imprisonment and a fine of 20s.; another offence would lead to an additional two hours in pillory, loss of occupation and prohibition from holding 'any office in the Common wealth'. Its short enacting clause suggests official drafting and certainly the privy council had been concerned about the number of alehouses in Middlesex, London and Surrey before the parliament.198

More, a recipient of the council letter, spoke of the need to initiate new laws. Someone suggested bodily punishment be inflicted upon alehouse keepers. One MP proposed to legislate against the making of strong ale although another thought this would only encourage private drinking. Refused committal, the bill was considered to have been rejected.199 However, a few days later a bill 'for Reformation of Abuses in Alehouses and Tipling Houses' took the product approach, prohibiting the selling of beer or ale above 1d. a quart. Despite amendment, this bill too was rejected on its third reading 'after many Arguments'.200 Raleigh, and at least one other MP, thought the penalty on offending inkeepers, a permanent ban from the occupation, would affect inheritance. He was unhappy that inkeepers could so suffer 'by negligence of a Servant'. On the other side, the lawyer John Browne spoke of the malt that had been saved by taking such steps in Somerset. In the end, the Commons could not agree on what approach to take, and this presumably also explains the failure of the Lords' bill 'for the suppressing of the Multitude of Alehouses and Tippling Houses'.201 MPs thought it gave too much authority to JPs and required additions to protect vintners; although several spoke in favour of commitment only Wingfield voted for it and he was laughed at for his trouble.202


199 BL, Stowe MS 362, ff. 65v–6v, 70 (Townshend, Hist. Coll., pp. 181–5). Townshend interestingly enough notes this procedural decision after Francis Leigh demanded to know what the Lord Keeper had said and Cecil so informed the house (Leigh's demand immediately followed Glascoc's speech). D'Ewes rearranges this sequence so that the alehouse bill's proceedings are finished with before Leigh's request, D'Ewes, p. 623.

200 D'Ewes, pp. 626, 651, 663; BL, Stowe MS 362, ff. 75v, 78.


While debating the 1601 bill concerning drunkenness, the Essex JP William Wiseman had urged action against blasphemers, telling MPs that an imprisoned recusant had heard children swearing outside his window and had asked Wiseman "yf that were the Fruite of their doctrine, and howe it Chaunced that their doctrine beinge soe sinceere, such Blasphemye was Comitted". During the early proceedings on both the drunkenness and abuses in alehouses bills, a measure 'against Blasphemous swearing' was initiated by Hastings which was eventually replaced by one 'against usual and common swearing' drafted by the committee. The preamble of the first noted that swearing caused both dishonour to God and contempt of the law and recalled that the almighty had threatened 'that his plague shall never depart from the house of the swearer'. Swearers were to be heard before at least two justices on the testimony of two witnesses 'and there fynding testimony approved by the minister of the parish', offenders were to receive a warning at the first offence, and a fine of 10s. (for the use of the poor) at the second. If they could not pay, offenders were to confess their guilt before the congregation at morning prayer, to stand until the end of the sermon and then to lye in the stocks until evening prayer. Third time offenders were to be imprisoned for one month and fined 20s. The second bill somewhat trimmed the preamble and tightened up provisions. Offenders were to be at least fourteen years of age, fines were to be 3s. 4d. on the first offence, double that on the second. If unpaid, offenders were to suffer the stocks 'in some open place' for no more than three hours. Punishment for the third offence was the same as in the first bill. This measure also allowed officials to distrain and sell goods towards the payment of fines.

The new bill provoked a lively discussion in the Commons. Glascock felt that swearing was an ecclesiastical matter, of the soul rather than the body and so fitter to be 'spoken in a Pulputt then in a Parliament' and yet if 'the God of Abraham, the God of Jacob and the God of Isaac hath sworn [that] his Plague shall not depart from the House of the Swearers' why should MPs be reluctant to act to 'represse this Vice which brings a Plague, which breeds Mortality, that breeds Destruction, Desolation, and the utter ruin of the Common-wealth?'. Glascock thought the penalty too small; after all, Philip of France had a law made by which swearers were drowned and another law offered the choice of an instant fine or decapitation. Glascock's main objection was that JPs would hear cases: 'for half a Dozen of Chickens' they 'will dispense with a whole dozen of penal Statutes' and he regaled

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203 BL, Stowe MS 362, ff. 74-74v (Townshend, Hist. Coll., p. 188).
204 At one stage the same committee considered both problems, D'Ewes, pp. 626, 633, 642, 651, 658; BL, Stowe MS 362, ff. 78v, 94v (Townshend, Hist. Coll., pp. 191, 206).
205 PRO, SP 12/282/56, 57, SP 12/283/24.
the house with stories of dishonest justices. His outburst may have fallen on sympathetic ears but it stung Hastings, a JP of almost thirty years standing, to declare that such justices as were spoken of should be locked up, but it was unfair to blame all for the faults of a few. Eventually the bill passed the Commons but arrived in the Lords with only four days left in the session and did not reach the statute book.  

If swearing was thought to be a common activity in alehouses, playing with dice certainly was. It was appropriate therefore that 1601 was the session in which a bill prohibiting the use of false dice was initiated. It stood absolutely no chance of success, being first read during an afternoon sitting with only two days to go, and as always with such bills one wonders why the promoters bothered.

**Hunting and gaming**

As noted earlier, a Lords bill of 1584–5 linked the preservation of grain with the protection of game. It would have restricted the keeping of hounds, greyhounds, hawks and ferrets to those whose fathers bore a coat of arms or who possessed £20 worth of land or spiritual livings worth £30. All hawking and hunting was to occur on their own grounds and only ‘befor the corne be in shocke’. Alford felt that the measure was decidedly elitist: ‘We must not considder our owne selves in this bill and our owne privat plesure’, he told the house. Although most of them would escape the bill’s effects, ‘our poor neighbours in the country’ would not. ‘We have taken away already moost of their pastymes. Yf we procede yet further we shall cause them to gruge. The welldoing of the prynces consistes greatly in the love and amitye of the subiectes.’ Fleetwood repeated a question asked by another member: ‘if a man do supp of my porege is it lawfull for me to have a lick at his ladell?’, suggesting that he too thought the bill to be unfair. Alford certainly felt keenly about the bill. He later confessed ‘I am no so meane but I have x by yeare and therfore without the compass, but I speak for the common subiectes. I see their libertyes be still dayly enchrocht upon.’ Furthermore, Alford maintained that hunters were not ‘greatly comended’ in the scriptures yet it was good ‘for young gentlemen for exercise’.

In what must have been increasingly seen as an amusing double act, Fleetwood rose to offer a history of forests in and around the City before

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206 D'Ewes, pp. 660-1; PRO, SP 12/283/24; LJ, II, 253, 254, 261.
207 D'Ewes, p. 688.
208 LJ, II, 84, 85, 86; D'Ewes, pp. 354, 363, 364, 369; TCD, MS 1045, f. 86v. As the following discussion makes clear, it seems that Cromwell’s £20 may have been £10.
209 BL, Lans. MS 43/72, f. 173, and for what follows.
speaking of the pleasures of hunting with his neighbours. He concluded that the existing law should stand. Wroth objected to the unfairness of treating those worth £100 goods as equal to those worth £10 lands. Yet the bill had its supporters: Sir William Herbert objected to Alford’s literal interpretation of the scriptures (‘hunters’ was a metaphor meaning oppressors, as ‘Peter a fisher’) and declared that ‘if some were as profitable to their country as they would seem popular they would not so impugn this bill’.

In the Commons this bill had been considered along with another Lords bill designed to protect partridges and pheasants. Although it passed the upper house easily, it ran into immediate trouble in the lower when Knollys declared that it failed to give licence for the provision of the Queen. Supported by Sir Henry Cocke, later a cofferer in the Househould and now speaking on behalf of the Lord Steward, the bill was subsequently amended. The Lords rejected it ‘for that they of the Commons house had, with their Amendments, taken away the principal Intent of the Bill’.210 The Lords made another attempt to protect pheasants and partridges in the last parliament of the reign but it did not get beyond the committee stage. It would have imposed heavy fines and six months’ imprisonment for night poaching and a demand for a two-year £10 bond not to reoffend upon release.211 Night-time poaching of rabbits and deer was considered less of an issue. By another measure such activity only attracted treble damages and three months’ imprisonment, although to secure their freedom offenders would have to find sureties for seven years’ good behaviour. It was rejected on its second reading.212

Apparel

Elizabethan MPs were concerned that grain had to be preserved and were thoroughly horrified to think that what should be used for ‘the maynetenaunce and foode of Christian people’ was being wasted in making starch. Yet the resounding preamble which opened the 1584–5 bill punishing those so using grain with a £20 fine and six months’ imprisonment failed to move

210 LJ, II, 92, 95, 96, 108; D’Ewes, pp. 366, 367, 369, 373, 374. The Lords had initiated another measure ‘for Hawking and Hunting’ in December but it did not emerge from the second reading committal, LJ, II, 74, 75.

211 LJ, II, 229. The clerk noted in his list of bills that it had been rejected ‘and a New Bill instead’, ibid., p. 261. I have not been able to identify this new measure; perhaps it was never read. Certainly the paper bill notes a second reading, HLRO, MP, Suppl. 1596–1601, ff. 67–72v.

212 BL, Egerton MS 2222, f. 48v (Townshend, Hist. Coll., p. 209); D’Ewes, p. 641; PRO, SP 12/282/51.
The commonweal

The Lords to give their approval. Starch was primarily used to make ruffs and these had been prominent in the list of abuses in dress which so offended puritan writers. Certainly the author of a lengthy and somewhat repetitious commentary in favour of the bill was of such persuasion. The measure, he noted, 'tendes to the taking awaye of a very foule and shamfull abuse of the good creatures of god'. Indeed, he argued that it needed to go further and control '[what] I will not terme them as some do, for our outrageous, monstrous and abhominable ruffes, but I may truly saye superflous, wastfull and unweldy ruffes' and felt that exporters and engrossers of corn were not as bad as those who put grain to such 'vile and bad uses'. However, he wanted the bill to set out some regulations on the length of ruffes 'which are growne to such outrageouslye as I may say unconciavable length at this daye'.

This discourse should be placed in the context of a wider debate over apparel in this period. The law on apparel was established by acts of 1533 and 1554. These were reinforced by a succession of proclamations in the early years of the reign which selected parts of these statutes for execution. Not surprisingly, most of the efforts to reform the law in Elizabeth's early parliaments were official in origin. Excessively long cloaks and ruffs were singled out in a Privy Council Order of 1579, revised in the proclamation of 1580, and a few weeks before the 1584–5 bill had its first reading in the Commons, the rulers of London wrote to the Privy Council complaining that although the proclamation had mitigated some of the effects of two statutes against abuses in apparel, the status of the citizens required further relaxation. New regulations had been devised recently, and these were submitted in the hope that they could be given statutory authority.

Early in 1588, however, another proclamation was issued which ordered the enforcement of the statutes and in 1589 a measure 'for Reformation of Excess in Apparel' was initiated in the upper house. It had to be redrafted and was even committed on the third reading before it was eventually fit to be sent to the Commons. There, after some delay, it was committed, amended and recommitted partly in order for comparison with existing laws. The Lords quickly heard of this; later the same day they requested a conference with the Commons over this and another bill. What happened is not known but on the last day of the session the committee's

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213 D'Ewes, pp. 366, 368, 369; TCD, MS 1045, f. 90; LJ, II, 101; HLRO, MP, Parch. Coll. Box ID, no. 3216 (Bond, Lords MSS, pp. 20–1), endorsed as having been approved by the Lords, but this appears to be the scribblings of the clerk trying out his pen!
214 BL, Lans. MS 43/73, ff. 176–7v.
216 PRO, SP 12/176/57; CLRO, Rep. 21, ff. 26v, 57; Journal 21, f. 428v.
amendments were 'denied upon the Question to be opened unto the House'.

In April 1588 the Queen had granted Richard Young a monopoly for the making of starch. Although this was effectively revoked by a proclamation of July 1596 because of the dearth, the Privy Council had taken steps to enforce it. In July 1597 another attempt to enforce statutes against excesses in apparel accompanied by a proclamation which mitigated the provisions for officials, royal and noble servants. In the parliament which began soon after a measure concerning the matter was initiated in the Commons. Official interest was reflected in the nomination of all the privy councillors to the committee where the bill was amended and a new measure 'to avoid the great excess used in wearing of Ruffs' drafted. This second measure seems to have had no further proceeding but the apparel bill passed the Commons and was taken to the Lords by Knollys. In a joint conference the Lords informed the Commons that they disliked the measure 'for sundry imperfections in the same not answerable to her Majesties Proclamation touching the degrees and qualities of persons'. The Lords would have proceeded further with the matter but had not because of the expected shortness of the session and the Commons resolved to deal no further in the matter. The parliament ended two days later.

**Divorce, marriage and bastardy**

No Elizabethan MP seems to have blamed drunkenness for causing divorce but two measures were initiated seeking to make divorce an unattractive option. Adulterous women would have lost their dowries 'and of all advaunciment grawnted uppon consideration of the mariadge' and adulterous men their benefits from the marriage, if a 1584-5 bill had been successful. The offended partner could remarry without endangering their children's legitimacy. An identical measure was rejected in 1601 also on its first reading; it was opposed because of the powers it gave the ecclesiastical courts over inheritances. Besides this, Sergeant Thomas Harris noted another 'gross fault in the Bill' in that poor men would not be punished.

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218 D'Ewes, pp. 447, 450, 452, 454.
219 APC, XXIII, 45-6, 48, and continued to do so, APC, XXVI, 434, 450, 465-6, 502; Hughes and Larkin, III, 781.
220 Hughes and Larkin, III, 786, 787. See also CLRO, Journal 25, ff. 227-8, 233v, 237v, 238.
221 D'Ewes, pp. 583, 588.
222 Ibid., pp. 591, 592, 594; Inner Temple, Petyt MS 537, vol. 6, pp. 303, 304 (Sainty, p. 16).
223 TCD, MS 1045, f. 87v; D'Ewes, p. 362.
for their adultery (because they held nothing by right of tenancy by courtesy) but poor women would lose a third of their goods (or half in London).\(^{224}\)

Three attempts were made in these parliaments to deal with abuses in granting marriage licences. Two bills belong to 1584-5. One provided ‘that maryadges meye be at all tymes of the yere and inflicting punishement to such as shall grawnt anye licences in that behalf’; it failed to get a reading in the Lords although it certainly passed the Commons.\(^ {225}\) The second bill, ‘against unlawful Marriages in some cases’, sought to make bigamy a felony. It was considered not by the committee dealing with the first bill but to one examining incontinent life and vagabonds. Although amended, it had no further proceeding.\(^ {226}\)

In 1597-8 a bill concerning ‘sundry great abuses by Licences for Marriages without Banes granted by Registers and other inferiour Officers’ was much committed and drafted but did not get any formal readings. It was the product of a committee appointed after several MPs raised the issue. Hext moved for ‘the abuses of Probates of Wills’ to be considered and others wanted the committee to consider the abduction of children and abuses in the *ex officio* process. Not surprisingly, the committee’s weekend deliberations were unsuccessful because they were not sure what they were meant to do.\(^ {227}\)

Clarity was provided by the Queen, who had called Cecil and Fortescue to her and told them to gather information as to the ‘horrible and great incestuous Marriages discovered in this House’ so that she could ‘give order for the due punishment and redress’ accordingly. This spurred the Commons to order the committee to prepare a bill and ‘receive Informations of the grievances touching Ecclesiastical Causes, this day moved in the House’. Eventually ‘some particular informations’ were delivered to Fortescue and the Speaker, who also received the committee’s bill. It, however, had no further proceeding.\(^ {228}\)

Related to the problem of improper marriages was the custody of bastards. In 1584-5 a harsh bill died in committee. ‘Requiringe that towneshippes sholde not be char ged with the children borne out of wedlocke’, it provided that pregnant single women were, ‘as soone as it was manifest that she was with childe’, to be committed to a house of correction, whipped and ‘hardly used in diet and otherwyse’. Reputed fathers were to

\(^{224}\) D'Ev es, p. 641.

\(^{225}\) TCD, MS 1045, ff. 86, 90v, 91; D'Ev es, pp. 360–1, 361–2, 367; LJ, II, 99.

\(^{226}\) D'Ev es, p. 360, 361, 363; TCD, MS 1043, f. 86.

\(^{227}\) Symnell's biographer suggests that this matter was 'by way of scor ing a point against Whitgift', *HPT*, III, 470.

\(^{228}\) D'Ev es, pp. 556–7, 557–8, 560, 561–2.
be imprisoned for a year, whipped monthly and give bond not to reoffend. The bill also made bigamy a felony and this later emerged as a separate, also unsuccessful, measure. In 1597–8 a bill ‘against Bastardy’ failed at a similar stage. Appropriately enough, given the nature of the earlier bill, the committee was also considering a measure on houses of correction.229

On the very last day of the 1601 parliament, while MPs were waiting for the Queen to summon them to the Lords, William Wiseman initiated a debate on a moot case brought under their new statute on rogues and vagabonds. It was one which he, an Essex JP, thought was ‘common, and fit by every man here to be understood’. The case was this. If a female servant became pregnant while living in one household, but before the pregnancy was obvious moved to serve in another household in another county, where should she be relieved and where should the child live? Five men offered viewpoints from a variety of perspectives. Richard Browne, Clerk Comptroller of the royal Household, thought that both should be relieved where conception took place, for this would teach masters to look after their servants better. The pregnancy was due to the master’s ‘negligence, or want of care, or perhaps by his too much familiarity with his servants’. However, the Surrey JP Sir George More thought that the child had to follow the mother and so the child should be relieved wherever the mother was sent. These court and county perspectives were complemented by an urban view offered by London’s Thomas Fettiplace: ‘in the City I am sure the man of the house is ever the reputed Father, till the true Father be known or confessed by the Mother’. If the father was known, and was able to support a household, then he was obliged to relieve both mother and child; if he was unable to do so then, in London, the child would be sent to a hospital or draw on parish relief.

Wiseman himself thought differently. The woman had to bear the brunt of responsibility: penury would serve as the best admonition for her sinful behaviour. If no such action was taken ‘in short time we shall have nothing more common’, especially if ‘we do use such cockering of them as we now do, and count it a matter of charity to relieve them’. The lawyer Francis Moore responded to this harshness by simply noting that ‘both in charity and by law, they both ought to be relieved, by the express words of the Statutes’.230

This debate gives us a fascinating insight to the views of men facing what they perceived to be a challenge to the household. Some were convinced that it was the male head of household who bore responsibility, often as the guilty party. If another man proved to be the father then the preferred

229 TCD, MS 1045, ff. 73v, 75v; D’Ewes, p. 559.
solution was that he should be forced to accept his responsibilities in a new household and only as a last resort should the parish, itself a gathering of households, be burdened. Yet the legislators' intents were clear – relief was there to be had – but no real answer was given to Wiseman's question as to where it should be given. His own view, the opportunity to voice which was presumably the whole point of the exercise, is often associated with those of a radical reforming perspective. It also reflects the practice of the Essex bench which had progressively hardened the punishment of unmarried mothers from the stocks to a severe whipping. Such actions and the views which led to them were grounded on male fears of female sexuality and assumptions that young females were at the centre of social disorder, perspectives which played a predominant role in formulating policy on bastardy. Their fears of social disorder led MPs to legislate on almost all aspects of social and economic activity, from controlling ale-houses to curbing abuses in weights and measures.

In his study of the first seven sessions of the reign, Professor Elton found that bills reforming the law were relatively few in number. In contrast, almost a quarter of the bills initiated in the last six sessions of the reign sought some sort of legal reform; although these legislative attempts were as piecemeal as those earlier in the reign, there certainly seems to have been a change in public perceptions of the law. First of all, it is clear that privy councillors, royal legal officials and the judges were determined to initiate a full examination of the laws in force, possibly with a view to attempting consolidation if not codification. This was not new: attempts had been made by Sir Nicholas Bacon and proposed by at least one writer earlier in the reign, but, as we have seen, in 1589 the government took steps to secure a full enquiry into the laws in force.¹ Moreover, royal officials regularly urged restraint on the making of new laws and the formalisation of the procedures for extending expiring laws may owe something to official desires to see some old and useless statutes removed from the books. This would undoubtedly have met with favour among some members of the lower house: between seventy-nine and ninety-one county MPs were also JPs when they sat in these sessions and complaints were made that JPs had too many statutes to enforce. On the other hand, the proportion of lawyers in the house doubled between the first and last parliaments of the reign and lawyers had a vested interest in keeping many laws on the books and resisting any reform which simplified the legal process.² This might explain why the vast majority of measures proposing some sort of law reform failed to get further than the lower house and why many which became law began their legislative lives in the House of Lords, where they benefited from early consideration by the judges. It will be convenient to consider these measures under five headings: the criminal law, the land law, the corporate and commercial law, the courts and the legal process.

² HPT, I, 20, 45.
In the last two decades of the sixteenth century the belief that society was troubled by persistent, and sometimes organised, crime became commonplace. Pamphlets on the activities of the criminal were popular and the likeable ruffian living on the fragile boundary between respectability and crime became a standard dramatic figure. In parliamentary debates on matters such as poor relief, swearing, drunkenness, alehouses and maimed soldiers and mariners, the spectre of the criminal loomed large in the minds and words of the country gentlemen sitting in the lower house. Yet these parliaments were not overburdened by attempts to add substantially to the criminal law. Some crimes, such as counterfeiting and slander, have been noted earlier; most of the rest concerned theft.

Of particular concern to peers was the theft of horses, cattle and sheep. Their 1586–7 bill 'for restraining of Horse-stealing and other Felonies' was rejected in the Commons after amendments and additions had been read along with the bill.3 In 1589 they were successful with a measure which originally had sought prosecution for house-burning as well.4 Its preamble declared that the theft of horses had become common because of the ease and rapidity with which they could be sold in markets and fairs far distant from the owner's residence. Employing the short enacting clause betraying official initiative, the act ordered the registration of all horse sellers by market officials; if not already known to the official, a witness who could verify the seller's name, occupation and residence was necessary. The book of entries was also to carry the price of the horse sold and a copy of the bill of sale was to be given to the purchaser for a fee of 2d. Failure to comply would result in a fine on officials and the negation of the sale. The act also attempted to provide some comfort for those whose horses had been stolen by allowing their recovery within six months of the theft from the purchaser at the price paid.5

It seems this act was as ineffectual as earlier attempts, for in 1597–8 a Commons bill hoped to improve the return of stolen horses to their rightful owners by regulating sales vouchers in fairs and markets. The latter were apparently named in detail since the committee was to see them 'certainly set down by those that best know the same Countreys'. It was rejected by the Lords on the third reading.6 Popham himself initiated yet another

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3 LJ, II, 129, 130, 131, 132; D'Ewes, pp. 413, 414, 415; BL, Harl. MS 7188, f. 102. The Commons' clerk noted it as a bill 'for restraint of Horse-Stealing and other Beasts'.

4 LJ, II, 149, 153, 154, 167; D'Ewes, pp. 441, 446, 447, 453, 454.

5 SR, IV, 810–11; HLRO, 31 Eliz. OA 12.

unsuccesful attempt in 1601, now linked to horse breeding. It made the selling of horses without proper vouchers felony, but one experienced JP had warned on the second reading that the provision requiring two vouchers for sales rather than one was asking too much. It was to Wroth's 'grief' that a 1593 bill 'against stealing of Sheepe, Oxen and Calfes and so forth' was rejected by the Commons and he may have been behind the abortive attempt in 1601.

The main enactments of these cattle- and sheep-stealing bills, and of a clause in the 1589 horse-stealing act, were to deny benefit of clergy to offenders. Originally a means whereby clergy could get their case transferred from a secular to an ecclesiastical court, it had become a process by which defendants could secure a significantly lighter punishment or even escape punishment altogether if they could 'prove' their clerical status by citing a psalm. Although it gave judges the opportunity to treat felons more leniently, the process was open to abuse.

Most reform efforts took the form of denying clergy in certain crimes and were officially inspired. Two early Elizabethan acts thus abolished clergy in the cases of cutpurses working in gangs and of persons convicted of rape and burglary; both began in the upper house. The latter also attempted to deal with the belief that perjury was encouraged by the process whereby after a successful first pleading in the secular court, the offender was handed over for punishment by the bishop's court, where he could plead his innocence by oath and those of supporters, known as compurgation. It was therefore enacted in 1576 that the secular court had the discretion to imprison the offender for one year and the Commons added a proviso allowing for prosecution for other offences despite the successful pleading of benefit of clergy on the first.

In 1589 an attempt was made to reform the process comprehensively. A bill 'touching the Benefitt of Clergie in some cases of offenderes' may have been officially inspired, very possibly the product of the committee of lawyers appointed before the parliament began. Its aim was to tidy up the anomaly that some offences were allowed benefit and others not. Its contents were summarised: 'Repeale of all lawes concerning that matter. That a witness without the recorde shall Suffise to testifie that a felon hath once
Law reform

had his clergie. That he had that had his clergie shall not answer to former
offences. Clergie denied to som who might before have it, but granted to
more to whome it was before denied.' Although the committee redrafted
the bill, few seem to have been enthusiastic enough to take it any further.\textsuperscript{10}

Subsequent bills returned to the more successful strategy of denying
clergy in particular cases. In 1593 an unsuccessful Commons bill denied
clergy to 'such as steale away weomen as Maydens, widdowes or wives
agaynst theyr wills', but it became law in 1597–8. The bill read \textit{pro forma},
it denied clergy to those convicted under 3 Henry VII, which had made
abduction and rape a felony, and to those indicted and arraigned for it
who 'stande mute or make no directe aunswere'. The act's preamble
claimed that women 'having Substance some in Goodes moveable and some
in Landes and Tenementes, and some being Heires Apparant to their An-
cestors' had 'of late tymes . .. bene oftentymes' abducted, forceably married
or raped. As this suggests, the bill may well have been occasioned by some
specific case as in 1487. Townshend certainly thought so, citing one Don-
ington who 'had stolne a great Heire in Devonsheire or that waies' and so
provoked a motion 'to make it fellonie in those that induce or perswade
Maydes to marreas against parrentes Consentes'. It seems, then, that this
was really a case of elopement rather than abduction, the woman had gone
'with her Consent, which shee Constantlie stood unto', and although
arraigned at Newgate, Donington was acquitted before the parliament
began. Certainly the bill had official support: Knollys and Fortescue were
among those designated to carry the bill to the Lords. They added a proviso
limiting the statute to 'Princypals or Procurers or Accessaryes'.\textsuperscript{11}

The same parliament passed an act denying clergy to those stealing goods
worth 5s. or more from houses during the daytime. Because stealing from
unoccupied houses carried lighter penalties than if committed when some-
one was home, thieves had been watching houses waiting for their chance.
Although the preamble claimed to be concerned especially for 'pore wid-
dowes, sole Weomen and other People' who had no servants to leave
behind while they worked or attended church, the 5s. threshold suggests
that the legislators really had wealthier victims in mind. Introduced in the
Commons and amended there, it passed the Lords without alteration, the

\textsuperscript{10} BL, Lans. MS 55, f. 184; D'Ewes, pp. 430, 432, 437, 441.

\textsuperscript{11} SR, IV, 910; HLRO, 39 Eliz. OA 9; D'Ewes, pp. 495, 552, 555, 557, 558; LJ, II, 195,
196, 197, 199; BL, Harl. MS 1888, p. 141; BL, Stowe MS 362, f. 9v (Townshend, \textit{Journal},
p. 12). See also APC, XXVII, 301–3. On the 1487 act see E.W. Ives, "'Agaynst Taking
Awaye of Women': The Inception and Operation of the Abduction Act of 1487", in E.W.
last of the later Elizabethan acts diminishing the role of benefit of clergy in the legal process.12

The 'poorer sorte' referred to in the 1597–8 act would have benefited from a 1593 bill seeking to provide 'speedie punishment' of petty larceny, defined in the common law as the theft of goods under 12d. in value, and not involving violence. It would have raised the statutory level of petty larceny, since inflation had made 'the value of xiid silver then ... as much as iiis iiiid now'. Justices had compensated by urging jurors to value goods below 12d., obviously an unsatisfactory situation, but not one which moved MPs to take the bill beyond the committee stage.13

Although some legislators thus believed the realm's poorer inhabitants needed legal protection, most legislation saw them as perpetrators rather than victims. The 1597–8 Commons' bill 'for the repressing of Offences that are of the Nature of Stealth, and are not Felonies by the Laws of the Realm' imposed corporal punishment on those convicted of stealing corn and grain, robbing orchards and gardens, breaking hedges and fences, and cutting down woods, because they were usually committed by 'base and meane persons' unable to make recom pense for the damage done. The Lords provided a definition of 'base and mean' persons as those 'not beinge sett or taxed to the subsedy', added the breaking of 'postes, pales rayles' to the list and made two gestures of fairness towards the bill's intended victims: justices or corporate officers hearing the cases were not to be the party suffering the offence and offenders were to receive notice of the amount of the recom pense due. The Queen vetoed it, as she had a 1589 bill concerning minor trespasses.14

When robberies or felonies were committed it was the traditional practice that the inhabitants of the hundred in which the crime was committed were to raise the hue and cry; if they failed to capture the criminal, then they were liable for damages and this often fell on a wealthy inhabitant.15 This fundamental principle of criminal law procedure was substantially modified by an act of 1584–5. The preamble asserted that hue and cry had been invoked much more frequently in recent times and had proved especially burdensome because of the reluctance of other hundreds to effect properly the hue and cry when it was brought to them, simply because they would not suffer damages from the failure to capture the criminal. It also encour-

12 SR, IV, 914; D'Ewes, pp. 578, 582, 583, 584; LJ, II, 220; Inner Temple, Petyt MS 537, vol. 6, pp. 297, 298, 299 (Sainty, pp. 10, 12); HLRO, 39 Eliz. OA 15.
13 BL, Cotton MS Titus Fii, f. 62v; D'Ewes, pp. 501–2, 503.
14 LJ, II, 158, 160, 161, 163, 211, 212, 215; Inner Temple, Petyt MS 537, vol. 6, pp. 292, 296 (Sainty, pp. 5, 10); D'Ewes, pp. 581, 584; BL, Harl. MS 75, f. 319; HLRO, MP, Parch. Coll. Box 1D, no. 3240 (Bond, Lords MSS, pp. 38–9).
aged the person who suffered the loss to be somewhat negligent in pursuing
the criminal. The act then employed a long enacting clause resplendent
with references to the Queen’s care for her subjects before it reformed the
process in two major ways. First, it transferred half the cost of damages
to those hundreds which did not raise a fresh hue and cry in pursuit of a
criminal. Secondly, it established a procedure for distributing the cost of
paying the damages sustained in the hundred to all its inhabitants by rates,
a task assigned to JPs and constables who had the power to distrain goods.

Initiated in the Commons, the bill was entirely rewritten by the second
reading committee and an addition was necessary to the nova which suf-
fered an unusual third reading committal. The late addition tied down the
provision that the person wronged was to give notice of the felony to some
of the inhabitants where it occurred ‘with as much convenient speede as
may be’ by stipulating that they were to be examined before a JP within
twenty days and declare on oath whether or not they knew the party which
committed the felony and if they did then to enter into a bond that they
would prosecute the same.16 Further reform was sought in 1589, when MPs
abandoned it partly because existing laws were thought to be sufficient and
partly because the session was to be a short one, and in 1597–8, when they
rejected the bill altogether.17

The 1584–5 act certainly caused problems, especially for the hundred of
Benherst, Berkshire. Consisting of some eight small villages and hamlets,
the hundred was traversed by the London–Reading and London–Henley-
upon-Thames roads, which ran through a wooded area known as the
Thicket. The scene of many robberies, these roads could not be easily
reached, let alone watched over, by the inhabitants and offences were
reported at Maidenhead, Buckinghamshire, some three miles away. The act
had thus cost them substantial sums for failing to prosecute robberies and
they sought redress in 1597–8. The act empowered them to assign all the
damages to neighbouring hundreds, in cases where they were not informed
of the hue and cry and when, if informed, they raised a fresh hue and cry
themselves. It is likely that this measure enjoyed support from both knights
of the shire. Francis Knollys, whose brother William had just become
Comptroller, owned property at Reading, while Sir Henry Norris’ father
had possessed lands in the hundred of Braye which lay between Benherst
and Maidenhead.18

16 SR, IV, 720–2; HLRO, 27 Eliz. OA 13; D’Ewes, pp. 331, 335, 336–7, 340, 342, 343, 346;
TCD, MS 1045, ff. 73v–4; LJ, II, 79, 81, 89, 92.
17 D’Ewes, pp. 430, 446, 448, 557.
18 Ibid., p. 578; LJ, II, 218, 219; Inner Temple, Petyl MS 537, vol. 6, pp. 292, 296 (Sainty,
pp. 5–6, 9); SR, IV, 929–30; HPT, II, 408–9, III, 136–8. The location of the hundred and
its five villages is clearly shown on John Speed’s map of the county, see N. Nicolson and
Besides reforming the process of hue and cry, there were two other notable legislative successes concerning the criminal law. In 1589 an act provided remedy against a fault in a proviso of 8 Henry VI c.9: people had been illegally seizing property and then, when evicted, would bring charges of forcible entry, whereby the owners not only lost possession to the offender until the indictment was found against them, but might be forced to make restitution to the offender afterwards. The act denied restitution in such cases where the owners had been in possession for at least three years, but awarded costs if the case failed for want of proof.\(^{19}\) In 1601 perjury and unnecessary expense were to be discouraged by providing that writs of *habeas corpus*, removing a case from an inferior court to one of the Westminster courts, could only take effect if received before the jury appeared in the former. Defendants had been withholding the writ in order to increase the plaintiff’s expenses, to discover the nature of his evidence and so organise a better defence, including the use of false witnesses.\(^{20}\)

All other attempts to reform criminal process failed. Only one reading was allowed a bill proposing higher amounts for setting bail and the standing of sureties. After much consideration, the Commons rejected a 1593 measure ‘against rescuing of partyes arrestes’; it especially concerned recusants and ‘for Mr Dalton’s pleasure it had two noes before it would yeelde’.\(^{21}\) A 1597–8 bill forcing plaintiffs to pay defendants’ costs incurred while in prison having failed to make bail and having now won the case, ‘and for the punishment of wrongful Arrests upon forged Warrants’, was deferred until another parliament on the committee’s recommendation, but did not reappear in 1601. No more successful were two bills hoping to speed up punishments awarded to felons.\(^{22}\)

A number of these measures appear to have been responses to a perceived increase in crime rates during the crisis of the mid-1590s: they were proposals floated by individual MPs and rarely got further than a first reading. One exception was the 1584–5 bill seeking to ensure that Welsh felony cases were heard in the proper Welsh shire and not in neighbouring Shrop-

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\(^{19}\) SR, IV, 809–10; HLRO, 31 Eliz. OA 11; D’Ewes, pp. 447, 452, 454; LJ, II, 163, 167.

\(^{20}\) It had been initiated by Townshend, SR, IV, 970–1; HLRO, 43 Eliz. OA 5; D’Ewes, pp. 641, 662, 667; BL, Stowe MS 362, ff. 193v–4 (Townshend, Hist. Coll., pp. 284–5); PRO, SP 12/283/1, 13; LJ, II, 248, 249, 250; HLRO, MP, 1601–6, f. 116.

\(^{21}\) TCD, MS 1045, f. 76; D’Ewes, pp. 501, 502, 503, 505; BL, Cotton MS Titus Fii, f. 83v. It is possible that the bill providing ‘that whosoever disobeye an arrest shalbe imprisoned and forfeitt £20 etc.’ which is noted by the diarist as having a reading on 8 March is the same bill, *ibid.*, f. 53.

\(^{22}\) D’Ewes, pp. 562, 567, 585, 589, 590.
shire and Herefordshire, where it was all too easy to secure acquittal by juries ignorant of the circumstances of the case. Although that provision seems straightforward enough, its additional clauses limiting the office of sheriff and JP to men worth £20 freehold, unless they were officials of the Council of the Marches or lawyers, may have seemed unduly restrictive, or perhaps opposition to the clause imposing English measures for grain ended the bill's chances.23

THE LAND LAW

The most common way by which property had been bought and sold prior to the 1530s was by fine and recovery in the Court of Common Pleas. The fine was a collusive action between seller and purchaser which began with a writ of covenant initiating the action, called levying a fine or suffering a recovery, and ended with a tripartite indenture: its final concord or fine contained terms which were in fact previously agreed at the time of the conveyance; both the writ and the bottom part of the fine, known as the foot, remained on record in the court, the remaining two parts of the indenture going to the parties. In addition, by means of a voucher to warranty the purchaser could gain compensation from the seller, which was equivalent to the land itself, because the latter had guaranteed the purchaser's title against any future claim. This was an especially useful device to bar entail (which limited inheritance), both issues in tail (to the legitimate offspring) and remaindermen (those entitled to the remainder of the estate once it had legally expired). However, by the middle of the fifteenth century, an even better way of barring entail was found: the common recovery.24 The purchaser brought a collusive real action against the seller over the title; the seller then vouched a third party, often an official of the court, to give warranty of the title who then defaulted, forcing a judgement in favour of the purchaser. The purchaser thus took title by the judgement and because the vouchee had no lands to convey to the seller, issues in tail or remaindermen possessed only a rather useless right to bring an action to recover the non-existent lands of the defaulting vouchee. By such a device the lands held in fee tail were converted into fee simple.

Elton noted that a bill intending to help remaindermen against fraudulent vouchers of warranty failed three times in the parliaments he studied. In addition, various bills for fines and recoveries were initiated until eventually

23 HLRO, MP 1582-5, ff. 26-7, 80-8v.
an act passed in 1581 which provided for registration of all transactions by fine and recovery.\textsuperscript{25} In 1584–5 its benefits were extended to the shires of Wales and the counties palatine of Chester, Durham and Lancaster, which experienced the rare addition of a proviso after the third reading. Egerton was heavily involved with this measure, although it carries a long enacting clause, and Fleetwood took the opportunity to entertain the Commons with a history of seals of record before noting that the bill had been attempted four times and rejected 'and now it is crept in agayne I can not tell how. I pray you Mr Speaker look to it, for myne owne part I care not for I have nera foote of land in Wales, nor never intend to have, and so he went out of the house presently to the enditment of Parry in ye Kings Benche'.

In fact, the bill arose from a specific situation, namely the corrupt practices of John Throckmorton, a leading official in the Council of Wales, who had delivered a favourable decision concerning the disputed barony of Powys to Edward Grey, for which he was tried in Star Chamber, fined and imprisoned. The diarist explained:

Mr Vernon offered a proviso by his counsel. Yelverton, a counsel in the other side was against it. Mr Trogmorton did ad to the record, 200 and 50 woordes, after the writt of error deliveredy to him. He did it of affection to his nephew Gray, not of corruption, and so he did certifye it and I thinke if he had done it in the courte judicilly and not in his chamber privatly it had bene good enoughte.

His analysis is made even more interesting by the marginal note: 'The recorde was perished with rayne and eaten with myse.' The Lords added a proviso for the Earl of Kent and 'put owt the clausse of exemplifications'.\textsuperscript{26}

This act, however, was by no means the last the later Elizabethan parliaments heard of fines and recoveries. In the same parliament the Lords read a bill 'for the Explanation of the Law, touching Fines and Recoveries levied before the Justices of the Common Pleas whereunto they are Parties' but it got no further than a second reading and a second attempt in 1586–7 earned a royal veto, presumably on the encouragement of the judges themselves.\textsuperscript{27} A 1586–7 bill reducing the number of proclamations made on fines in Common Pleas from sixteen to four passed the Commons but failed to get beyond a first reading in the Lords.\textsuperscript{28} However, it reached the statute book in 1589. Since the Lords struck out the clause providing that,

\textsuperscript{25} Elton, Parliament, pp. 294–5.
\textsuperscript{26} SR, IV, 715–17; HLRO, 27 Eliz. OA 9; D'Ewes, pp. 343, 349, 353, 354, 364, 365, 366, 371, 372; TCD, MS 1045, ff. 89, 90, 92v; BL, Lans. MS 43/72, ff. 165, 167; LJ, II, 101, 103, 104, 106; HPT, III, 494–5. The Commons' committee which met over the bill also considered a measure 'concerning Insufficient Justices, Sheriffs etc. in Wales' which got no further, D'Ewes, p. 354.
\textsuperscript{27} LJ, II, 75; D'Ewes, pp. 394, 407, 410, 411; LJ, II, 131, 132. The diarist described it as 'givinge of force to exemplifications of fines and recoveries', BL, Harl. MS 7188, f. 92.
\textsuperscript{28} D'Ewes, pp. 413, 415, 416, 417; LJ, II, 140; HLRO, MP, Parch. Coll. Box 1C, no. 3221 (Bond, Lords MSS, pp. 25–6).
in the case where a term was adjourned, the fiction would be held that the proclamation had been made, its presence probably explains why the Lords allowed the bill to fail earlier.29

This lone success was accompanied by a large number of failures. A 1584–5 attempt to stop the defacing or theft of part of the writ of recovery by searchers by declaring defaced writs valid and prohibiting the reversal of the recovery was probably seen as too arbitrary a solution. Committed on its second reading because of ‘many faultes fownde in yt’, it was amended, further debated on the third reading, deferred for a day, ‘read the fourth time’ and again committed, but MPs gave up on it thereafter.30 The problem of searchers tearing off writs was re-examined in 1593 when it was proposed that certified copies of the enrolment were of equal validity to the enrolment itself. Held by the purchaser, it was intended that ‘the imbeselinge of the Record cannot prejudice him’. Despite initial enthusiasm (it was twice read in one day), the bill was rejected perhaps, as a surviving debate suggests, because of the difficulty in securing proper copies.31

So, in 1597–8, the Lords addressed the matter with a bill ‘for the better and safer Recording of Fines, to be levied in the Court of Common Pleas’ which passed the Commons ‘without alteration’ but failed to get the Queen’s approval. The bill noted that fines had two parts, the ‘note of the Fyne or inter’ and the ‘foote of the Fyne’, the former kept by the chirographer (the official who engrossed fines and supplied indentures to parties) and the latter by the custos brevium (the chief clerk in Common Pleas who kept the writs) ‘all filed upon Cordes in severall bundells, by severall termes in daunger of embeaselinge, tearinge, fallinge from the files, and defacinge to the great perill of the Subiectes’. The bill thus provided that on request the chirographer would enrol the lot for a fee of no more than 6s. 8d. per fine, the resulting rolls to be inspected by the judges of the court and be subscribed by them. The custos brevium was to retain the enrolment of writs of dedimus potestatem and concords of every fine.32 Perhaps this was not enough for him and he somehow secured the veto.33

29 D’Ewes, pp. 429, 432, 434, 437, 439, 441; LJ, II, 152, 153, 155; HLRO, 31 Eliz. OA 2; SR, IV, 800. It may have been the bill read pro forma, unless the measure described as providing ‘for reformation of deceitful practices used in reversal of Fines at the Common Law’, was yet another failed bill concerning fines and recoveries.

30 TCD, MS 1045, ff. 76v, 78v, 91v, 92; D’Ewes, pp. 340, 349, 364, 371.

31 BL, Cotton MS Titus Fii, ff. 57v–8, 60, 60–60v; D’Ewes, pp. 499, 500, 501: HLRO, MP 1592–3, ff. 54–5v; see Elton, Parliament, p. 295, for earlier bills.

32 Dedimus potestatem – a writ whereby commission was given to a private man for the speeding of some act to take place before a judge, used often, Cowell maintains, to make a personal answer to a bill of complaint in Chancery or to appoint an attorney to act in a suit in a county or hundred, see John Cowell, The Interpreter, 1607 (Menston, Yorks., 1972).

33 LJ, II, 203, 206; Inner Temple, Petty MS 537, vol. 6, pp. 280, 281 (Sainty, pp. 3, 4); D’Ewes, p. 569; HLRO, MP, Suppl. 1596–1601, ff. 160–1v.
Other failures include 1586–7 Commons’ bills ‘for Errors in Fines’, engrossed but then abandoned, and ‘for limitation of time touching Writs of Error growing by fraud’, rejected by the Lords.34 A Lords’ 1589 measure ‘for the avoiding of sinister Attempts to defeat Common Recoveries and Fines’ did not make it to the Commons, while a 1601 bill ‘touching Fines within antient Demesne’ had a second reading and committal but did not emerge, if the committee appointed to meet that afternoon in the Court of Wards ever bothered; the session ended two days later.35 In 1597–8 some attempt was made to alter the law concerning *formedon*, the process available to those who held a right to lands by virtue of a gift in tail. It provided ‘for Limitation of time for bringing of *Formedons* in the Descender36 and Writs of Error’ and was committed to a large legalistic committee which decided that the bill should be reserved until the next parliament; however, it did not appear in 1601.37

Besides the fine and recovery, land could be conveyed by means of the use, granting the property to the *cestuy que use* through feoffees who were usually lawyers. The use enabled considerable flexibility in making settlements but caused two particular problems: it made it difficult to sue because the property was owned by the feoffees, not by the person in possession, and it enabled beneficiaries to escape feudal dues. Consequently, the statute of uses in 1536 established the *cestuy que use* as the person seised of the property, but this was substantially altered by the statute of wills in 1540 which permitted disposal of freeholds by will; tenants in chief holding lands by knight service could so dispose of two-thirds.38

One problem which persisted, indeed flourished, after the 1530s was the ‘springing’ use in which freehold was to commence after a certain number of years. In 1593 a bill provided ‘for perfectinge assurances made and to bee made agaynst springinge uses and perpetuite’. Sergeant Thomas Harris spoke against the springing use because it allowed the lands of traitors to escape forfeiture, was ‘against the nature and gravitie of our lande’ and reduced the number of suits because those ‘haveinge right to the land of the partie in possession; Covenanteth that if an action bee brought against him that then it shalbe to another mans use’. His lawyer’s perspective was countered by Sir Edward Dymocke who thought the bill dangerous to ‘gen-

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34 D’Ewes, pp. 394, 407, 410, 413, 416; LJ, II, 139, 140.
35 LJ, II, 161; D’Ewes, p. 687.
36 *Formedon* in the descender – the writ used by the heir in tail to recover lands from the actual tenant when the tenant in tail had either alienated the lands or was disseised (unlawfully dispossessed) of them and had died. Other writs available were *formedon* in the remainder and *formedon* in the reverter, see Cowell’s *Interpreter* and Baker, *English Legal History*, pp. 232–4, 439–40.
37 D’Ewes, pp. 577–8, 581.
tilitie and generallye for the overthrowe of their howses'. He reflected that in 1584–5 it had been ‘desired that entayled landes might be lyable to the payment of debtes which was intended onelie to the overthrowe of Intayles and soe this bill to the overthrowe of gentilitye’. The two remaining speakers divided on similar lines: another sergeant-at-law claiming that springing uses were ‘a mischiefe to purchassers’ and a Cambridgeshire gentleman, John North, among whose reasons against the bill was that by the law of Moses, as cited in Leviticus and Numbers, ‘the land to remaine in the trybe’, an appropriate argument for the heir of the puritan Lord North and student of John Whitgift!

Considered important enough to appoint all the privy councillors and all the knights of the shires to the committee, the bill was entrusted to Hoby but three days later his brother Sir Thomas was requested to obtain this and two other bills, ‘Execution of Process’ and ‘against Recusants’, from Sir Edward. On the following day it was given to Harris. However, it did not emerge from the committee.39 In the next parliament a bill ‘to take away future uses creating perpetuities of Lands’ only received a single reading in the Commons, another victim of the landed gentry. Surprisingly, for a bill failing on the first reading, it survives, suggesting an official origin.40

The problem of getting executors of wills to perform their duties properly, to the satisfaction of creditors, was the subject of two bills in this period, although both houses spent plenty of time dealing with individual cases. One, to ensure the better payment of debts and legacies, had only one reading in 1586–7.41 In 1601 a bill provided some remedy for creditors who were defrauded by the practice of passing the administration of an intestate’s goods to a third party who was a ‘stranger’, because unnamed in the documents, and often also too poor in their own properties effectively to answer any legal actions instigated by creditors. It passed both houses easily.42

In the previous parliament a bill passed which sought to ensure the proper disposal of land, money and goods given for charitable uses such as hospitals, schools and relief of the poor. Carrying a long clause, the act authorised commissions to investigate and regulate such donations. The two universities, Eton and Winchester schools were exempted from the act, as were hospitals where governors or overseers had been appointed by the founders. The Lords added Westminster to the list of colleges exempted and included colleges in the list of institutions exempted if overseers or

40 D’Ewes, p. 583; HLRO, MP 1596–1607, ff. 64–5v.
41 D’Ewes, p. 409.
42 SR, IV, 972; HLRO, 43 Eliz. OA 8; D’Ewes, pp. 626, 634, 635; LJ, II, 230, 231, 233.
governors had been appointed. They deleted a provision which gave the commission the right to enquire into the conduct of such charities, advise the governors what action was needed and report this to the Lord Chancellor (or Lord Keeper) and Chancellor of the Duchy, if their recommendations were not effected.43

In 1601 the committee dealing with a bill ‘touching Lands given to Charitable uses etc.’ was given the authority to continue the statute of 1597–8 or to consider this new measure as they saw fit. In fact they drafted a nova which was itself amended before passing the Commons; it passed the Lords without committal and the 1597–8 act was repealed.

The measure was similar to its predecessor, although the preamble offered a much fuller list of possible charitable uses and now empowered the Lord Chancellor (or Lord Keeper), or the Chancellor of the Duchy of Lancaster, to overrule or amend the commissioners’ orders upon complaints received. Purchasers were now protected if they had not received notice of the charitable use, commissioners could determine recompense to be paid by those breaking the trust and crown lands obtained by Henry VIII, Edward VI or Mary were now exempt, unless the Queen had designated them for charitable uses. These last provisions were the reason for a new measure. As Edward Phelps explained, the 1597–8 act ‘maie tend to the setting afoote of all the monasteries of old tyme and other religious howses as also to the searching into the states of Divers perticuler subjects within this Realme’.44

After 1540 the most common means of transferring the ownership of land was through bargain and sale. Such transactions were to be registered in one of the Westminster courts by the statute of enrolments (1536).45 One of the easiest ways to protect a ‘secret’ conveyance from purchasers was to avoid the registration, and throughout Elizabeth’s reign attempts were made to prevent this from happening. In 1572 and 1576 bills provided for the registering of assurances before two JPs, by which all interests or ‘encumbrances’ on lands to be bargained and sold were declared. Popham opposed the proposal, concerned that the bill might make void even bona fide conveyances because they had not been registered, although it was clear that the bill concerned only secret conveyances. Twenty-five years

43 SR, IV, 903–4; HLRO, 39 Eliz. OA 6; D’Ewes, pp. 579, 579–80, 582, 583, 584, 589, 590; Inner Temple, Petyt MS 537, vol. 6, pp. 296, 299, 300 (Sainty, pp. 8, 12, 14); PRO, SP 12/266/81.


45 Simpson, Land Law, pp. 188–90.
later, as Chief Justice of the Queen's Bench, Popham sat on the committee dealing with a bill which provided that enrolments made in the Westminster courts were also to be exemplified under the great seal. Committed on its second reading in the Lords, the bill returned with amendments but was considered rejected on its third reading over the question of another committal because the votes were equal.46

Fraudulent conveyances, or errors in conveyances, often depended on inaccuracies of record. In 1584–5 and 1586–7 a bill ‘touching enrollments’ was promoted. It provided that fraudulent conveyances enrolled before the deputy of the master of the rolls and the deputy of the clerk of the peace were as valid as if they had been before the master and the clerk themselves, as stipulated in the act of 27 Henry VIII.47 Several parliaments heard bills seeking to solve difficulties which arose in conveyances involving corporations which had been misnamed, or in which some vital date was recorded incorrectly or missing altogether. Their failure is not surprising; they would have seriously curtailed the level of litigation and some were seen as having serious implications for particular cases.48

Of course, there were many odd bills which dealt with various aspects of land law. One making entailed and copyhold land liable for the payment of debt was given only a first reading before being rejected. A bill concerning writs of covenants was so treated on its third reading; it had a proviso for Lord Powis and Sir Edward Herbert as had the 1584–5 bill for fines and recoveries. One concerned licences of mortmain, by which the crown granted exemptions to the statutory prohibition on grants to religious houses; this usually allowed compensation for the loss of incidents, to prevent cheating the lord of feudal dues, but it also failed. Providing ‘for Disposing of Lande in Socage without Licence of Mortmayne’, the bill passed the Commons, but had no proceeding in the Lords although they had nine working days left to do something with it.49 A 1593 attempt to simplify the process in real actions by reducing the number of essoins, excuses for non-appearance, and returns, was rejected in the Commons, the house of origin. A 1597–8 Commons’ attempt to legislate for the enrolment of

46 HLRO, MP, Parch. Coll. Box 1D, no. 3255 (Bond, Lords MSS, pp. 61-2); LJ, II, 228, 229, 230, 234. Elton, Parliament, pp. 292–3, argues that Popham, and others, mistook the terms of the bill, and reflects that misunderstandings were ‘only too likely when members relied on ear and memory for the terms of a bill’.
47 D'Ewes, pp. 392, 393, 395; HLRO, MP 1586–92, ff. 1-2v.
48 D'Ewes, pp. 338, 415–16; TCD, MS 1045, ff. 73v, 76; HLRO, MP 1582–5, ff. 1–2v; BL, Lans. MS 55, f. 184v; LJ, II, 188; LPL, Fairhurst Papers, MS 2007, ff. 104–104v, notes on such a bill and its implications for a case involving Christ Church, Oxford.
defeasances, collateral deeds, failed to emerge from a second reading committal.50

Changing processes involving leasehold also had parliamentary repercussions. A 1589 Commons' bill 'for pleading at large in an ejectionae firmae, the process by which a lessee was ejected by the lessor before the lease had expired, died in a Lord's committee appointed on the second reading. In the common law the rights of lessees was through writ of covenant rather than a real action because it was a matter of contract. The remedy for a lessee's possession was through trespass of ejectment and it was in many ways superior to forms of remedy available to freeholders who needed writs of entry. By the middle of Elizabeth's reign the same process was also used by freeholders through a fictitious process in which the freeholder leased the land and then brought an action against the lessee in order to confirm the title. Such a development was not popular with some. According to Egerton it resulted in 'a great decay of the true knowledge and learning of the law in real actions' and had 'almost utterly overthrown all actions real that be possessory, as assizes of novel disseisin and writs of entry'. The 1589 bill seems to have intended to bring further flexibility to this process; it was no more successful in 1593. A 1601 attempt to amend an earlier act concerning rents also failed.51

Bills were also promoted in 1597-8 and 1601 attempting to end the unique form of partibility surviving in Kent, known as gavelkind. The Queen vetoed the first, while the second was rejected in the Commons, the house of origin, by 138 votes against to 67 in favour. The lawyers who spoke were divided. Moore declared it to be a 'very idle and frivolous Bill, and injurious'. John Boys, a counsellor of the Cinque Ports and Recorder of Canterbury, predicted it would seriously reduce subsidy contributions because gavelkind meant that there were many more £10 men than above, 'and now if these being divided in several hands should now go according to the Common Law, this would make the Queen a great loser.' However, Sergeant Harris felt that gavelkind was introduced by the Normans as 'a punishment and plague unto the Country ... to make a decay of the great Houses of the antient Britains' by forcing partible inheritance. Despite the clear verbal superiority of the noes in the vote which followed, the ayes forced a division and lost by over two votes to one.52 As so often with these bills, custom and existing practice, which worked so often for the

50 BL, Cotton MS Titus Fii, ff. 56v, 62-62v; HLRO, MP 1592-3, f. 53-53v; D'Ewes, pp. 563-4.
51 D'Ewes, pp. 446, 447, 470, 476, 687; L, II, 163; Baker, English Legal History, pp. 252-5; Simpson, Land Law, pp. 144ff.
52 D'Ewes, pp. 570, 668, 674, 676; LJ, II, 205, 206, 207, 208; HLRO, MP, Parch. Coll. Box 1D no. 3235 (Bond, Lords MSS, pp. 31-3).
benefit of the gentry and lawyers who dominated the Commons, overcame impulses towards reform. The same might be said of their borough official colleagues since the lone attempt to ensure the proper enforcement of ordinances made by corporations was rejected on the third reading.\(^{53}\)

**CORPORATE AND COMMERCIAL LAW**

Only one major change was made to the law of bankruptcy, debt and corporate law in this period. A successful 1601 Commons' bill created a standing commission under the Lord Chancellor to deal with disputes over mercantile insurance. Whereas merchants had previously organised insurance among themselves, submitting disputes to 'certaine grave and discreet Merchante' appointed by the Lord Mayor of London, some had recently turned to the common law courts instead and the act was intended to formalise this process. The weekly commission, consisting of the admiralty judge, London's Recorder, two doctors of the civil law, two common lawyers and eight merchants, had full powers to hear cases, examine by oath and imprison. Chancery was the court of appeal; a proviso prevented commissioners from determining cases in which they were a party, and ordered that all commissioners, besides the Admiralty Judge and Recorder, should be sworn to office.\(^{54}\)

Although arguably as much part of the land law as commercial law, a failed bill of 1601 concerning bankruptcy paid special attention to frauds committed by apprentices and merchants' factors. It had a single reading in the Commons before being rejected by forty-five votes against to thirty-five in favour, one of the lowest attendances of the reign. 'Ill disposed' persons, knowing themselves to be bankrupt but still 'carrying some creditt in the world', procured goods and money and then allowed themselves to be imprisoned 'with purpose to lyve there, and there to spend other mens goodes att their pleasure, where it is well known many of them lyve more loosely and pleasantly then ever they did before'. By these practices, helped by 'the lewd and wicked dealeings of many apprentices and factors in these later tymes more then in former', subjects were defrauded. The bill sought to ensure that such persons were to be 'Close prysoners' until they satisfied their creditors. All of their property could be disposed of by commissioners appointed under the statute of bankrupts of 1571 for the payment of their creditors. Factors or apprentices who misused or embezzled any goods worth £10 or more belonging to their master or mistress were to be judged

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53 D'Ewes, pp. 578, 581, 582.
guilty of felony if they fled, or suffer imprisonment until satisfaction was made if they did not. If restitution was not made within two years then the offender was to be set on pillory in a market place at market time for one hour ‘and there have one eare nayled on the Pillorye to th’end he maye be known for a notorious deceaver and others maye be warned thereby from comitting the like offence’. Another draft tried to moderate imprisonment by allowing freedom of movement for sick offenders and facilitate repayment by permitting offenders to speak with creditors and friends. Although servants were now included along with apprentices and factors, they were to be aged twenty-one years or older.55

Debtors would have been among the prisoners who would have been brought face-to-face with their creditors if a 1584–5 bill had been successful; two bills survive concerning prisoners themselves. It was intended to relieve those incurring debt by ‘gods visitation, losse by sea or other casualtie’ who were willing to answer for as much as they were able, and those who were in effect imprisoned through the negligence, mispleading or non-pleading by nihil dicit, literally ‘he says nothing’, failing to put in an answer to the plaintiff’s plea by the day assigned, or those who lacked money for counsel. A 1589 measure, allegedly coming from poor prisoners, sought to secure their release to enable them to work and satisfy their creditors. It provided for a commission to be established which would make a ‘reasonable end and order’ between the two parties.56 Both bills proceeded from the logic that imprisoning debtors simply impoverished families, increased vagabondage and probably arose because of doubts over the legality of actions taken by the 1576 commission for poor prisoners set up by the Privy Council. It sought to help and even release debtors.57

THE COURTS

The chief means of enforcing the penal laws regulating economy and society in the sixteenth century was through the common informer, individuals who took it upon themselves to discover offenders and bring them to the Court of Exchequer, in return for a share in the fines or forfeitures which resulted. More often than not cases did not reach judgement, because the informer and the defendant settled out of court, often with the collusion of Exchequer officials. It was to prevent such abuses, and the bringing of false accusations simply to force an individual to settle, that the important

55 D’Ewes, p. 684; PRO, SP 12/283/22, 23.
56 PRO, SP 12/175/31; BL, Lans. MS 58/58, ff. 136–7. ‘Poor prisoners’ in Ludgate were to be released by a 1601 Commons’ bill which died in committee, D’Ewes, pp. 669, 681.
statute of 1576 was passed. The history of the bill and its predecessors provides an instructive example of how Privy Council desires for legal reform could be successfully obstructed by an interested body of officials.58

The statute comprehensively reformed the practices of informers. They were now obliged to appear in person before the courts, and not be represented by deputies; there were to be only four informers in the larger counties and no informer was to be licensed for more than one county; they were to be bound over to pursue prosecutions to conclusion and were liable for costs and damages; corrupt informers were to suffer pillory and a £10 fine for each offence. With regards to process, erring Exchequer clerks were to be fined 40s. for each offence, compositions were to be sanctioned by the court; no process was to begin before the information was formally put, and informations had to carry the names of both informer and defendant, the county of the offence and the title of the relevant statute. Defendants were given the right to sue for damages. The act carried a time-limitation clause until the end of the next parliament and in 1584-5 this temporary act was made perpetual.59

The opportunity for revision was initially seized: the bill strengthened the interests of defendants by allowing them to 'recover costes recoverable as other costes for the plaintiff, with further corporall punishement restraygninge the promoter to compownd'. However, even with Mildmay, a key figure in 1576, in charge, the bill had a difficult passage. Committed on its third reading, when most of the privy councillors were added, because 'th'inforcing of th'informer to persewe was thowght very perilowse', the bill returned with everything removed except 'the continewance of th'olde law'. As such it passed the Lords. Roger Cave wrote to Burghley in favour of the continuation of the act on 12 February, two days after it had received its second reading in the Lords, although it would be surprising if its success was then in doubt.60

Three undated drafts of measures concerning informers survive in the Exchequer records, one of which has been identified as belonging to 1571. Another, although its preamble mentions the problem of informers compounding before process, does not in fact deal with this but focuses on the

60 D'Ewes, pp. 334-5, 336, 337, 339-40; TCD, MS 1045, ff. 73v, 75; LJ, II, 76, 78, 80, 82; PRO, SP 12/176/51.
execution of writs and warrants by sheriffs and lesser officers. The third was a very long bill which provided that informers should be bound before the Exchequer for £200; if they committed offences such as taking bribes or compounding without the court’s consent then the bond was forfeit. The bill also permitted commissions to be issued out of the Exchequer to enquire into bribery, extortion and forgery committed by informers; leading Exchequer officials, along with the Queen’s learned counsel, were empowered to punish offenders, while Exchequer clerks were not to falsify dates on writs. However, the measure recognised that informers too had their problems; anyone procuring actions against informers without cause were to suffer treble damages and in such cases informers were not to lose their bonds. Corporations were allowed only to examine cases within their jurisdictions and on issues over which they had been exercising authority. Lastly, power was given to the leading officials in the Exchequer to reward informers bringing actions if they saw fit.

This measure clearly post-dates the 1576 act for its starting point is that informers were not compelled enough to obey proper process. It also suggests the involvement of Thomas Fanshawe, Queen’s Remembrancer in the Exchequer, whose comments on the 1576 act included suggestions such as rewards for informers bringing actions in the name of the Attorney General, respecting the rights of corporations and reserving the punishment of corrupt informers to central officials. Fanshawe, as Dr David Lidington has observed, was a cautious reformer and may not have objected to a measure requiring bonds from informers which, as noted in the margin of the bill, ‘will cut off all the lewde and beggerly Informers’. Moreover, Fanshawe sat in the 1589 session when informers were again discussed and a measure reached the statute book.

This successful bill also had official support. It confirmed previous statutory provisions unless now altered and ordered an end to all present litigation brought by those ordered not to pursue any such suits, unless brought by parties grieved. The act provided that all informations were to be laid in the county where the offence occurred with the exception of those concerning usury, smuggling, fraud in customs and subsidies and

61 PRO, E175, File 6/27, 26; Lidington, ‘Penal Statutes’, p. 316.
62 PRO, E175, File 6/25 (21). The paper bill runs into twenty-two sheets which have been bound incorrectly. The probable order is sheets xi, 9-13, 14-15, 16-17, 18-19, 20, x (provision, File 6/25 (22)). A proviso, PRO, E175, File 6/25 (22), protected sheriffs not executing writs received late. This may refer to the informers bill but seems more appropriate to that chiefly concerning sheriffs and other officials, PRO, E175, File 6/26.
63 See Lidington, ‘Penal Statutes’, pp. 322-3. However, these are not exactly the same as Fanshawe’s proposals: rewards in 1584-5 were to all informers, not just those bringing actions under the Attorney General, and he preferred punishment to be imposed by the Lord Treasurer and Lord Keeper.
forestalling; all actions were to be brought within two years of the offence if brought by the crown, or one if by an informer, with the exception of offences under the statute of tillage. The bill had a somewhat difficult passage in the Commons, the committee being deferred three times, but it passed the upper house in two days. Another measure, which is probably an earlier version of the act, not only provided that informations should be laid in the county where the offence occurred within one year, but also imposed requirements on informers: they could not have been 'detected' for any crime in a court of record; they had to supply testimonials of good behaviour to the judges of the relevant court; and they were to be rated at least 40s. in lands or £5 goods in the subsidy.

Three days after the Lords approved the informers bill, the Commons gave two readings and engrossment to another, 'touching Costs to be recovered against common Informers'. It passed the Lords swiftly, and their amendments and proviso were approved by the Commons where problems had arisen over how to define a 'common informer' and whether informers should be obliged to offer one or two sureties for each action. Perhaps the Lords' proviso was that suggested by a commentator on the bill: that if the act hindered enforcement of any penal law, then it could be exempted by royal proclamation. However, the bill was vetoed.

**THE LEGAL PROCESS**

Informers were an essential part of the legal process in early modern England. No less important were jurors and four legislative proposals of these parliaments sought to improve the jury system; two became law. Both statutes belong to the 1584-5 parliament and sought to tidy up procedures whereby jurors were selected. The first dealt with the problem of sheriffs failing to return men of substance for jury service by increasing the minimum qualification from 40s. freehold to £4 and by imposing a fine of 20s. on sheriffs for each person wrongfully impanelled. Similar proposals had been made in earlier parliaments with little success. Initially this measure also provided that sheriffs should list forty-eight names from which the parties would each choose twelve, and limited the new qualification to real actions; this was dropped by the Commons' committee. The *nova* passed both houses without significant alteration besides the removal of the clause

64 SR, IV, 801-2; HLRO, 31 Eliz., OA 5; D'Ewes, pp. 429, 430, 431, 432, 435-6, 436; LJ, II, 86, 88, 89. The ambiguity of the location of crimes such as smuggling and usury was another point raised by Fanshawe in his comments on the 1576 statute, Liddington, 'Penal Statutes', pp. 322-3.

65 BL, Lans. MS 55, f. 184.

assigning half of the fines to the use of the poor and the changing of the title from 'to avoyde parciall Juries and tryalls' to 'for returning of suff-
ficient Jurores and for better expedicion of tryalls'. One 'Mr Good' was consulted on the matter of selecting jurors, although the points he raised related especially to the choosing of impartial juries at quarter sessions.67

The second statute pertained to the issues of jurors. The preamble asserted that when someone who had been impanelled for jury service lost their issue, or defaulted upon it, sheriffs took the opportunity to collect from another with the same name, convincing them that they were the ones who had defaulted. The act stipulated that the juror's residence was to be included in the issues and no official was to levy an issue except on the juror; the penalty was set at ten marks, five to the party grieved and five to the crown. Justices were given powers to try offenders and the act was to continue until the end of the next parliament. Redrafted entirely – fines imposed on a whole range of local officials were removed – it was recommitted on the third reading to consider a proviso sponsored by the Exchequer which was unsuccessful.68

Concerns over the expenses incurred by jurors while at Westminster was the matter dealt with in a 1589 bill which was reported by Thomas Tashburgh, a Buckinghamshire gentleman who had been educated in Grays Inn, served as both JP and sheriff, and who would later secure a tellership in the Exchequer. Although the Commons' committee consulted with the judges and the Queen's learned counsel, the bill was rejected by the Lords on the third reading. Tashburgh was equally unsuccessful in 1593 when a bill providing for the payment of jurors' costs while at Westminster failed, despite initial enthusiasm (two readings in a day).69

The implications of these bills was that sheriffs had been guilty of favouring their wealthy neighbours by not calling them for jury service, guilty of partiality in the selection of jurors or of dishonesty and fraud by levying issues on the wrong person. Three measures during these parliaments sought to deal more specifically with abuses committed by sheriffs and undersheriffs. In 1584–5 a statute declared that sheriffs had often delegated most of their authority to undersheriffs who, unlike the sheriff, did not have to take an oath of office, and so 'doe therefore dailye and most injuri-

67 SR, IV, 712–13; HLRO, 27 Eliz. OA 6; Elton, Parliament, pp. 278, 280–2; TCD, MS 1045, ff. 73, 79v, 81, 81v; D'Ewes, pp. 335, 336–7, 343, 347; BL, Lans. MS 41/16; HLRO, MP 1582–5, ff. 65–7v; LJ, II, 81, 88, 90; PRO, SP 12/177/53.
68 SR, IV, 713–14; HLRO, 27 Eliz. OA 7; D'Ewes, pp. 338, 347; BL, Harl. MS 74, f. 200; TCD, MS 1045, ff. 76, 76v, 81, 81v; HLRO, MP 1582–5, ff. 68–70v, 71–3v.
69 D'Ewes, pp. 452, 452–3, 496, 501, 508, 520; LJ, II, 165, 166 ('for the Relief of Jurors returned for the Trial of Causes'); BL, Cotton MS Titus Fii, ff. 55v–6; HLRO, MP 1592–3, ff. 46–52v. In 1593 a clause was squeezed in exempting peers from imprisonment for not paying up.
ously through Corruption and Affection impanell Jurours, for the Queenes Majestie and betwixt Partie and Partie, to the greate losse damag and hinderance of divers her Majesties lovinge Subjectes'. The act ordered undersheriffs to take the oath of supremacy and an oath of office which was set out, promising not to take bribes and to act with impartiality; other officers able to impanel juries were to take the same. Any such officer proceeding to impanel juries without taking the oath were to suffer a £40 fine and those sworn but acting contrary to the oaths were to suffer treble damages. Redrafted in the Commons, the house of origin, it passed the Lords without difficulty.\textsuperscript{70}

In 1586-7 a rather brief and terse Commons bill placed heavy penalties on sheriffs, undersheriffs and other officials accepting bribes. It set out the fees they were to receive and that any extortion would result in treble damages to the party grieved and a £40 fine. As with the previous statute, the short clause suggests an official origin; it passed both houses smoothly and within four working days.\textsuperscript{71} In 1601 both houses also approved a bill ‘for reformation of abuses in Sheriffs and other inferior Officers for not executing Writs of Proclamation upon Exigents according to the statute of 31 Elizabeth’, but it was vetoed. The statute referred to had reformed the problem of issuing writs of proclamation upon exigents, that is, declarations of outlawry, to persons living in the county palatine of Durham. Prior to the statute such writs issuing out of Queen’s Bench or Common Pleas were sent to the sheriff of an adjoining county; now they were to be sent to the bishop, who was to establish officers to receive the same in both courts, who would then direct them to the sheriff of Durham for proclamation. No problems were revealed during passage; the bill was committed in the Commons but returned ‘not altered or amended in any point’, and it passed the Lords in two working days. Perhaps Bishop Toby Matthew objected, or sheriffs of neighbouring counties resented their loss of authority; someone, at any rate, convinced the Queen to veto it. It is worth noting also that an undated draft bill punished sheriffs, undersheriffs and other officials for delaying the serving and execution of writs and for forewarning parties who were to receive them.\textsuperscript{72} Sheriffs also came in for criticism with the 1601 bill ‘against False Returnes and noe Returnes by Sheriffs and Bayliffes’, rejected on the third reading in the Commons.\textsuperscript{73}

\textsuperscript{70} SR, IV, 719–20; HLRO, 27 Eliz. OA 12; TCD, MS 1045, f. 74v; D’Ewes, pp. 337, 338, 340, 343, 346; LJ, II, 80, 87, 89. An undated paper bill imposed the oaths on sheriffs, undersheriffs and all officials involved in executions of process. Its penalties were steep: £200 for sheriffs, £40 for undersheriffs and £20 for lesser officials, HLRO, MP, Suppl. 1575–93, ff. 36–40v.

\textsuperscript{71} SR, IV, 769; HLRO, 29 Eliz. OA 4; D’Ewes, pp. 416, 416–17; LJ, II, 139, 140.

\textsuperscript{72} SR, IV, 807–8; D’Ewes, pp. 667–8, 670; LJ, II, 248, 251; PRO, E175, File 6/26.

\textsuperscript{73} BL, Stowe MS 362, f. 75v; D’Ewes, p. 628.
One of the processes also causing concern during this period was that by which a person was declared to be an outlaw. An act of 1589 made proclamations of outlawry more public by ordering the routine three proclamations to be made in the county court, at quarter sessions and at the church-door in the defendant’s parish on Sunday after divine service. Committed in the Commons, the bill caused some difficulty in the Lords. At a joint conference in the chambers of the Chief Justice of the Common Pleas at Sergeants Inn, a nova was apparently agreed upon; it passed both houses in four days.74

In 1593 there were two attempts to improve the act. The preamble of a Commons’ bill claimed that the latter ‘hath not wrought the good that was thereby intended’ because no penalty had been imposed on sheriffs failing to make the proclamations. It therefore imposed a fine of £20, originally £40, which was to go to the party grieved. But it also went on to do a good deal more than this. In order to prevent murders, manslaughters, breaches of the peace and avoiding of arrest, the Queen had issued a proclamation ordering all guilty persons to submit themselves to the authorities or else those assisting them would suffer greater punishment. This had not had the desired effect and the act thus imposed fines of £20 and three months’ imprisonment for those resisting arrests, the serving of any writ and offering violence to the Queen’s officers at the same time. Anyone wounding an officer was to suffer double these penalties. However, the bill was rejected on its third reading.75

The second measure was a Lords’ bill ‘against Persons outlawed, and such as will not pay their Debts and Duties’. It passed the Lords quickly but was rejected on the third reading in the Commons. Providing that the lands of outlaws were liable for the payment of their debts as set out in the 1571 statute of bankruptcy, it also authorised ‘any subsidy man to have power to arrest any person outlawed, but then he must presently bringe him to the Sherif’ and disabled outlaws from serving as sheriffs or MPs. Perhaps the granting of such judicial authority to ‘subsidy men’ may have been too great a novelty. Given the clause declaring outlaws ineligible for elections to the Commons, and although few Elizabethan MPs sought seats to escape actions of debt, one who did, Thomas Fitzherbert, was elected for Newcastle under Lyme in this parliament and his case took up a good deal of time. Fitzherbert had been elected despite being outlawed for no less than twenty-two counts of debt against him, a total of £5,400 including £1,400 to the Queen. The Commons finally decided, the day before they rejected

74 SR, IV, 800; HLRO, 31 Eliz. OA 3; D’Ewes, pp. 439, 449, 453; LJ, II, 161, 165, 166.
75 BL, Harl. MS 1888, pp. 141, 161; BL, Cotton MS Titus Fii, f. 53; HLRO, MP 1592–3, ff. 35–9v; Hughes and Larkin, II, 531.
the Lords' bill on outlaws, to deny Fitzherbert parliamentary privilege because he had been arrested before the indenture had been returned and because the arrest was at the Queen's suit and had occurred before the parliament met.76

Perhaps the most unique aspect of the English common law was the process of pleading in order to reach a point of disagreement. Instead of pleading, a demurrer could be entered, the process in which one party admitted all the facts of the case as presented by the opponent but alleged that there was no case in law to answer even if the facts were true. In 1584–5 the preamble of the statute 'for the expedicion of Justice in Causes of Demurrers and Pleadinges' declared that 'smale mistakinge or wante of forme in pleading' had led to the reversal of judgements by writs of error or even to demurrers given 'otherwise then the Matter in Lawe and verie right of the cause doeth require'. The act ordered judges to proceed to their judgements despite such errors except in cases where the party demurring set down the errors with their demurrer. No judgement was to be reversed by writ of error on such grounds and such errors could be corrected by the court. A proviso exempted appeals, indictments and actions, as in cases of felony, murder and treason, popular and penal statutes.77

The bill had a confused passage through the Commons. Cromwell initially described it as attempting also to settle the problem of which court would act upon writs of error in the Queen's Bench. The solution offered, an assembly of the justices of Common Pleas and the barons of the Exchequer, was in fact adopted in another statute of this session, which provided that they sit in the Exchequer Chamber. The preamble of this act – 'for Redresse of errorrious Judgementes in the Courte commonly called The Kings Benche' – declared that the traditional court of appeal, parliament, was no longer adequate for the purpose because parliament 'is not in these Dayes so often holden as in auncient time it hath bene' and in any case it was too busy with the 'greater Affaires of this Realme' to consider and determine such cases.78

It seems, then, that these two measures may have started off as one and the same or perhaps Cromwell mistakenly fused them into one. The bill chiefly concerning demurrers, noted in the journals as 'against the delay of justice', was considered by a Commons' committee, which may have

77 SR, IV, 712; HLRO, 27 Elizabeth OA 5.
78 TCD, MS 1045, f. 74v; SR, IV, 714; HLRO, 27 Eliz. OA 8. A later, undated, bill sought to clarify this statute by specifying in detail what the judges in Exchequer chamber could do, reducing the number of judges needing to be present. It carries a clause protecting the office of the prothonotary in the Exchequer and possesses a short enacting clause, HLRO, MP 1586–92, ff. 33–41.
redrafted it as a bill 'for the furtherance of Justice'. It arrived in the Lords at the same time as the bill concerning the Queen's Bench; both measures passed the Lords without difficulty.\footnote{D'Ewes, pp. 336, 337, 351, 354; LJ, II, 86, 87, 90, 92.}

An informative fragment of debate survives for the demurrers bill. Dalton, a Lincoln's Inn lawyer, claimed it 'would overthrow all learning and the lawe ... And least yow thinke I speake for my self, I will tell yow how it towcheth yow, for therin I thinke yow will harken. It towcheth all your inheritaunces.' Miles Sandys, who claimed to have 'spent the better part of 20 yeares in the study of the lawe and therfor I do or should understand somewhat in this matter', liked good pleading but not bad; he objected to client's paying 'for the conseller's cunninge'. Digges announced 'I can say litle to the matter, for it is neither my profession nor studye', but he offered some personal experience that made him 'speak with a feling spirite'. He had lost a suit because of poor pleading and when he complained to the judge the latter had told Sandys 'I had right but he could not help me, wherby I was fayne to go aboute agayne and so I was 3 yeares er I could bring it to that state it was in befor.' Digges noted that the bill had been introduced in an earlier parliament and he had heard 'a grave old parlyment man like well of this bill and so do all the elder lawyers but the younger do not'; for his part Digges preferred not to have 'the solle sounde of woordes and not substance, formes and fashions and not matter'. Fleetwood, a sergeant-at-law, then offered some advice from Littleton who had said that good pleading 'is the moost honorable and it is true', but he did not like 'this tryffling pleding and vayne pleading that is now used ... it is but bad French'. Fleetwood too knew the bill had passed the Commons in a previous parliament: 'that which was spoken then against the bill was spoken agayne now, almost woord for worde'. It was, Fleetwood thought, 'on of the best billes of the howse and I have bene of that mynd this 30 yeare. The lawe is not made to gett us money, but to help men to their right.' Sandys 'answered all the obiections made and declared that it was a very necessary bill and would not overthrow pleading as was supposed'.\footnote{BL, Lans. MS 43/72, f. 169-169v. The diarist ended with a disparaging comment on Thomas Digges: 'Digges commonly doth speak last and therfor saith Every matter must have an end and therfor to drawe this to a conclusion.'}

The redefining of the Exchequer Chamber to hear appeals from Queen's Bench and Common Pleas was arguably the most important of the several statutes reforming the law in these parliaments. The process of appeal, by writs of error, took up a great deal of time in almost every session. One such is a 1584–5 bill 'againste delaye of Execucions' which passed the Commons but not the Lords, although it got to a third reading there. Cromwell described it as providing 'that uppon judgemetnes given execution meye be
awarded notwithstanding anye wryt of error served, yf the partye wyll enter in bonde to repye the moneye yf the judgement be reversed, or else the moneye to be put in covrt', a good summary of the bill which survives. In 1586–7 a bill ‘against delay of execution in Actions of Debt’ was rejected on the third reading. More successful was the Lords’ bill ‘providinge remedy againste Discontynauances of Writtes of Error in the Courte of Exchequer and Kings Benche’ which became the first act of the sessional statute in 1589. It is unique for a measure of this type to head the list of statutes for a session and was probably a product of the Council’s concern for legal reform before the parliament. The act referred to a statute of Edward III which vested the right to appeal against errors made in the Exchequer with the Lord Chancellor, Lord Treasurer and any justices chosen by them. Because of their overwhelming duties they had frequently been unable to attend the court on the day of adjournment of such writs of error, with the result that these usually failed. The statute thus declared that such absence would not lead to discontinuance of the writ but merely would result in a postponement of the decision. It also cleared up a comparable problem arising out of the 1584–5 act; now any three judges could receive a writ of error, but all six had to be present to determine it. As in 1584–5 the right of appeal to parliament was preserved. It passed both houses without difficulty. In 1597–8 a bill for ‘the better Execution of Judgements’ passed the Commons but arrived in the Lords on the last day of the session and got no further.

The major problem facing the Court of Common Pleas was the rise in business of the Queen’s Bench. During the sixteenth century Queen’s Bench had been able to increase its business enormously by short-circuiting the Chancery, whose writs were normally the first stage for commencing a suit, by alleging a fictitious trespass in order to secure arrest of the defendant, then following this with a true bill: thus the plaintiff could sue in debt without writ out of Chancery. The usual practice was to secure a bill of Middlesex for trespass, Middlesex being the county in which Queen’s Bench normally sat, its sheriff would return that the defendant was not found, so the court would issue a writ of latitat, literally, to discover the hidden person, to the sheriff of his proper county to effect the arrest. By the end of the sixteenth century court officials commenced suits with the latitat pretending that a bill of Middlesex had been issued. The latitat had

81 D’Ewes, pp. 363, 364, 365; LJ, II, 95, 96, 100; TCD, MS 1045, f. 88v; HLRO, MP 1582–5, ff. 137–8v.
82 D’Ewes, pp. 409, 410, 411–12, 415, 416.
83 SR, IV, 799; HLRO, 31 Eliz. OA 1; LJ, II, 148, 149, 150, 163; D’Ewes, pp. 434, 449; BL, Harl. MS 75, f. 323.
84 D’Ewes, pp. 587, 589, 592, 595.
the added bonus of not tying the plaintiff to a particular action until the arrest had been made. The process had been the subject of some discussion in the early parliaments of the reign, and in 1584–5 a Commons' bill, 'that no latitat for the byndinge of anye to the peace or good behavyyowr' would be directed into the county unless the plaintiff took an oath that they could not obtain satisfaction there was initiated in the Commons. Designed for the good of the subject, its failure to get even a reading in the Lords suggests that it died at the hands of the Queen's Bench judges.85

One historian has suggested that one reason for the survival of the Court of Common Pleas, in the face of this advantageous process available to litigants in Queen's Bench, was simply that it had far more attorneys with connections in the counties.86 The large numbers of attorneys, solicitors and suits in the courts were the subject of three Commons' bills in these parliaments. In 1589 a bill to limit the number of attorneys failed to get out of a committee dominated by the knights of Norfolk and Suffolk. Perhaps the inhabitants of these counties were especially litigious; certainly Burghley had in 1585 received notes for a bill from Thomas Seckford which mentioned earlier attempts to limit the number of attorneys in these counties. The bill had three major provisions: actions of trespass not touching freehold should be tried in courts baron; recompense should be offered for trespasses where juries found for the defendant; and there should only be fourteen attorneys in Norfolk (eight for the shire and two each for Norwich, Kings Lynn and Great Yarmouth) chosen by the Lord Chief Justices.87

The other two bills belong to 1601 and were introduced by Coke and Townshend. Coke's bill 'to avoide trifling and frivolous suits' punished sheriffs and other officers for arresting people without proper warrant. Those procuring the arrest were also to suffer, but the clause punishing those acting as solicitors in such cases, not being 'an utter Barrester in Courte', or an attorney of the Westminster courts, was dropped. It passed the Lords quickly and became law.88 The same Commons' committee appropriately considered Townshend's bill 'against the multitude of Common Sollicitores'; although the committee returned it to the house

86 Baker, English Legal History, p. 42.
87 BL, Lans. MS 46/45, f. 90, 55, f. 185; D'Ewes, pp. 433, 435, 437.
88 D'Ewes, pp. 635, 642, 651, 658; BL, Stowe MS 362, f. 94; PRO, SP 12/282/52, 68; LJ, II, 238, 239, 240; HLRO, 43 Eliz. OA 6; SR, IV, 971.
perhaps intending it to supersede the deleted clause in the trifling suits bill,
it failed to get to a third reading.\(^8^9\) Egerton had condemned 'the lewd
abuses of prolling Sollicitors, and their great multitude, who set dissension
betwixt man and man, like a Snake cut in pieces crawl together to join
themselves again to stir up evil Spirits of Dissension'. It was an issue much
debated in these years.\(^9^0\)

One solution offered, to reduce the number of cases before the courts at
Westminster, was to restore certain actions to local courts. In 1584–5 a
bill 'concerning Actions upon the case to bee tried in their proper
Counties' passed the Commons and received three readings in the Lords
but did not appear to pass. On the second reading it caused considerable
debate in the Commons 'and it seems some Arguments being not liked,
divers of the House had endeavoured by coughing and spitting to shorten
them'. Such behaviour provoked Hastings to complain. He was especially
offended that some members had seen fit to use words like 'Town-Clerk'
in an offensive manner, and he moved 'that in respect of the gravity and
honour of this House, when any Member thereof shall speak unto a Bill,
the residue would forbear to interrupt or trouble him by unnecessary
coughing, spitting or the like'.\(^9^1\)

Few legal bills seem to have provoked such hostility, but certainly many
attempts to reform the law under Elizabeth were unsuccessful. Most were
initiated in the Commons and failed there, the victims of entrenched legal
and landowning interests, and a few died in the Lords, withering under the
careful scrutiny of the judges. However, a significant number, seven in all,
passed through the hurdles only to be vetoed by the Queen. Although the
reasons for her actions can only be guessed at, vested interests in Common
Pleas probably encouraged her vetoing the bills' reforming process and
streamlining procedure in that court in 1586–7 and 1597–8. Although
one might like to speculate that a leading privy councillor argued that
adding minor trespasses to the criminal code in 1597–8 was an unnecessary
and unsympathetic response to the economic crisis of that decade, it is
perhaps more likely that judicial opinion convinced Elizabeth that the legis-
lation was unworkable. However, these parliaments saw some notable

\(^8^9\) D'Ewes, pp. 631, 635, 642.
\(^9^0\) Ibid., p. 631; BL, Stowe MS 362, f. 94 (Townshend, Hist. Coll., p. 205); C.W. Brooks,
Pettyfoggers and Vipers of the Commonwealth. The 'Lower Branch' of the Legal Profession
in Early Modern England (Cambridge, 1986), pp. 132–45. Like Townshend, Egerton was
at Lincoln's Inn, A.J. Pollard and M. Blatcher, 'Hayward Townshend’s Journals: III', BIHR
duced a measure to prevent unnecessary expenses in legal suits, D'Ewes, p. 641.
\(^9^1\) D'Ewes, pp. 335, 336, 349, 364 (the printed edition misprints the bill as 'Tythes of Lands'
rather than 'Trial of Lands', cf. BL, Harl. MS 75, f. 220), 365; LJ II, 95, 96, 100, 106.
achievements in improving the legal system and even unsuccessful measures provoked discussions which were an important backdrop to extensive debates over the law in the next reign. Many of its participants, notably Coke, Egerton and Bacon, were active in the parliaments studied here.
Private legislation

In the famous beginning to the second book of *De Republica Anglorum*, the celebrated Elizabethan secretary and ambassador, Sir Thomas Smith, declared that parliament ‘abrogateth olde lawes, maketh newe, giveth orders for thinges past, and for thinges hereafter to be followed’. In his catalogue of all the things parliaments did, Smith first named the changing of ‘rightes, and possessions of private men’.\(^1\) The legislative product of such concerns were private bills and these were of two sorts: those which pertained to individuals and those concerning one or more localities. Measures for individuals enjoyed a good success rate in the last six parliaments of Elizabeth’s reign. Of the 87 bills for individuals initiated, 44 (57 per cent) were successful compared with only 22 of 105 local bills (21 per cent).\(^2\) Together comprising about one third of the legislation introduced, both types took up a good deal of time in every parliamentary session.

**Bills for individuals**

*Attainder and restitution*

There were two acts of restitution and one act of attainder passed in the last six parliaments of Elizabeth’s reign. Lord Thomas Howard, son of Thomas, fourth Duke of Norfolk executed in 1572 for his complicity with Mary, Queen of Scots, was restored in 1584–5 to both his blood and property. This was a grace bill, entering the upper house with the Queen’s signature; it passed both houses in four days, and even this included a delay because the Lords had wrongly endorsed it.\(^3\) Someone, probably Lord Thomas Howard himself, sought a bill in a later parliament but nothing

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1 Mary Dewar (ed.), *De Republica Anglorum By Sir Thomas Smith* (Cambridge, 1982), p. 78.
3 *LJ*, II, 75, 76; D’Ewes, pp. 340, 341, 342–3; BL, Harl. MS 74, ff. 195v–6; TCD, MS 1045, ff. 78v, 79v; HLRO, 27 Eliz. OA 35.
came of it.\(^4\) In 1593 another grace bill restored Sir Thomas Perrott, then sitting as knight of the shire for Pembrokeshire, in blood only. As befitted the status of the beneficiary, this measure began in the Commons, the first to do so and thus a little part of legislative history which was noticed by the diarist for this parliament.\(^5\) Perrott’s father, Sir John, had been attainted for treason in April 1592 and had died in the Tower; Perrott himself had been imprisoned. With the charges against his father being so flimsy, it is not surprising that his son was able to secure an act of restitution within six months of the attainer, although it almost certainly took the assistance of his brother-in-law, the Earl of Essex.\(^6\) On its arrival in the Commons, Speaker Coke drew attention to the royal sign manual and that the Queen expected ‘none will speake against this bill’. When the house wanted to give the bill its third reading on the spot he ruled that no such bill could be committed, nor could it ‘be thrise read in one day’.\(^7\) As a restoration only in blood, the act enabled Perrott to inherit from any ancestor besides his father, excluding property forfeited to the crown.\(^8\)

The only act of attainder concerned fourteen Babington conspirators, including Thomas, Lord Paget, Sir Francis Englefield, Charles Paget, Francis Throckmorton and Anthony Babington. An official measure, noted in Burghley’s memorandum of ‘public business’ in February 1587, it took pride of place in the sessional statute.\(^9\) The Commons’ committee, which included all the privy councillors, added a proviso for Englefield and Lord Lumley which presumably safeguarded property, but this was eventually omitted. The bill was returned to the committee for further amendment after several members objected to the general saving clause which protected the rights of all persons making claims against the attaintee’s property prior to their attainer. In the debate preceding the committal some argued that such was usual and required by law. Richard Topcliffe, a man experienced in dealing with rebels, told the house ‘how crafty counsell the traytors have to defraud the Queen ... one of theis last traytors sayd he had made cer
tayne conveances of trust by which he could do his frend a good turne’. The debate ended with Hatton warning that ‘theis matters of treasons hatch up every day’.\(^10\)

Whatever misgivings were voiced, the general saving clause and a proviso protecting royal grants under the great seal remained in the bill. However,

\(^4\) D’Ewes, p. 572
\(^5\) BL, Cotton MS Titus Fii, f. 78.
\(^6\) HPT, III, 205–8.
\(^7\) D’Ewes, pp. 510, 511; BL, Cotton MS Titus Fii, ff. 75v, 78.
\(^8\) HLRO, 35 Eliz. OA 20. The proviso cost Perrott Carew Castle, although this was later granted by the Queen to his father’s widow, HPT, III, 207, 208.
\(^10\) BL, Harl. MS 7188, ff. 102v–3; HPT, III, 513–15.
the following two acts in the sessional statute may well have dealt with the doubts raised during the debate: one ordered that all conveyances of traitors should be enrolled in the Exchequer.11

Perhaps Topcliffe had Sir Francis Englefield in mind when he spoke in 1586–7 for the latter had protected his property by conveying them to the use of his nephew Francis, a conveyance which would be made void on the presentation of a gold ring. In accordance with the earlier act Francis, who may have been behind the abortive proviso of 1586–7, had enrolled the lands conveyed to the use in the Exchequer but had omitted the true timing of the conveyance and the provision that it would be void on the tender of a gold ring. Discovering this, the Queen's commissioners had offered him such a ring and a successful bill of 1593 secured the royal interest by confirming Englefield's attainder, establishing the Queen's right to tender the ring, and making void his nephew's Exchequer declaration. The judges had been consulted after Francis had appeared with his counsel to object to the bill and the Commons spotted a number of problems, including the misdating of the act of attainder. The Clerk of the Parliament was brought to task for deficiencies in the parliament roll. As if any further excuse was needed, the preamble declared Englefield to be 'the chiefest Mover and Setter on of the late intended Spanyshe Invasion'.12

Naturalisation

Wives of Englishmen who married abroad, and their children, secured four private acts in this period to give them full rights as if they had been native born. In a sense, these were property acts because their chief intent was to allow the beneficiaries to enjoy fully the right to inherit and convey land. In 1589, Joyce Elkin, the daughter of a Marian exile now married to a Colchester merchant, Richard Lambert, secured naturalisation; a grace bill, the Lords gave it three readings in a day.13 In 1593 an act naturalised William, the eldest son of Sir Robert Sidney and his wife Barbara, and Peregrine, the son of Sir John Wingfield and his wife Susan, the Countess of Kent. Despite their status—Sidney had been the Queen's Governor of Flushing and Wingfield had also served in the Low Countries—they did not benefit from the Queen's signature. It was a popular bill in the

11 SR, IV, 767, 767–8. These are discussed above, chapter 4.
13 HLRO, 31 Eliz. OA 18. The bill's proceedings were only recorded in the Lords, LJ, II, 163, 167.
Commons perhaps because of post-Armada fervour: 'all the house pleased to further it, caused yt to be read twice in one daye'. To indicate their special support for the bill the Commons had Knollys, Hastings and Harrington accompany the sergeants of the house when it was taken up to the Lords where it also passed smoothly.\footnote{HLRO, 35 Eliz. OA 21; D'Ewes, pp. 486, 491; BL, Cotton MS Titus Fii, ff. 44, 44v, 48; LJ, II, 174, 176, 177, 178; HLRO, MP 1592–3, ff. 25–7v.}

The four other naturalisation acts of these sessions were composite measures and all began in the Commons. That of 1593 had its first reading on the same day as the Sidney bill; it concerned eight children. Four were born to English merchants who had married while in Germany or Flanders, including the former governor of the Merchant Adventurers and London MP, Richard Saltonstall. Another merchant had taken his wife with him and she had given birth to a son. Mary Littleton, the wife of one of Sir William Russell's captains, had given birth to a son and while Sir Thomas Knollys was on service in the Low Countries, his wife Odilia had had a daughter. Lastly, Mark Scaliet, servant to Edward Courtenay, twentieth Earl of Devon, had married Susan Paschier of Antwerp in Italy and she had borne a son; Susan was not naturalised by the act.\footnote{HLRO, 35 Eliz. OA 27; HPT, III, 335–6 does not note this act. I am assuming that the act's reference to 'Lord Courtenay, Earl of Devonshire' is to the last Courtenay Earl of Devon, who died in 1556, F.M. Powicke and E.B. Fryde (eds.), Handbook of British Chronology (2nd edn, London, 1961), p. 425.} Daniel Scaliet and Elizabeth Knollys were added late in the proceedings.\footnote{D'Ewes, pp. 488–9, 495–6, 501, cf. BL, Harl. MS 1888, pp. 108, 159–60 and BL, Cotton MS Titus Fii, ff. 44, 46, 62.}

The surviving evidence for this bill suggests that these composite measures were the result of submissions made in writing by the beneficiaries. Scaliet's provided a case history and petitioned parliament for naturalisation, not doubting that his son 'will become a most loyall and faithfull subject in the service of his Prince and Countrey'. In order to incorporate Scaliet into the paper bill the clerk simply added 'whereas' to the petition, deleting the preamble, a procedure he also adopted in the case of Littleton and Knollys.\footnote{HLRO, MP 1593, f. 27.}

The act of 1597–8 naturalised five children of four London merchants and one from Great Yarmouth; three had married abroad. Also naturalised was Hannibal Bakersville, the appropriately named son of Sir Thomas Bakersville whose wife Mary had accompanied him to serve in the French wars. The Lords added the birthplace in two instances and removed Elizabeth Prince, the daughter of Charles Prince, 'Lord of Brittany' and Elizabeth Bellamyre, herself the daughter of Anne Cheke and Edward VI's French tutor and gentleman of his privy chamber. The Lords' committee clearly
thought Elizabeth Prince’s case inadequate, perhaps because it was essentially a maternal claim and that through her grandmother.18

The act of 1601 suffered no such amendments. Only two beneficiaries were similar to those of earlier acts: Thomas Moxon, the son of a Hull merchant trading in Antwerp and Richard Bye, the son of a London Merchant Adventurer based in Greece. The remaining beneficiaries were children of foreigners: Joseph Lupo had been born in Venice, Mathew de Quester in Flanders and Henry Pynson in Holland. The act noted that de Questor had lived ‘mainly’ in London for thirty-five years and Pynson in England for twelve; presumably they needed naturalisation to enable the children to inherit. The uniqueness of these cases, involving children of strangers rather than the children of Englishmen and women, caused some discussion in the Commons. Fettiplace objected to de Quester’s inclusion and another MP claimed that as a factor for merchant strangers and ‘an Ingrosser of Fishe and keeper of a warehouse heere in London’, de Quester’s main purpose in seeking naturalisation was to avoid paying the double subsidy which aliens paid the crown. Raleigh and Cecil leapt to de Questor’s defence, the latter reporting that Elizabeth was well pleased to lose her extra subsidy in this case. He noted that if he thought de Questor to be an ‘Ingrosser or Monopoliser of fish ... I should hate him, as I doe Monopolies’. Cecil ended by claiming ‘It is no greate matter yf wee putt him in, For the bill maye be quashed eyther in the Upper howse, or her Majestie maye dashe it att hir pleasure.’ If hinting that someone would secure the bill’s veto if the allegations about de Questor’s character turned out to be true, Cecil raised an interesting procedural question: would the Queen have had to veto the whole measure or could she have simply struck out de Questor? In any case the problem did not arise; de Questor benefited from the act.19

In retrospect it seems strange that de Questor and Lupo caused such difficulty whereas Pynson apparently did not. Perhaps, as his surname would suggest, Pynson had some English ancestry not mentioned in the act. The proceedings also make clear that there was some confusion over the requisite qualifications for naturalisation. Some MPs appear to have believed that a claim through an English mother was acceptable, although a claim through an English grandmother and a mother only described as the ‘Queen’s subject’ had proved inadequate for Elizabeth Prince in 1597–8. Moreover, the debate reveals that whatever his qualifications, de Questor

18 HLRO, 39 Eliz. OA 34; LJ, II, 205, 216; D’Ewes, pp. 579, 584; Inner Temple, Petyt MS 537, vol. 6, p. 296 (Sainty, p. 10).
partly ran into trouble because of his alleged monopolising, a damaging accusation in the 1601 parliament.

A second naturalisation bill also passed in 1601. It is wrongly described 'for the denization of certeyne persons' (denization was granted by letters patent) but earlier acts had also been so mistakenly named, as in 1563, 1566 and 1571; their effect, as with this second 1601 bill, was the same as the acts for naturalisation. Already engrossed by the time the de Questor bill began its proceedings in the Commons, it naturalised seven children born to London merchants and it passed easily. 20

All of these acts belong to the last four parliaments of the reign. In 1586-7 a bill 'for the naturalizinge of certayn strangers' was certainly read, but got no further, perhaps a casualty of the Council's warning that private bills would not be allowed to pass in that session. 21 In 1584-5 a measure naturalising the children 'of Dr Humfrey, Mr Sampson and others' was vetoed by the Queen. There are no clues as to why the bill was unacceptable, certainly the peers thought it worthy of enactment because they rushed it through in a day. 22 If, as is most likely, 'Dr Humfrey' was Lawrence Humphrey of Magdalen College, Oxford, and 'Mr Sampson' Thomas, Dean of Christ Church, then perhaps the bill was a victim of the Queen's religious sensibilities for both were leading non-conformists. Her veto may have been nothing more than her revenge for the religious agitation in that parliament. In 1593 Justine Dormer and George Sheppey were to benefit from a bill of naturalisation which passed the Commons but failed to get beyond a second reading in the Lords. Justine Dormer was Lawrence Humphrey's daughter born during Mary's reign when Humphrey and his wife Jane 'for the freedom of there consciences' and 'for religions sake' lived in Geneva. Perhaps the Lords felt it prudent to let the bill drop although the unfortunate Sheppey, son of an English damascener employed by Sir Richard Windesbank at Antwerp, suffered as well. 23

In 1589 two failed bills attempted to change the status of alien children. One was an abortive Commons' bill considered by the committee dealing with a measure against alien retailers. The second was a Lords' bill providing that the children of aliens should pay the same customs as strangers. Committed in the Commons after 'many Speeches both ways', a proviso

20 BL, Stowe MS 362, f. 94-94v; D'Ewes, pp. 635, 661; LJ, II, 238, 239, 243; HLRO, 43 Eliz. OA 22.
21 BL, Harl. MS 7188, f. 102v.
22 D'Ewes, p. 373; TCD, MS 1045, ff. 87v, 91, 93, 93v; LJ, II, 106.
was added but the house rejected the bill by seventy-four noes to sixty-four yeas on the third reading.24

**Estate bills and acts**

By far the most common type of private bill was that which dealt with disputes over estates. Ten acts in these sessions guaranteed existing possession and in many cases simply confirmed agreements already made either by some resolution between the parties themselves or by legal settlement. These include the acts confirming lands to the Queen’s cousin, Henry Carey, Lord Hunsdon and ratifying a Chancery settlement in favour of Lord Willoughby in 1584–5.25 As befitting the status of their beneficiaries, both began in the Lords, yet so did an act of 1584–5 assuring lands to Sir Thomas Lucy and others which had a lengthier passage26 and that confirming an indenture between Robert, Lord Rich and Sir Thomas Barrington.27 As was the case in the Lords, several acts which began in the Commons similarly caused little difficulty because those affected agreed with them, although as with Read Stafford’s 1593 bill, this could still mean work for the committee.28 Samuel Sands and John Harris had a Chancery decree confirmed by an act which passed smoothly in 1601,29 as did Thomas Venables confirming an award made by four privy councillors which gave him the patrimony of a vicarage in Chester but the title to the Dean and Chapter of Christ Church, Oxford, ‘there having bina longe controversie’ between the parties.30

If most of the acts which passed smoothly did so because agreements had been reached beforehand, others did so because the wrong suffered by the beneficiary was so manifest that there was no point in considering the

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25 HLRO, 27 Eliz. OA 37, 40.
26 It passed the Lords quickly and easily but in the Commons it was committed, amended, recommitted and a proviso restricting the legal rights of Lucy’s wife to the lands named in the conveyance added, HLRO, 27 Eliz. OA 39; LJ, II, 70, 71, 72, 82; D’Ewes, pp. 339, 340, 343, 348, 349, 350.
27 HLRO, 27 Eliz. OA 46; D’Ewes, pp. 368, 369.
30 HLRO, 43 Eliz. OA 27; D’Ewes, pp. 662, 667; LJ, II, 248, 251, 250; HLRO, MP 1601–6, f. 116. It was brought back from the second reading committal in the Commons by Oxford’s MP George Calfield of Grays Inn who had himself been educated at Christ Church and who reported ‘that all the parties were agreed to the Bill, and called att the Committee to the Amendements’, BL, Stowe MS 362, f. 193v (Townshend, Hist. Coll., p. 284; HPT, I, 530–1.
arguments on the other side. Such was the case of a 1584–5 bill confirming a Star Chamber decree awarding lands in Aldergate Street, London, to Jonas Scott. This was a sordid story of deceit and fraud. Scott, an apprentice to a London silkman, Robert Ryseley, had inherited the property after the death of his heirless elder brother. Ryseley, and one Richard Brownsworde, had stood surety for Scott when his ownership was challenged in the Queen’s Bench by Thomas Heath of Fulham; Heath was awarded damages and Scott was imprisoned. Ryseley and Brownsworde then persuaded Scott to convey the property to them, promising to settle with Heath, but this they failed to do and Scott remained in prison for two years. Although some friends helped Scott to pay up, Ryseley and Brownsworde had refused to return the property on his release. The upshot was the Star Chamber case: both culprits were fined and committed to the Fleet, where Ryseley subsequently died. The statute confirmed Scott’s possession.31

Parliament was more cautious in the case of the infirm Thomas Haselrigge who secured an act in 1589 declaring void all conveyances he had been cajoled into making to Thomas Drury, ‘one well experienced in sleigthes and deceiptes’. Because ‘the said matters cannot be sufficientlie heard and determyned in this present session of Parliament’, the act only provided that Haselrigge was to exhibit a bill in Chancery to settle the matter and on the third reading the Commons even struck out the disparaging comment on Drury’s character. Drury, however, still claimed that he could get no justice in the house, a remark for which he was imprisoned.32

Another apparently clear-cut case was that of Walter Kirkham who had forged leases under the great seal and been sentenced to lose both ears, have his nose slit, an ‘f’ branded on his forehead and imprisoned for life. Spared the corporal punishments ‘in hope that he would have taken a newe Course of Lyffe’ and eventually released, Kirkham had simply reoffended. An officially inspired bill of 1597–8, initiated in the Lords, gave authority to royal officials to bring a case in Chancery to recover leases for the crown. Kirkham appeared in both houses, his behaviour encouraging the Commons to resolve not to hear him or his counsel again. Those pretending interest in the property offered provisos, but these were defeated by six votes in the Commons; indeed, the bill itself passed the lower house by the narrow margin of four. It is interesting to note that the Lords decided against including the embarrassing admission that Kirkham had been released not only for his own good but to enable the discovery of ‘such

31 HLRO, 27 Eliz. OA 42; TCD, MS 1045, f. 87.
decyvors and devyces of that kinde which he then knewe or hadd ben a partaker in and therein to have done her Majestie good service'.

Other measures passed, although not without incident, because of support in high places. Thus Anthony Cook, who had made an indenture but ‘through his very younge yeares beinge of slender Judgement and understandynge’ had neglected to make the assurance which was to follow, secured a 1593 act enabling him to dispose of his lands. It had to be redrafted entirely in the Commons because, according to the committee’s spokesman John Brograve, they disliked the preamble and the feoffees did not want Cook to have the power to dispose of all the lands conveyed but only some. The Lords added a general saving clause for the Queen’s interests. The bill involved Burghley as one of the feoffees for use and Cook wrote both to him and Cecil about the bill; Cecil moved for its third reading, ‘the house being ready to depart’. One of the Queen’s wards, Arthur Hatch, benefited from a 1597–8 bill giving him possession of a Devonshire parsonage. It took up a good deal of time in this parliament, partly because it was opposed by the Dean and Chapter of Windsor. In the end, the Commons’ bill was replaced by one drafted in the Lords by Attorney Coke: Hatch was to pay a yearly rental of £55 3s. 4d., and had to provide a minister, but enjoyed a long lease.

Other measures were secured despite the active and persistent opposition of one of the parties concerned. In 1584–5 a bill assuring certain lands to George Chewne, Giles Fluide and Christopher Puckering had its first reading in the Commons and was, unusually, committed immediately. In effect the bill confirmed a conveyance in fee simple made by Edward Fisher, now a prisoner in the Fleet, who was to be told of the committee’s meeting. The case arose because Fisher, having conveyed the lands, had forged two writings giving a long antedate to the sale and so prejudiced the freehold and the inheritance of the purchasers, notably Sergeant (now Speaker) Puckering, who had successfully sought remedy before the Star Chamber. Fleetwood reported the committee’s work to the house: they had compared the preamble of the bill with the conveyances and the Star Chamber judge-

33 HLRO, 39 Eliz. OA 29; LJ, II, 216; Inner Temple, Petyt MS 537, vol. 6, p. 292 (Sainty, p. 5); D’Ewes, pp. 584, 589, 591; HLRO, MP, Suppl. 1596–1601, ff. 166–8v.
34 HLRO, MP 1593, ff. 13–18v, 19–26v; HLRO, 35 Eliz. OA 26; D’Ewes, pp. 507–8, 520; BL, Cotton MS Titus Fii, ff. 59v–60, 71, 77–77v; LJ, II, 190; PRO, SP 12/244/79; Salis. MSS, IV, 263, 369.
35 HLRO, 39 Eliz. OA 37; LJ, II, 203, 204, 207, 210, 211, 212, 213; D’Ewes, pp. 561, 563, 565, 575, 577, 580, 584; PRO, SP 12/265/38, 40, 52; HLRO, MP, Parchments.
36 BL, Cotton MS Titus Fii, f. 47v; D’Ewes, p. 500; PRO, SP 12/244/85; HLRO, MP 1592–3, ff. 99–100, 101–4v; HLRO, 35 Eliz. OA 22.
ment, conferred with Fisher and his wife Katherine ‘aswell together as
aparte and asunder’ and had decided to amend the bill substantially. The
revised bill was twice read and ordered to be engrossed after Fisher’s coun-
sel informed the Commons that Fisher ‘meante not to geynseye the byll’. He
had complained ‘that he was fayn to eat or els starve’ and ‘that his
wife was fayne to mak fuell of crowes nestes’, claims which provoked Puck-
ering to inform MPs that far from needing to burn crows’ nests, Katherine
Fisher ‘feld the great trees’. When Fisher had received some money from
Puckering, he had wasted it ‘all upon a bankett on night wher he had
musick and hores’. While Fisher’s father – ‘a lewd fellow’ – had always
complained that he was persecuted by papists, the son, Puckering said,
complained that he was persecuted by protestants. However, when Fisher
appeared before the Lords he requested that the disparaging preamble be
struck out, but the bill passed unaltered.37

A few days after the measure had begun in the Commons, another, ‘for
the true anweringe of the Debtes of Edward Fisher’, had its first reading.
Required by Fisher’s creditors (who included Sir Thomas Lucy, Greville
and Harington), it enabled Fisher to sell his lands by removing all encum-
brances to them, although lands sold prior to 1 February, 25 Elizabeth
(which included the sales contained in the previous act) were exempt and
Katherine’s jointure was protected. The Commons’ committee which con-
sidered the bill included Fisher’s uncle, Warwick’s MP John Fisher, and it
decided to redraft the measure entirely and both parties were heard in the
house when the new bill was considered. Angered by Fisher’s attitude, the
Commons twice sequestered him to enable consideration ‘of sundry his
frivolous requests made unto them and of his dilatory devices and shifting
answers’.38

In the next parliament Fisher took up further valuable time despite an
official prohibition on private business. The only private act permitted to
reach the statute book confirmed the sale of Fisher’s lands for the payment
of his debts. Fisher’s lands had been sold but the sum raised had not
covered his debts; his creditors had sold more of his lands but the sale had
been challenged by Fisher who had ‘indirectly taking away as imbeazeling
certain Evidences remaining in a Cubbard, which was locked and sealed
up by Mr. Recorder and others’. Redrafted in the Commons, the Lords

37 D’Ewes, pp. 336, 338; TCD, MS 1045, f. 75v; BL, Lans. MS 43/72, f. 164v; LJ, II, 81,
83–4, 84; HLRO, 27 Eliz. OA 38. Fisher’s father Thomas, Warwick’s MP in the 1530s,
had been described in 1564 as an adversary of the true religion. The Fishers were long
associates of the Dudleys, and Leicester apparently got Fisher off the fine imposed by Star
Chamber, HPT, II, 123.
38 HLRO, 27 Eliz. OA 41; TCD, MS 1045, f. 76v; D’Ewes, pp. 339, 343, 348–9, 349–50,
351, 353, 354; LJ, II, 87, 92, 95.
added a proviso that the beneficiaries of the sale should make a statement of account and any surplus assigned to Fisher and his family 'in speedie manner and fourme'. Fisher's case continued to trouble the Privy Council.\textsuperscript{39}

Other individuals secured acts of parliament enabling them to sell land to pay off their debts by eliminating all or certain encumbrances or by firmly establishing them in possession. Unlike Edward Fisher, most debtors promoted these bills themselves and none proved as troublesome or time-consuming. Some, such as those for William Vaux, Lord Harowden, in 1593 or Sir Henry Unton in 1597–8 passed swiftly and with little difficulty.\textsuperscript{40} In 1601 an act was needed to make the property of the deceased executor of a will liable for the payment of the legacies of the testator and the debts of the executor.\textsuperscript{41} A more complicated measure in 1589 involved the lands of Thomas Handford who stood, with his sureties, in debt to the Queen. Handford had almost succeeded in getting such a bill through in 1586–7 but when the Commons replaced the original Lords' bill without calling a conference to discuss the matter, the Lords refused to read the new measure. It was not surprising, then, that one of the sureties and several purchasers panicked in 1589 when it looked like the bill was going to be held up in the Lords, because the upper house could not find Handford to appear before them. In writing, probably to Burghley, they asked for confirmation of their leases until the next parliament.\textsuperscript{42}

In 1584–5 an abortive bill was initiated in the Lords by William Paulet, Marquis of Winchester, attempting to settle the large debts of his grandfather, the long-serving Lord Treasurer. Paulet's father had paid off £10,000 of the outstanding debt of £34,000 and then arranged to pay the rest by instalment, leaving sufficient sums in the hands of his son-in-law, Henry Ughtred, by his will. Ughtred had taken the opportunity to invest the money in shipbuilding and trading ventures, keeping the profits to himself. All of this he had confessed before the Lords in an earlier parliament. Ughtred was to hand the relevant papers over to the Exchequer and make good his debts of £3,384 due to the crown. Ughtred had lent to Lord

\textsuperscript{39} HLRO, 29 Eliz. OA 10; D'Ewes, pp. 413, 414, 416, cf. BL, Harl. MS 7188, f. 102; LJ, II, 138, 139; APC, XIV, 131–2.

\textsuperscript{40} HLRO, 35 Eliz. OA 19 (Vaux), 39 Eliz. OA 42 (Unton). Only in the latter cause were parties heard (in the Lords) and was the bill amended (a proviso added in the Commons, the house of origin), LJ, II, 204; D'Ewes, p. 562. The Harowden paper bill survives, virtually identical to the act, HLRO, MP, Suppl. 1575–93, ff. 134–6v.

\textsuperscript{41} HLRO, 43 Eliz. OA 29. The bill was amended by the Commons' committee appointed on the second reading, D'Ewes, pp. 678, 686.

\textsuperscript{42} 1586–7: D'Ewes, pp. 417; LJ, II, 141. 1589: HLRO, 31 Eliz. OA 22; PRO, SP 12/46/18, f. 334. The bill was amended in the Commons and the parties involved appeared before both houses, D'Ewes, pp. 437, 438, 447; LJ, II, 156. The Lords had requested a conference to discuss Handford's non-appearance with the Commons.
Thomas Paulet, Sir James Croft, Lord Delaware and Sir Humphrey Gilbert, among others. In the same parliament members were treated to a dispute involving Henry Lord Norris and Gregory Lord Dacre over lands indentured in 1571. Norris, whose mother was daughter to Thomas Lord Dacre (Gregory's grandfather) was made Dacre's heir in remainder. In 1571, Gregory Lord Dacre requested Norris to allow him to make a jointure for his wife (which he could not do because of the entail) and to sell some lands towards the payment of his debts; in return Norris would receive £200 per annum. Although the Dacres had been enjoying the land, difficulties arose because Norris had allegedly made leases on the lands prior to the indenture. Norris claimed that Lady Dacre had turned to Chancery to defraud him of his rights at common law and he first denied having made any encumbrances and then blamed his lawyers. Four peers and two judges tried unsuccessfully to end the dispute and the resultant bill which made Norris' conveyances void passed both houses quickly.

Also controversial was Charles Lord Mountjoy's 1597-8 bill allowing him to sell lands which was prohibited by a private act of 27 Henry VIII, a proposal apparently opposed by William, Marquis of Winchester; both men had inherited land through the daughters of Robert, Lord Brooke. Winchester tried to protect his interests by a bill which was committed in the Commons on the day Mountjoy's successful measure had its first reading in the Lords. This was the intent of another bill which died in committee in 1601. In 1593 William Raven's sales were confirmed because the purchasers feared 'some secret conveyances' but the bill also guaranteed the payment of his debts. It was a Lords' bill amended by the Commons.

The Commons actually replaced a Lords' bill in 1601 even though on one account this was the case of a clear wrong needing to be set right.

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43 LJ, II, 73, 80, 92, 96, 99, 107, 108; HLRO, MP, Supp. 1575-93, ff. 64-9, 70 (schedule of debtors) and 47-63v (another draft, pertaining especially to covenants made with Ughtred for property on behalf of the Marchioness).
44 PRO, SP 12/176/36, 37, 38, 39; LJ, II, 72, 76, 81, 82, 83; D'Ewes, pp. 352, 354; HLRO, 27 Eliz. OA 44.
45 HLRO, 39 Eliz. OA 30; D'Ewes, pp. 568, 571, 628-9, 658; LJ, II, 206, 207; BL, Egerton MS 2222, f. 29v. D'Ewes copied Townshend in noting the Mountjoy and Winchester genealogies in his journal, which he got from Richard Verney, MP for West Looe and brother-in-law to Fulke Greville, a Warwickshire knight of the shire who had also married into the Brooke family. D'Ewes took the opportunity to take a dig at the inaccuracies in Vincent's, Catalogue of Nobility of 1622, BL, Harl. MS 75, f. 207v; Townshend, Hist. Coll., p. 195. Winchester and his wife wrote to Cecil about the bill, Salis. MSS, XI, 410-11, 494, 507, 584.
46 HLRO, 35 Eliz. OA 25; BL, Cotton MS Titus Fii, ff. 53-53v, 57-57v; HLRO, MP 1575-93, f. 129-33v.
was initiated by Francis Kettleby who in return for being made heir to the lands held by his childless cousin, Andrew Kettleby, had in the early 1580s helped the latter pay off his debts by borrowing money and selling some of his own property. However, around 1595, Andrew, now in his nineties and virtually bedridden, was encouraged by one William Thompkins and others to marry Jane Audeley, 'a younge woman beinge then but a meere straunger unto him' and to convey his property to his new bride and her accomplices. The Lords' bill simply declared void all conveyances disinheriting Francis, although a proviso allowed Jane a jointure during her lifetime. Appearing before the Lords, Jane had refused this gesture and gained some support in the Commons where a new bill gave authority to four persons, including the leading Gloucestershire JP, Sir Henry Poole (a knight for the shire in 1593), and the 1601 MP for Devizes, Giles Fettiplace, to hear the case; their decision was to be as good as if set down in the statute. If they failed to resolve the issue, the bill appointed Cecil, Raleigh and Hastings to deal in it. This measure was apparently brought in by one of the parties themselves, presumably Francis's opponents.47

Given the difficulty MPs and peers had in determining these sorts of measures, it is not surprising that many failed. If most of the forty-four bills for individuals reaching the statute book did so because the matter had already been settled, the seven Lords' bills and thirty-six Commons' measures which failed probably did so because the matter was too complex to conclude safely or appeared insoluble by statute. Of the 'act for Sir Walter Aston' which failed after one reading in 1584–5 nothing more is known than the title; perhaps it was an attempt by a declining man to secure his son's inheritance.48 Not much can be said about the 1589 bill for Richard Southwell.49 Bills enabling Philip Bassett, Sir Gerard and John Croker, John Sharpe and John Mollineux to sell lands to repay their debts failed; only Croker's bill made it to the second house.50 Bills assuring lands to Robert Cotton, and involving an award between Edmund Cotton and

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47 HLRO, MP, Supp. 1596–1601, ff. 76–81v; HLRO, 43 Eliz. OA 28; PRO, SP 12/283/27; LJ, II, 233, 236, 237, 245, 246, 254, 256; D'Ewes, pp. 677, 682, 686; BL, Stowe MS 362, ff. 244, 249v. Hastings wrote a letter to Cecil about their appointment on 3 March 1602, Salis. MSS, XII, 68.
49 D'Ewes, pp. 442, 445, 446.
50 Bassett (1584–5): TCD, MS 1045, f. 92v; D'Ewes, p. 372. Bassett was a recusant, BL, Lans. MS 43/72, f. 175; Croker (1586–7): D'Ewes, pp. 414, 415; LJ, II, 136, 137. This bill was initiated by the knight for Oxfordshire, Richard Fiennes, BL, Harl. MS 7188, f. 102v; Sharpe (1597–8): D'Ewes, pp. 583, 586; Mollineux (1601): LJ, II, 240, 241. It is not clear why Mollineux's bill began in the Lords.
Thomas Harvey, also failed in 1597–8.\textsuperscript{51} Two bills attempted to secure the proper execution of wills: Sir James Harvey’s in 1586–7 (this involved a case in Chancery and was, it seems, referred to Burghley and Leicester to sort out); and George, Lord Cobham’s in 1601, a measure which protected his tenants.\textsuperscript{52}

Two others tried to alter wills. In 1589 Lady Gresham, widow of the great mid-Tudor and Elizabethan financier, initiated a bill which altered her husband’s will in such a way as to ensure the leases of the Royal Exchange to herself and her heirs, though allowing the rents to the will’s other beneficiaries, the City of London and the Mercers’ Company. This bill did not emerge from the committee which included London’s Recorder.\textsuperscript{53} This, and related matters, had been before the Council prior to the parliament and had also been the subject of a private act of 1581, for which the City, and probably the Mercers, shelled out over £19 in expenses.\textsuperscript{54} The Mercers noted in 1593 that the Council ‘thought it mete to be remedied so nowe by this parliament’ but no such bill was introduced.\textsuperscript{55}

Another will needing legislative attention was that of George Durant whose 1597–8 bill was committed, returned and reported by Sir Thomas Cecil and finally engrossed. While the committee was meeting Secretary Cecil received a letter from Thomas Cave on behalf of his son Francis and his cousin, Francis Hunt, who had married Durant’s sisters (and now co-heirs). Cave claimed that the bill had been initiated by one of the executors of Durant’s will and provided for the selling of Durant’s goods and lands to cover his debts. Hoping that Cecil, ‘being informed of the cause and reasons by my son and cousin’ would ‘afford them your favour and furtherance’, Cave wanted him to ensure that ‘if the Bill come to a third reading in the House, to aid their good cause that they take no loss by the same’. It is not surprising that on its third reading a debate took place; the house decided to defer the vote ‘upon some expectation that the parties to the same Bill may in that mean time grow to some good end amongst themselves without any further troubling of this House therein’. Perhaps this is exactly what happened for nothing further is heard of the measure.\textsuperscript{56}

\textsuperscript{51} D’Ewes, pp. 563, 566, 568, 571, 587; HPT, I, 663; Inner Temple, Petyt MS 537, vol. 6, p. 298 (Sainty, p. 11); HLRO, MP, Parchments.
\textsuperscript{52} Harvey: D’Ewes, p. 413, and BL, Harl. MS 74, f. 285; Salis. MSS, III, 234, a letter from Alexander Avenon and others asking for the matter to be heard in parliament, 9 March 1587. Cobham: LJ, II, 238, 261. The bill survives, HLRO, MP, Suppl. 1601–6, ff. 88–93v, and Cecil received a letter about it from the new Lord Cobham, Salis. MSS, XI, 423.
\textsuperscript{53} D’Ewes, p. 448.
\textsuperscript{54} APC, XIV (1596–7), 164, XVI (1588), 46, 332–2; Elton, Parliament, p. 78.
\textsuperscript{55} Mercers’ Company, MS Accounts of the Court of Assistants, 1560–95, f. 465v.
\textsuperscript{56} D’Ewes, pp. 553, 559, 563; Salis. MSS, VII, 481.
Another failure was the 1597–8 Commons’ bill hoping to reunite the manor of Paris Garden in Surrey. It may have been of special interest to Southwark’s MP Edmund Bowyer, who lived in nearby Camberwell, for he was entrusted with the bill when it was committed. Although amended and ordered to be engrossed, nothing further seems to have happened. In 1601 a bill promoted by Pembrokeshire’s John Philipps intended to settle an estate in his own favour by establishing the confused boundaries of Carmarthenshire and Pembrokeshire reached the same stage. Handed over to him for the committee meeting in the Temple church, a committee dominated by Welsh and border MPs, their work was wasted because the bill was rejected when Townshend reported that it was prejudicial to one George Owen, information he had received from John Skipnell of Lincoln’s Inn.

A 1601 measure to confirm land sales by the deceased Lord Mordaunt died in committee. Other bills allowed their beneficiaries to sell lands encumbered with entails: that for Anthony Mayney was opposed by Edward Jones of Grays Inn who was married to a Mayney and stood to lose by the bill, while that for Edward Markham was noted by the committee as an attempt to disinherit the children of his first wife and so ‘both in equitie and concience unfitt to bee passed’. Rather more complicated was the 1584–5 bill which reversed a fine between Peter and Joan Hearne and John and Anne Leha; both parties chose peers to arbitrate for them but in the end the Lords rejected the bill ‘for that the Preamble of the bill was scandalous, and no Proof made thereof’. George Ognell tried twice to secure acts assuring lands to himself after the seller, one Trussell, procured himself to be arrested for felony and so defeated Ognell’s possession. Although the 1593 bill seemed to have the Queen’s consent, Ognell was no more successful than in 1589.

However, some measures managed to get through both houses only to have one of the parties involved secure the royal veto. A bill enabling Edmund Mollineux to sell lands to repay his debts began in the Lords where the parties were heard but the committee was unable to determine

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57 D’Ewes, pp. 583, 588.
58 Ibid., pp. 643, 650, 654; BL, Harl. MS 75, f. 249; BL, Stowe MS 362, ff. 172v-3 (Townshend, Hist. Coll., p. 267).
59 D’Ewes, p. 663.
60 Ibid., pp. 637, 648–9, 661–2; BL, Stowe MS 362, ff. 138, 176v–7 (Townshend, Hist. Coll., pp. 240, 270). Other examples are the bills concerning Thomas and John Culpepper, and Sir Anthony Mildmay and Thomas Knyvett in 1597–8, D’Ewes, pp. 581, 582, 583–4, 587, 588; HLRO, MP 1596–1607, ff. 72–7v. Knyvett’s was partly intended to enable him to provide a jointure and both he and Mildmay sat in the session as MPs for Westminster.
61 LJ, II, 85, 87, 90, 104.
the dispute because of 'somme of the kindred of the said Edmund Molineux who opposed themselves against the bill'. It was then decided to refer the dispute to the arbitration of three peers who drafted a bill setting up supervisors for the repayment, which passed both houses but was vetoed. Another attempt in 1601 was rejected on its second reading, although this one was opposed by Molineux. The Queen vetoed another 1597–8 bill allowing Sir John Spencer to sell manors, even though Lady Mary Spencer had given her consent, his son Robert sat in the Commons as MP for Brackley, and the Spencers enjoyed well-known kinship with Lord Hunsdon, Lord Monteagle and the Earl of Derby. In 1601 a bill confirming Edward VI's grant of property to Sir Edward Seymour was also vetoed.

This survey of failed bills concerning land disputes can end with two curious measures. One proposed to change the surname of William Walker, his two daughters and 'those that shall Marrye them' to Dibden. Sergeant Harris spoke to the bill with a cheerful illustration:

in Lawe there is a Bastard, and a Mulier, and the Bastard hath the name of the Mother, the Mulier of the Father, yf any Man come into a Powlterer's shoppe to Buye a Woodcocke, whether it bee a Cocke or a henn, hee Buyes it by the name of a Cocke, And yf it bee a goose whether a goose, or a gander, hee Buyes it by the name of a goose, and surely Sirs, because the land came by a Match (by a woeman) with the Dibdens, hee would have it goe with the name of the woeman, I thincke hee deserves the name of a goose, yf not of a woodcocke.

Although he thought the bill 'a meere toye', he wished it success for at least the poor would get something out of it, a reference to the Commons' decision to force promoters of private bills to pay a contribution to poor relief.

The other measure provided for the reuniting of Eye and Dunsden, Oxfordshire, to the manor of Sunning which had been separated inadvertently by a royal grant to Thomas Compton. Lord Sheffield moved that Compton's son (the father had recently died) should be heard along with Henry Best, Francis Johnson and others. These parties attended the Lords and the bill passed with their agreement. In the Commons the committee of lawyers led by Fleming who were considering the bill required a conference with the upper house because Sergeant Harris claimed the bill came

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63 LJ, II, 219; Inner Temple, Petyt MS 537, vol. 6, pp. 296, 298, 300, 301, 305 (Saintry, pp. 9, 11–12, 14, 15, 18); HLRO, MP 1596–1607, ff. 39v–42v; HLRO, Parch. Coll. Box 1D, no. 3233; D'Ewes, pp. 639, 650–1; BL, Stowe MS 362, f. 146.
from 'some especiall Cause and enterest'. Townshend was curious about this and later discovered through Fettiplace, the London MP and city auditor, that

there was an Admittinge of all Assurances For the Londoners, Barred of their Right, which they had by Reason of this Eye, and Dunsden, were parte of the landes assured to the Citrye of London For the Loane of £20 000 to the Queene, to bee RepaiTed at a Certayne tyme, and yf this Acte should thus passe they were Barred.

It is not surprising then that the bill had no further proceeding in the Commons, the Clerk of Parliament noting that it had been rejected.67

Jointures

Nine bills were passed in these parliaments which established or confirmed jointures. Only one such measure failed, although at least one other failed bill dealt in part with a jointure.68 Six of the nine acts were for noble-women. That for Katherine, Countess of Huntingdon, was a grace bill; she had a close relationship with the Queen and when the Earl died, Elizabeth insisted on breaking the news to his wife herself. It passed both houses without commitment in five days.69 George Earl of Cumberland, did not enjoy such favour when initiating a bill confirming the jointure of his wife Margaret in 1593, but the bill also passed without alteration in either house.70 An act for the jointure of Bridgit Countess of Sussex passed with little amendment in 1601 but that for Lucy Countess of Bedford ran into difficulty. Committed and amended in the Commons, its house of origin, the bill was also amended by a Lords' committee who added provisos protecting the interests of Henry Somerset, Lord Herbert and his wife Anne (daughter of John, Lord Russell now deceased) and the inheritance of Russell's heirs. A petition from Lady Russell against the bill was also heard.71

Despite the noble status of the beneficiaries both of these acts had been initiated in the lower house. By way of contrast measures for Christian Lady Sandys and Anne Lady Wentworth began in the Lords. The former was needed because Lady Sandys' jointure involved lands for which her

67 HLRO, MP, Suppl. 1601-6, ff. 114–15v; LJ, II, 233, 235, 261; BL, Stowe MS 362, f. 201 (Townshend, Hist. Coll., p. 290); D'Ewes, pp. 666, 670. Townshend notes that twelve members of the Commons were appointed to meet ten peers, not the usual 2 : 1 ratio.
68 The unfortunate was Joyce Thornebrigge, D'Ewes, p. 582. Thomas Knyvett's bill of 1597–8 partly concerned a jointure, HLRO, MP 1596–1607, ff. 72–7v.
70 HLRO, 35 Eliz. OA 17.
husband was but tenant for life. It had a slow passage in the Commons
where both Lord and Lady Sandys and Sir Walter Sandys were heard and
provisos (offered by Lord Sandys) added. Anne, former wife of the deceased
Henry Lord Wentworth needed an act to establish a jointure partly to
enable land sales to pay off her new husband’s debts and her bill was also
amended in the Commons. The Lords amended a Commons’ bill con-
firming the jointure of Lady Verney.72

Several Commons’ bills related to the lands of the Neville family whose
inheritions proved to be one of the most bothersome of the private matters
which came before Elizabeth’s parliaments. In 1589 an act established the
jointure of Anne, wife of Henry Neville of Billingbear, Berkshire; Neville
sat for Sussex in the session. It provided that Sir Henry Neville, his son
and heir Henry and the heir at common law, his cousin Sir Thomas Gres-
ham, should enjoy certain lands in Sussex and did so by declaring all con-
veyances by Sir Henry void. The matter was complicated because Sir Henry
had surrendered his interest to his son, and Henry had in turn granted
them to Henry Killigrew and Francis Bacon for his use until his marriage
to Anne Killigrew when they would form her jointure. Since the arrange-
ment had been made some doubts had emerged over her inheritance and
this new statute was intended to confirm her jointure. The Commons made
(relatively) minor amendments on the second reading committal – changes
which were reported by Bacon – but major changes were made in the Lords.
The peers added a sentence noting Killigrew’s consent to the revocation of
the original conveyance and recorded that Neville had given good security
by a collateral bond to strengthen the jointure, and they added a saving
for Gresham’s widow Anne. The Lords’ clerk recorded another precaution
made by the peers:

That the said former Conveyances should, by the Parties to the same, be brought
into the House, and delivered to the Clerk of the Parliament sealed up, to the End,
that, if it shall please Her Majesty to give Her Royal Assent unto the said Act, that
then the said Indentures and Conveyances should be forthwith cancelled; but, if it
shall not please Her Majesty to give Her Royal Assent, that then the said Indentures
and Conveyances should be safely re-delivered to the said Parties, unseen of any,
and uncanned; and to this all the Parties agreed, as well before the Lords the
Committees, as also before the whole House.

Such precautions proved unnecessary; the bill passed and the clerk duly
noted that the deeds were cancelled.73

72 Inner Temple, Petyt MS 537, vol. 6, pp. 281, 303, 304, 305 (Sainty, pp. 4, 16, 18); LJ, II,
204, 222, 223; D’Ewes, pp. 570, 574, 581, 583, 585, 587, 588, 590–1, 591, 593; HLRO,
39 Eliz. OA 35, 38, 43; HLRO, MP, Supp. 1596–1601, ff. 4–8v; HLRO, Parch. Coll. Box
1D, no. 3231.
73 HLRO, 31 Eliz. OA 19; D’Ewes, pp. 438, 442, 445; LJ, II, 158.
In 1593 an extremely complicated act was passed attempting to settle the lands of Henry, late Lord Abergavenny, initiated by Edward Neville of Birling, Kent, once an MP for New Windsor and self-styled Lord Abergavenny. The statute pertained especially to his son’s marriage to Mary Sackville, daughter of Lord Buckhurst, and her jointure. It carried a saving clause for the interests of Mary Lady Fane over the Abergavenny title.

Mary Fane was the sole daughter and heir of Henry Neville, sixth Lord Abergavenny and made her first attempt to get the barony in 1588 with a petition to the Queen (on behalf of herself and her husband Sir Thomas Fane) and before the Earl Marshal’s court. The petition assumed her right to the barony; its purpose was to secure a place in the Lords for her husband through *jure uxoris*, the right of a woman. However, the title was also claimed by her cousin Edward Neville (and his son Edward who had initiated the 1593 measure), on the grounds that he was the male heir of some of the entailed Neville property. A year later the elder Neville and Sir Thomas Fane were dead and the case was dropped. In 1593 both sides had relatives in the Commons; Thomas Fane sat on the committee appointed to consider the bill. The Commons’ amendments, to which the Lords concurred, were made especially to the Fane proviso and saving clause. Indeed, as one diarist noted, ‘the question for the Barony of Burgavenny is left at large notwithstandinge this act betwixt the Lady Vane and Mr Nevell, but composition is had betwixt them for the land’. The committee decided ‘that the act should not stretch to any of the landes allotted to the Lady Vane by the Articles of agreement’. 74

In 1598 Mary Fane petitioned for the barony itself and extensive documentation survives putting forward her case. The Earl Marshal’s court referred the matter to two judges but their decision in her favour was not acted upon by the Queen.75 In 1601 Edward Neville secured an act for the jointure of his wife Rachel Leonard. He and his father had promised Sampson Leonard, Rachel’s father, that if either of them succeeded to the lands of Henry Neville Lord Abergavenny then Rachel’s jointure would be augmented. It carried a curious assertion: Edward Neville had asked the Queen to ‘give hym the saide Edwarde Neville, the husbande, leave to preferr a bill in parliament to that effecte which yt hathe pleased her Majestie in her

74 HPT, II, 102–4, III, 122–4; D’Ewes, p. 504; HLRO, 35 Eliz. OA 18; BL, Cotton MS Titus Fii, ff. 62, 72. This case is one of several exploring the matter of *jure uxoris* in an as yet unpublished paper by Margaret Minor. I am grateful to her for allowing me to read it.
75 Kent Archives Office (Maidstone), U 282 E 1, no. 1599, and PRO, SP 12/268/113; Essex RO, D/DL L 20 No.170; BL, Add. MS 34218, f. 65v. Minor notes that Mary renewed her petition in 1604 when an important constitutional development took place: Edward Neville suggested that the matter should be heard before the Lords as the question involved its membership and James agreed. In the end Mary Fane was given the old LeDespenser barony and Neville got the lesser barony of Abergavenny. See LJ, II, 274, 285ff, especially 345–7.
graciously inclinacion to yelde unto'. Perhaps so, but Elizabeth clearly had no intention of supporting it with her royal signature before introduction. Amended in the Commons, the house of origin, the bill passed both houses quickly.76

This was the last of the bills concerning jointures in these parliaments but it is relevant to note here that Neville secured another statute in 1601 enabling himself and his son to dispose of certain property. Hoby reported that the committee had removed, with an admirable attention to detail, the word ‘esquire’ after Neville’s name so as not to prejudice his claims to the Abergavenny title; ‘and also wee have left out (said hee) all other wordes and clauses touching the pointe’. They had also added a proviso and a saving for Lady Fane’s two sons ‘because the elder of them layeth tytle to the Baronie and thus they both being at the Committee with their counsell have given consente to the Bill’. Hoby noted that both gentlemen were sitting as MPs and could ‘testifie asmuch’. Despite such care it was thought to be worth delaying the bill’s passage until the Queen had been consulted; she agreed and the bill went up to the Lords but only after another proviso was attached on parchment for the Fane interest in lands not mentioned in the bill. There Lord Zouche told the peers that Lady Fane, in letters to Sir Anthony Mildmay, had not assented to the bill and proceedings were delayed until she appeared to give her consent ‘being thereunto persuaded by sundry of the Lords’.77

Other matters

Not all measures concerning individuals related to land. In the case of a 1597–8 bill concerning two merchant strangers, Garrett de Malynes and John Hunger, the problem was money. Malynes had been imprisoned for over three years because of his £400 debt to Hunger, even though he claimed that Hunger owed him an even greater sum. Hunger had since departed the realm and Malynes was forced to seek redress in equity and not before the common law. The bill provided for the case to be heard in Chancery but was vetoed. When the case had come before the Privy Council, they had noted, in committing the matter to two judges, that care should be taken because ‘her Majestie was moste gratiously dysposed’ towards Hunger.78

76 HLRO, 43 Eliz. OA 25; D’Ewes, pp. 665, 668, 678; LJ, II, 248, 251, 252.
78 HLRO, Parch. Coll. Box 1D, no. 3251; D’Ewes, pp. 579, 586, 587, 588, 590; Inner Temple, Petyt MS 537, vol. 6, pp. 300, 301 (Sainty, pp. 14, 15); LJ, II, 222, 223; BL, Lans. MS 83, ff. 207–8; APC, XXVI, 303–4; PRO, SP 12/244/107.
One failed bill of 1584–5 sought to confirm the Queen’s grant to Sir Walter Raleigh ‘touching the Discovery and Inhabiting of certain Foreign Lands and Counties’. It failed after one reading in the Lords and had been debated in the Commons and there amended by a committee which included ‘many that were to go in the iorny [to] Waingandacow’. It caused difficulty in the Commons because he was given the freedom ‘to take anye person with him which ys wyllinge to goe’ and ‘that yt was made lawful to carye anye thinge over bye licence’. It is not clear why Raleigh wanted such confirmation. Perhaps his bill sought to do things in excess of the original grant, as the added proviso explicitly forbidding him from releasing any debtor to join the voyage suggests, or perhaps he simply took the opportunity to publicise his colonial ambitions.79

LOCAL BILLS

Earlier discussions of bill initiation and measures for the commonwealth have already revealed the history of many measures which had a local initiative. Merchants, borough officials, clothiers, artificers and companies promoted bills for the trades and industries with which they were concerned. A very large number of cloth bills had their origin in the localities and a great many concerning armour, leather, beer and other manufactures were promoted by London companies. London spent more money and initiated more bills than any other single locality. Until recently few historians of parliament have ventured into the local archives and thus the attempt to trace local involvement in making laws, and local reaction to central authority, has barely begun. The measures they pursued in parliament concerned almost every aspect of sixteenth-century economic and social life.

Highways and bridges

One of the major concerns of localities in these parliaments was to secure statutory confirmation of their right to collect funds for highway and bridge repair. A general bill of 1584–5 would have made void conveyances of lands originally donated for highway and bridge repair or poor relief, but now put to other uses. Appeals could be heard in Chancery. It was committed, redrafted, introduced as a nova, recommitted and amended before finally being rejected. One member, alluding to the story of Renard the Fox who donned clerical garb to deceive, pointed out that the bill’s title referred to the worthy matter of highway repair yet in effect retrospectively overthrew certain land sales. Fleetwood, who noted it was a very long bill,

79 D’Ewes, pp. 339, 340, 341; LJ, II, 76; TCD, MS 1045, ff. 77, 78v, 79, 94; BL, Lans. MS 43/72, f. 172v; HLRO, MP 1582–5, ff. 34–44.
spoke in favour of retrospective laws, citing the examples of those for Jonas Scott and Sir Henry Neville in this parliament, although he conceded that it was 'no reason' to punish men who 'did the thinges and thought them no faultes'. However, the diarist noted 'agreed by all many good matters in it, but because it was generall and looked back so farr, not lyked'. The committee member who reported back to the house was Thomas Tasburgh, member for Aylesbury, who was involved in a similar bill for his town.80

In 1597–8 a bill 'to give some Remedie for repairing of highwaies' was read, in addition to the act which authorised the levying of revenue to repair highways in Surrey, Sussex and Kent.81 Owners of iron works transporting coal or iron between 12 October and 1 May were to contribute 3s. towards highway repair for every ton of iron or three loads of coal transported, as well as one load of gravel or stone for every thirty loads of coal or ten tons of iron. As with most of these sorts of statutes the burden of overseeing the work done was placed on the justices of peace.

In 1584–5 members for Kent succeeded in obtaining a revision of an act of 1576 concerning the highway running between Milton and Kings Ferry in the Isle of Sheppey.82 People had been avoiding payment on the grounds that only those occupying land near Milton should pay; the new statute made all owners of land within four miles of the ferry liable; it passed both houses without incident.83

Three bills for the paving of streets in the towns of Newark-on-Trent in Nottinghamshire, New Windsor in Berkshire and Lewes in Sussex were also introduced in 1584–5. The usual manner was for those next to the street to be responsible for paving the area immediately in front of their property; in Newark the penalty for not so doing was to be 16d., in New Windsor 12d.84 Both of these Lords' bills passed without great difficulty and became private acts. Newark had no members and its bill was clearly initiated by Edward Manners, third Earl of Rutland who urged the Commons to pass it quickly.85 New Windsor's bill was probably introduced by

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81 It repealed the relevant clause in the 1584–5 iron mills act, HLRO, 39 Eliz. OA 19; SR, IV, 919–20; D'Ewes, pp. 589, 594; Inner Temple, Petyt MS 537, vol. 6, p. 304 (Sainty, p. 17); LJ, II, 244; BL, Stowe MS 362, f. 25 (Townshend, Journal, p. 30).
83 HLRO, 27 Eliz. OA 26; SR, IV, 735–6. D'Ewes entirely omits its passage in the Commons but see TCD, MS 1045, ff. 86, 87, 89; LJ, II, 93, 95, 100, 104; HLRO, MP 1582–5, ff. 93–6v.
84 HLRO, 27 Eliz. OA 34, 36.
85 LJ, II, 72, 73, 75, 81; D'Ewes, pp. 340, 342–3, 344, 345; TCD, MS 1045, ff. 78v, 79v, 80, 81v.
the Earl of Leicester who was the town’s high steward and had been its constable; one of the burgesses, John Croke, was possibly his client although the other, Henry Neville, was from an influential local family. Lewes was much less successful; although their bill was also introduced in the Lords it died in the committee appointed on the second reading on 8 February. Presumably the local peerage thought the bill needless or harmful: the Earls of Sussex and Arundel, Lord Buckhurst and Viscount Montague were all on the committee.

A similar fate may have fallen on the bill for the highway in Middlesex known as double sole green; it died in the Commons’ committee appointed on the second reading in the last session of the reign. More successful was the 1597–8 measure pertaining to the main highway between London and the west: Staines bridge and Egham causeway. Slightly amended in the Commons it passed both houses in under two weeks. Its success is not surprising given the fact that it was an official measure giving power to the Lord Chancellor (or Lord Keeper) to inflict fines of up to £10 for failing to contribute to repairs; they had been granted the power to collect such sums by an act of 1 Henry VIII.

Two other bills were successful in that session, concerning highways in Aylesbury, Buckinghamshire and Wantage, Berkshire. The Aylesbury bill was needed because some of the feoffees assigned by John Bedford’s will had misused the property entrusted to them. It was amended in both houses and the opposing parties were heard in the Commons. The ‘town lands’ of Wantage, Berkshire, were confirmed for the multiple use of maintaining roads, a school master and provisions for the poor. Committed and amended in both houses, the Lords adding a provision that the governors submit accounts every third year to the Bishop or Dean of Salisbury, just as they had done in the Aylesbury bill for the Bishop and Dean of Lincoln. The town had to borrow over £88 to pay for the measure; high expenses were often incurred by boroughs lacking MPs. A 1586–7 bill permitted the taking of tolls to help pay for repairs and maintenance of the streets.

86 HPT, I, 115; LJ, II, 99, 100, 101, 105; D’Ewes, pp. 369, 372; TCD, MS 1045, ff. 91, 91v.
87 LJ, II, 78, 79.
88 D’Ewes, pp. 654, 662; BL, Egerton MS 2222, f. 136v.
89 D’Ewes, pp. 566, 567, 570; LJ, II, 205, 206, 207; HLRO, MP, 1596–1607, ff. 44–6v, shows the chief alterations to be the removal of blame from the inhabitants of Egham, HLRO, 39 Eliz. OA 39.
and bridge in East Retford. It was one of the many private bills to fail in their house of origin (the Commons) in that parliament.91

Five local communities were anxious to secure legislative authority to raise funds for the maintenance of bridges. The only failure was Reading's 1584–5 attempt which only managed a first reading in the Commons, the house of origin. The authorities of Rochester, Kent, succeeded with their 1584–5 bill giving them power to levy an additional assessment on lands if funds for repair work were insufficient, extending the provisions of an act of 1576. To ensure impartiality, two persons from each parish were to be present at the election of the wardens who had been empowered to raise the funds.92

Welsh and border MPs were especially involved in the 1597–8 bills for the bridge at Newport in Monmouthshire and for the construction of a bridge over the River Wye at Wilton upon Wye near Ross-on-Wye in Herefordshire. The committee for the first added a proviso which excluded other towns in the county from the levy and clarified its relation to two Henrician statutes. The problem was that when a general highways repair bill had passed in 1531 neither town was part of Monmouthshire and the 1536 act of union was no help on this issue. Carmarthenshire's knight, Sir Thomas Jones, took charge of the bill in the Commons, but its legal complications explain why the lawyer Henry Yelverton reported back to the house.93

The second bill necessitated a little more work because of factions in the county. Judging from the involvement of Sir John Scudamore and his relative Herbert Croft, the measure was very much supported by one county group, but the rival Coningsby interest was also present on the committee in the person of John Creswell, later elected deputy Recorder of Leominster soon after Sir Thomas Coningsby had been chosen steward at the expense of Croft. Indeed, in the 1597–8 election, Coningsby took the senior county seat and Croft was forced to find a Cornish borough. Coningsby spoke against the bill in the Commons arguing that the county was too poor to sustain the charges, that there were already too many taxes and impositions on the county and that the wildness of the mountain waters tore down the bridges anyhow. He hoped the bill would not pass but, if it did, he wanted adjoining counties added for

91 BL, Harl. MS 7188, f. 89v; D'Ewes, p. 414; HLRO, MP 1586–92, ff. 32–4v.
92 D'Ewes, pp. 346, 347, 348, 351; TCD, MS 1045, ff. 80, 81v; LJ, II, 84, 89, 90; HLRO, 27 Eliz. OA 25; SR, IV, 735. Copies of both acts are in Bodleian Library, Oxford, Rawlinson MSS B/339/7/8, ff. 82–8 and 89–90.
93 D'Ewes, pp. 565, 567; LJ, II, 205, 208, 209; HLRO, 39 Eliz. OA 26; SR, IV, 925–6. D'Ewes mistakenly refers to Yelverton as 'serjeant'; Henry's father Christopher, the Speaker and a sergeant since 1589, would not have reported back to the house!
the purposes of contributions. 'Besides', he said, in 'everie quarter Sessions there be Taxes sett and imposed by the Justices for the repairing of them'. Nevertheless the bill succeeded.\textsuperscript{94}

A Commons' measure, concerning two bridges over the River Eden near Carlisle, Cumberland, passed both houses without much trouble in 1601. Given the need for security in the north, a point emphasised in the Commons' amendments to the bill, it is possible that this was more or less an official measure.\textsuperscript{95} Another Commons' bill 'for the strengthening of the North partes' seems to have especially concerned Cumberland. Their MPs, along with those for Northumberland and Westmorland, were appointed to the second reading committee along with the privy councillors. Townshend then noted the bill as also providing for the building of a pier at Newhaven. The measure did not reappear.\textsuperscript{96} Perhaps the committee got wind that a Lords' bill 'for the more peaceable Government' of the three counties and Durham had been initiated. Three days after the Commons' committee had been appointed to meet, the Lords' bill arrived in the lower house where it was committed, to much the same committee, and eventually became law.\textsuperscript{97} The act focused on lawlessness in the borders, particularly kidnapping for ransom, theft and pillaging, blackmail and extortion. Such criminals were to be charged with felony without benefit of clergy, their names were to be proclaimed and anyone aiding and abetting them were to suffer imprisonment. A redrafting in the Lords had added spoil of goods in feuds, carrying extorted money and burning grain and corn to the list of criminal activities.\textsuperscript{98}

In 1584–5 a bill 'that persons dwellinge within iij myles of the sea in Norfolk meye be chardged with suche deye woorkes as meye be spared abowt mendinge of higheweyes, in amending of the sea bankes' was redrafted by the committee appointed in the Commons and thereafter had a smooth passage in both houses. The statute simply noted that previous acts had allowed for the allocation of time for the repair of highways and since, in Norfolk, a greater problem was the sea banks, it gave the justices the ability to allocate time from the maintenance of highways to the repair of sea banks. The act carried a continuance clause of five years. Much less


\textsuperscript{96} BL, Egerton MS 2222, ff. 59v, 261; D'Evws, p. 665.

\textsuperscript{97} \textit{LJ}, ii, 237, 242, 243, 254; D'Evws, pp. 674, 685.

\textsuperscript{98} \textit{HLRO}, MP, Suppl. 1596–1601, ff. 82–7v; \textit{SR}, iv, 979–81; \textit{HLRO}, 43 Eliz. OA 13.
successful was the bill intended to repair the walls along the River Dart near Totnes, Devon.\textsuperscript{99}

**Ports, havens and water supply**

Towns also sought legislative authority to raise funds for the repair of their harbours. In 1593 Colchester combined road repair with the maintenance of their haven in a bill allowing them to levy 2d. on every ship offloading goods in nearby waterways. As the town paid a fee farm to the Queen, Hatton sat on the Commons’ committee along with the burgesses of Colchester and others, but ‘they could not conveniently agree to such conclusion in the same as might satisfie the Inhabitants of the said Town’.\textsuperscript{100}

Plymouth secured an act in 1584–5 allowing the town to increase its supply of fresh water by cutting a trench from the River Meavy. It seems to have caused little debate in either house.\textsuperscript{101} In 1593 a measure ordered the destruction of seven new corn mills on the river, built under colour of the 1584–5 act. Despite much deliberation, it died in a committee which included Drake who had a vested interest in the matter.\textsuperscript{102} The problem remained in 1601 when Plymouth’s mayor wrote to Cecil asking for assistance in amending the 1584–5 statute.\textsuperscript{103} This committee had been originally asked to examine a measure allowing East Stonehouse in Devon to improve its water supply. Peter Edgecombe, a local resident sitting for Cornwall, moved the bill which also prohibited the building of new mills to the detriment of existing ones, or to Plymouth’s water supply. Somewhat amended by the Commons’ committee, the bill passed the Lords easily.\textsuperscript{104} The committee shelved a bill conveying the right to reclaim Plympton marsh to one Thomas Payton; it affected previous royal grants.\textsuperscript{105}

Like Plymouth, other localities were concerned with obtaining statutory approval for levying taxes or tolls in order to maintain the state of their havens. Whitby’s 1597–8 bill for its pier was rejected after the second read-

\textsuperscript{99} D’Ewes, pp. 346, 351, 356, 362; TCD, MS 1045, ff. 86, 86v, 88, 89v; LJ, II, 91, 95, 100, 104; HLRO, 27 Eliz. OA 24; SR, IV, 734.

\textsuperscript{100} D’Ewes, pp. 505, 512; BL, Cotton MS Titus Fii, ff. 66v–7, 78. A bill survives in HLRO, MP 1586–92, ff. 5–6v, but relates to the cloth industry: the preamble declares that the town is decayed and the bill, with a long enacting clause, removed restrictions on buying and selling of the coarse wools used to make baize, serges and such cloth.

\textsuperscript{101} SR, IV, 728–9; HLRO, 27 Eliz. OA 21; D’Ewes, pp. 337, 345, 352–3, 353, 355, 361; LJ, II, 89, 95, 100, 101; TCD, MS 1045, ff. 75v, 80, 86v. For expenses see West Devon RO, W132, ff. 60, 61.

\textsuperscript{102} D’Ewes, pp. 510, 512; BL, Cotton MS Titus Fii, f. 65; HLRO, MP 1592–3, ff. 117–21v.

\textsuperscript{103} PRO, SP 12/281/84.

\textsuperscript{104} D’Ewes, pp. 509, 510, 511; BL, Cotton MS Titus Fii, ff. 48, 80v; HLRO, MP 1593, ff. 54–7v; LJ, II, 185, 186, 189; HLRO, 35 Eliz. OA 24.

\textsuperscript{105} D’Ewes, p. 510; BL, Cotton MS Titus Fii, f. 65.
In 1584–5 Chichester successfully petitioned for an act allowing land purchases with a view to building a canal from the haven; initiated in the Lords it passed both houses quickly and without apparent alteration. Hartlepool's much debated 1589 bill, initiated in the upper house and sent down with their commendation, probably sought to pay for pier repairs by a levy on the merchants using it. Without MPs, the town presumably had official help; perhaps from Burghley in the Lords, and Beale, Heneage and Perrott in the Commons. Yet MPs from Newcastle, Kings Lynn and Yarmouth also sat and the bill was rejected in part over whether to include Sunderland in its terms.

Official interest in the state of the piers and havens of the realm is not, of course, surprising. Nor is it difficult to identify the reason for increased concern in the latter half of Elizabeth's reign. The south-eastern ports had been the subject of official legislative attempts in 1566 and the 1581 act for Dover Haven was the product of official draftsmen. A 1589 measure was no exception. Introduced in the Lords, it extended the provisions of the 1581 act for another seven years and carried a proviso that made customers and officers responsible for the faults of their deputies; the preamble declared that the value of the works had been shown in the Armada campaign. Passing the Lords without commitment in three working days, it was subject to a joint conference having run into difficulties in the Commons despite a request for speed. The amendments they thought necessary included the removal of a clause inflicting charges on all merchants alien and denizens. On the third reading someone moved a proviso for the Cinque Ports but this was refused.

In the shape of privy councillors, officialdom's interest was shown in the 1601 bill sponsored by Barnstaple permitting the building of a harbour on the Severn. A Commons' bill, considered by the knights and burgesses of the relevant counties, the Cinque Ports and privy councillors, the bill was immediately committed in the Lords to a committee consisting of councillors, local bishops and the warden of the Cinque Ports. They amended the bill, probably slightly, and although this was approved by the lower house the bill was vetoed. Perhaps the Lord Admiral decided the proviso

106 D'Ewes, p. 567.
107 LJ, II, 86, 91, 92; D'Ewes, pp. 363, 371; TCD, MS 1045, ff. 88, 89v, 91; SR, IV, 729–32; HLRO, 27 Eliz. OA 22.
108 D'Ewes, pp. 437, 440, 441, 445; LJ, II, 149, 150, 151, 152. It is more likely that this detail refers to the Hartlepool bill, debate over which was deferred to 13 March, than to the Lords' changes to the informers bill, which arrived on the same day, cf. D'Ewes, p. 445.
Law-making and society in late Elizabethan England

protecting his interest was not enough; Southwark's Zachariah Lok had spoken about this in the Commons.111

Lyme Regis in Dorset succeeded in obtaining a statute in 1584–5 for repairing its cobb and pier, occasioned by the withdrawal of a crown grant of £20. Missing from the original acts, the paper bill reveals that it provided for an increase in the duties charged for offloading certain items.112 Lyme Regis' MP, and often mayor, John Hassard seems to have been entrusted with the bill but it was Rye's John Hammond who reported back to the house. Nevertheless Hassard was expected to promote the bill for the town and he spent £52 11s. doing just that. On the third reading a proviso was offered and approved; the Lords also added one which was accepted by the Commons after some amendments. 'Merchants of the country' objected to the bill, which doubled their charges for using the pier, claiming that its initiators were 'men very troublesome' who simply did it for 'pryvate gaynes and maynetenance of their kitchins'. Similarly, a 1584–5 bill for the 'maintenance of Forts, Bulwarks etc.' near Southampton must have met with derision by the MPs serving other ports. Rejected on its second reading, it provided 'that certeyn kindes of wares myght only be unladen at Southampton'.113

The haven most subject to legislative action in the last two decades of Elizabeth's reign was Orford, Suffolk. The problem faced by the town was not so much the decay of the harbour itself as lack of fish. An act of 1584–5 restricted the size of nets used to two and a half inches, 'knott to knott', with a hefty penalty of £5 as well as confiscation of the net all in order to preserve young fish stocks.114 One of the Aldeburgh MPs, John Foxe, a man active in promoting the interests of the Suffolk ports against Yarmouth in 1578, noted that 'ye country people have come in when the fishing tyme is with dungcartes and have caryed them full away with young frye, to fede their swyne and dong their groundes; it hath greved my hart to see it'. Inevitably Fleetwood was moved to contribute, pointing out that laws governing the Thames prohibited the taking of small fish and expressing his amazement that any would 'speak to maintyn such a nett as this is'. ‘Did

111 BL, Egerton MS 2222, f. 49v; D'Ewes, pp. 647, 658, 674, 685; LJ, II, 248, 249, 251, 254; BL, Stowe MS 362, f. 134; HLRO, Parch. Coll. Box 1D, no 3260 (Bond, Lords MSS, pp. 63–4).
112 HLRO, MP 1582–5, ff. 162–6v. SR listed this as the first of the private acts and it was OA 49 according to the printed table of private acts in the sessional print, Pepys Library, Magdalene College, Cambridge, volumes 1994, 1995.
113 D'Ewes, pp. 361, 363, 364, 365, 368, 374; TCD, MS 1045, ff. 86v, 89, 89v, 91, 93v; LJ, II, 100, 101, 107, 108; HPT, II, 268 (where John is mistakenly identified as Robert, and with the wrong sitting); PRO, SP 12/177/44; Dorset RO, B7/G1/4a, ff. 15–17; Tittler, 'Elizabethan Towns', p. 277.
114 SR, IV, 729; HLRO, 27 Eliz. OA 20.
ever any man', he exclaimed, 'see such a shamfull one as it is?', recalling the
time when those speaking against the commonwealth were obliged to wear
a halter for that day and those with the commonwealth wore a chain of
gold, though 'he had it not for his labour'.

In the next parliament, however, a bill 'appointing the Widenes of the
Mask of Nets, for the taking of Herrings, Sprats and Smelts, in Orford
Haven and the Gull', was introduced in the Commons despite official pro-
hibition. Redrafted as a nova, the committee included the prominent Suf-
folk justices Jermyn and Higham and Orford's William Downing, a
London notary who had promised after his election to do the best he could
for the town, 'for I holde my self as one of you . . . I praie you take order
that I maie have good instruccions and some bodie to solicite, as nede shall
require'. He seems to have been true to his word, for the bill eventually
passed both houses, only to be vetoed by the Queen.

In 1589 the town tried again and this time succeeded. The preamble
declared that it now appeared that the use of such nets neither hindered the
haven nor destroyed small fish, and the effect of the act had been harmful to
the poor, Orford and other towns. The new act allowed the use of nets
over one inch between knots but provided that no more than four stall-
boats (the small fishing boats anchored at river mouths) should stand
abreast or in more than three ranks. Penalties were to remain as in the
earlier act. The Lords attached a proviso protecting statutes for sewers
pertaining to the haven and gull; perhaps the judges spotted this problem
in 1586–7, causing its veto.

Orford was not the only locality keen to promote bills concerning fishing.
A bill of 1589 sought to protect 'Fry and Spawn of Salmons' and prevent
the 'taking of Kipper Salmons' on 'the River of Tweede and some other
Places'. A Commons' bill, it reached the Lords with only five days remain-
ing. As the upper house had added a proviso exempting the Tweed from
the effects of an earlier act protecting fish spawn, they may not have
thought the bill worthy of proceeding. Commons' bills concerning
Thames watermen, where interest in fish conservation was noted earlier,
died in the Lords in 1584–5, and in a Commons’ committee to which the Londoners had been appointed in 1601.119

The cloth industry

Most of the bills concerning the cloth industry and pertaining to localities have been discussed in earlier chapters. A successful Commons’ bill of 1584–5 allowed Boxted clothiers to make woven cloth despite the restrictive act of 1558, as those in other villages had secured in 1559. The Lords thought it prudent to make Langham a beneficiary as well. Perhaps the leading puritan peer in the county, Lord Rich intervened on their behalf; he certainly sat on the committee which amended the bill.120

The Yorkshire town of Richmond secured its writs of election in the fourteenth century but did not return MPs until 1584–5, the first election after it received a charter in 1577. By this time it was owned by the Crown, with the dominant family being the Scropes of Bolton; one of the two MPs for 1584–5 was their relative Marmaduke Wyvell. However, local men (Wyvell soon bought a manor within five miles of the borough) dominated its Elizabethan returns: the mayor John Pepper, sat in 1584–5 and 1593, and the Recorder, Cuthbert Pepper, John’s cousin, in the last two sessions of the reign. Richmond made immediate use of their presence in the Commons to initiate a bill in 1584–5. Cromwell described it as providing ‘that none on the north of Trent sholde knitt hose and peticotes and suche lyke excepte th’inhabitantes of the towne of Richemond and other corporat townes’. Such a precocious measure was given short shrift: it was rejected on its first reading.121

Equally unsuccessful in this session, though at least not rejected, was a measure limiting the winding of wool to those authorised by the Woolmen’s Company of London, who were also to prevent the mingling of other things ‘to make it weyghty’. The company had promoted a 1581 bill but their records show that this time Merchant Staplers were the initiators; the company had to pay for a copy of the measure.122 Lincoln launched a campaign in 1589 to secure an exemption from recent restrictions on buying and selling wool imposed by the Merchant Staplers. A local Lincolnshire gentleman and knight of the shire, Sir Edward Dymoke, was much

119 D’Ewes, pp. 348, 365, 366, 367, 368, 670; TCD, MS 1045, ff. 81v, 94; BL, Stowe MS 362, f. 179v.
120 TCD, MS 1045, f. 74v; SR, IV, 733, cf. the paper bill, HLRO, MP 1582–5, ff. 9–16v; LJ, II, 68; HPT, I, 158–9.
121 HPT, I, 289–90; TCD, MS 1045, f. 74v; D’Ewes, p. 336.
122 TCD, MS 1045, f. 87v; GL, MS 6901, f. 29, unfoliated account for 1584–5.
involved, and the Staplers lobbied hard against the measure, forcing two committals in the Commons and a division on the third reading.  

Hospitals, schools and colleges

One of the major legislative concerns of the period was how to come to terms with the ever-increasing number of people out of work and needing relief. Local experience was important in formulating general poor relief legislation and localities contributed much to the overall outlook of government initiatives intent on preventing social unrest. On a more local level towns and individuals sought legislative authority for the establishing of hospitals, almshouses and the like; often these pertained to orphans as well as to the poor. Most of these statutes confirmed grants and assurances of land which were being contested.

Two measures of 1584–5 involved the property of bishops and were introduced in the upper house. A bill confirming Archbishop Whitgift's constitutions for Eastbridge Hospital, Canterbury required no commitment in the Lords but was committed in the lower house where a proviso protecting the Queen's rent was added. Some MPs were suspicious of Whitgift's ordinances, or those to be made, and provisos were added, after conference with the Lords. These stated that none of the ordinances could be contrary to laws in force and that the master was to be a 'preacher' rather than just a 'minister'.  

In 1597–8 a bill 'for explanation of a Savinge' in the statute was introduced in the lower house; it was sufficiently objectionable that the bill was rejected on its second reading, being refused even a committal.

The second Lords' bill of 1584–5 protected the property and grants belonging to Christ's Hospital in Sherburn, county Durham. The master and brethren were to have a common seal, the master was to be nominated by the Bishop of Durham, and he in turn was to nominate all but one of the thirty brethren, the other to be named by one Trollopp. The master

123 See J.W.F. Hill, *Tudor and Stuart Lincoln* (Cambridge, 1956), pp. 85–6; BL, Lans. MS 58/74; D'Ewes, pp. 444, 445, 446, 448, 449, 451, 454; LJ, II, 164, 165, 166. The Lords added a limitation of 10,000 tods per year and the Commons asked them to add the word 'yearly' to the bill in order for the amendment to make sense, HLRO, 31 Eliz. OA 21.

124 See C. Carlton, *The Court of Orphans* (Leicester, 1974). In 1571 there was an attempt to enact that towns were to appoint a chamberlain to look after orphans' property, Elton, *Parliament*, pp. 274–5.

125 LJ, II, 81, 83, 84, 99, 100; D'Ewes, pp. 352, 353, 361, 362, 366, 368, 371; TCD, MS 1045, f. 90; HLRO, 27 Eliz. OA 43.

126 D'Ewes, p. 586.

127 HLRO, 27 Eliz. OA 45. The Trollops were the lords of the manor of Thornley. On 25 September 1584, shortly before the parliament met, the Queen had granted the manor to a gentlemen pensioner, Ralph Bowes, which provoked a legal suit between Bowes and the recusant John Trollopp, eventually settled for £100 in October 1588. In 1594 Trollopp
and brethren were to obey the orders set out by the Bishop. It ran into some difficulties in the Commons where it was heavily amended by committee; two provisos were added, one making void leases of demesne lands not now in lease or demesne, the other depriving the master of the mastership if he accepted another ecclesiastical living. References to future leases were removed, as was the requirement that grants made by the Bishop had to be made with his seal, while a stipulation was added that the master was to be a preacher ‘havinge no cure or chardge of soules else where’. These, and the other changes, were accepted by the upper house.\textsuperscript{128}

The measure seems to have been initiated by Ralph Lever, master of the hospital from 1577–85 and prebendary of Durham from 1567 to 1585 who at the time of this parliament had petitioned the Queen for action against papists by enforcing existing laws rather than making new ones. Lever wrote to Burghley in the hope of securing his favour for the hospital bill, claiming that it was necessary because doubts had arisen over the incorporations of the hospital by the Queen and by Bishop James Pilkington. Lever claimed that Pilkington’s successor, Richard Barnes, and the present Dean of Durham, had ‘corrected’ the measure and he asked that Egerton peruse it.\textsuperscript{129} Perhaps he did so, for the act carries a short enacting clause, and Lever’s position paper reveals an intention to lobby Burghley, Bromley and Henry Hastings, Earl of Huntingdon, Lord President of the Council of the North. It also hoped for a tenancy agreement between the master and brethren, and their tenants and the resolution of the controversy over funds in the chapter.\textsuperscript{130}

What Bishop Barnes’ position was on the bill is not known; perhaps it was he, rather than Burghley or Bromley, who moved the bill in the upper house.\textsuperscript{131} The whole matter was complicated by Lever’s death before the end of the session and the subsequent dispute between his widow and the

\textsuperscript{128} L/, II, 88, 92, 98, 99, 106; D’Ewes, pp. 371, 372; TCD, MS 1045, f. 92.
\textsuperscript{129} PRO, SP 12/176/66; Durham Dean and Chapter Muniments, York Book, ff. 36v–40. Lever had been chaplain to Pilkington, Bishop Pilkington’s Register, Surtees Society 161 (1946) p. 176.
\textsuperscript{130} PRO, SP 12/176/67. A proposal dated 12 January 1585 shows that Lever was concerned to have such an order for all tenants of ecclesiastical land in the palatinate, Durham Dean and Chapter Muniments, York Book, ff. 34–6. The funds dispute between Lever and another canon, Robert Bellamy, is noted on ff. 59–60, 61, 68v. Bellamy, Barnes’ chaplain, became master of Sherburn Hospital in 1589 and replied to the commission inquiring into the decay of hospitals, colleges and almshouses in the county in 1593, ibid., ff. 114–15v, 117–18.
\textsuperscript{131} In Barnes’ register there is a note of the form of appointment of procurators in parliament and a writ of summons, University of Durham, Department of Palaeography and Diplomatic, Durham Diocesan Records (DDR), I/4, ff. 15, 15v.
new master Valentine Dale. Dale, who was Dean of Bath and Wells and master in Chancery, served in this parliament, sitting for Chichester.\[132\]

Two other Lords' bills confirming grants made for the establishing of hospitals reached the statute book in this period. One pertained to the almshouse at Lambourn, Berkshire, granted by Henry VII and confirmed by his son; doubts had arisen because the original grant included money for the maintenance of a chantry priest and it was uncertain whether it had been affected by the Edwardian statute dissolving chantries. The bill passed both houses with only a few amendments made by the Commons.\[133\] In 1597–8 a bill fulfilling William Lord Cobham's intention to establish a hospital for the poor in Kent passed both houses without commitment.\[134\]

In the same parliament two such bills were successfully initiated in the Commons. The first pertained to Queen Elizabeth's hospital in Bristol which was amended in both houses. Doubts over wills and grants, especially that of the Bristol merchant, John Carr, encouraged the hospital's authorities, having obtained a royal charter and opened a school, to seek statutory confirmation. The act also regulated the means of future gifts and grants and the relief of orphans along the lines of London and Exeter.\[135\] The second bill confirmed grants made to the Earl of Leicester's hospital in Warwick which had been established by a statute in 1571. Both houses spent a good deal of time hearing the parties involved, especially George Ognell who contested the hospital's right to certain of the properties.\[136\] Both sides also appeared when the bill concerning Nevilles' Hospital in Yorkshire was discussed; the hospital, represented by Mr Bird, had difficulty in finding a counsellor, but in any case the bill failed to get beyond a third reading in the Commons.\[137\] A 1586–7 attempt to provide for Monmouth orphans by the knight of the shire, Sir William Herbert, received only one reading, having been initiated in the middle of the proceedings against Mary, Queen of Scots.\[138\]

One of the benefactors of Bristol's hospital bill had cited Christ's

132 APC, XIV, 7; HPT, II, 5–6. Barnes' appointment of Dale is noted in his register and it mentions the act, Univ. of Durham, Dept of Palaeography and Diplomatic, DDR I/4, f. 19v. Bishop Matthew Hutton's 1595 orders for the hospital are in Box 175, vol. 57144, 12, ff. 97–8v, preceded by a copy of the act.

133 LJ, II, 161, 162, 163, 165; D'Ewes, pp. 450, 451; HLRO, 31 Eliz. OA 20.

134 HLRO, 39 Eliz. OA 32; LJ, II, 199, 200, 201, 205; D'Ewes, p. 564.


136 D'Ewes, pp. 555, 559, 567, 570, 579, 581; LJ, II, 218, 219; Inner Temple, Petyt MS 537, vol. 6, pp. 292, 296, 297, 299 (Sainty, pp. 3, 8, 10, 12); HLRO, 39 Eliz. OA 33.

137 D'Ewes, pp. 567, 568, 569.

138 Ibid., p. 394.
Hospital of London as a model establishment and the City hospitals were the subject of three 1601 bills. It is possible that what began as a composite bill was soon divided into several measures. That 'for the strengthening of Grants' made for St Bartholomew's confirmed Henrician letters patent and all relevant grants and assurances; the committee made several alterations, removing the preamble's reference to those contesting some of the grants and adding a clause making the City authorities liable for the upkeep of Christchurch. On the second reading Soame protested that although only 100 poor people were originally maintained by the hospital, recent benefactors enabled the provision for another 100 and a further 600 diseased persons were being treated. The 'good that comes as well by this, as other hospitalls in London' was, he argued, 'very Apparent, for there are of poore People, besides the Certayne number of Hospitlers, the best parte of 3000 daylie in Cure'.

Hoby declared himself anxious to commit the bill for it had been 'putt into this howse to end some Contencon Touchinge the Lymittes of the Parishe adioyninge to St Bartholomewes'. Moreover, he found himself 'ever Jealous of private Bills of this nature' fearing to give his assent without a commitment 'Least wee might infringe the Libertyes of some other Parishe adioyninge'; he thought it best that the relevant parties be heard by the committee. Hoby may well have been right: in 1600 the governors of St Bartholomew's and Christ's had met over such a dispute.

A second bill considered by the committee confirmed Edward VI's letters patent granting Christ's, Bridewell and St Thomas the Apostle to the City; among the MPs added on the occasion of its committal was Chichester's MP, Stephen Barnham, whose father had left property to Christ's and had been treasurer of Bridewell. As with the St Bartholomew's bill, that for the three hospitals was amended before passage. However, it failed to get beyond a single reading in the Lords, while that for St Bartholomew's had three readings in three days and passed only to be vetoed by the Queen.

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139 D'Ewes records a first reading of a bill for 'certain Hospitals in London' on 31 October which might refer to the bill concerning Christ's, Bridewell and St Thomas', but since the paper bill for St Bartholomew's notes it as a *nova*, it is possible that the bill began as a general measure and was then amended to concern only the one hospital, PRO, SP 12/283/26; D'Ewes, p. 622.


The Lords themselves had initiated and considered a bill concerning Bridewell; it died in committee.\(^{143}\)

It seems likely that the City authorities were behind at least the general bill of confirmation; they were concerned in 1599 to secure ‘greate profittes and good to ye 4 hospitalles of London’ and both St Thomas’s and Christ’s were suffering from unpaid legacies and debts. The measure was read by the court of Bridewell Hospital on 14 November when it was resolved to hand it over to Speaker, and Recorder, Croke ‘to be by him preferred to the house’.\(^ {144}\)

Under Edward, the five major London hospitals, St Bartholomew’s, St Thomas’, St Bethlehem, Christ’s and Bridewell, had received a royal grant of the property of the Savoy and in 1557 the court of the hospitals allocated most of this income to St Thomas’s.\(^{145}\) The Savoy needed a bill in 1584–5; introduced in the Lords it failed to get beyond a second reading in the Commons. The measure ratified all grants made by the hospital except those for over twenty-one years under master Thomas Thurland. Although the lessees affected were to receive compensation, they were asked to present their case to the committee and presumably successfully opposed it there.\(^ {146}\)

As with Christ’s Hospital in London, and those such as Queen Elizabeth’s in Bristol which were to some extent modelled on it, the intention of benefactors was not simply to relieve the poor and treat the sick, but also provide education. The ownership of property by schools was also contested and necessitated legislative confirmation. Two such private bills reached the statute book in this period and both pertained to schools in Kent: Tonbridge in 1589 and Sevenoaks in 1597–8.

The school in Tonbridge had been established by Sir Andrew Judd, the prominent London merchant, leading member of the Skinners’ Company and sometime Lord Mayor, who had been born in there.\(^ {147}\) The school was completed between 1553 and 1558; Judd endowed it substantially. The Skinners’ Company were made trustees and they were to inspect the school once a year. Unfortunately Judd died before the final conveyance of the

\(^{143}\) D’Ewes, pp. 662, 670; BL, Egerton MS 2222, f. 216; LJ, II, 238, 244, 251, 253, 254, 256, 257, 261.

\(^{144}\) GL, MS 12806/3, ff. 40, 41v, 48v, 55, 60v–1; Greater London RO, H1/ST/A1/4, f. 165; GL, MF 512 (microfilm of Bridewell Hospital Court Minutes, vol. IV 1597/8–1604), f. 274.


\(^{146}\) LJ, II, 73, 78, 84, 85; D’Ewes, p. 366; TCD, MS 1045, ff. 83, 89, 91.

endowment could be completed and it was left to Henry Fisher (described in the act as Judd’s servant) to carry out his intentions. It was Fisher’s son Andrew who caused problems by contesting the conveyances; he even forged documents proving that at the end of sixty years the endowments would come to him as a legacy. That challenge was effectively dealt with by an act of 1572 but Fisher continued to press his case and the bill of 1589 confirmed the royal charter and the earlier statute, making doubly sure that Fisher had no legal basis to his claims. In the Commons he appeared to give his consent although the bill provoked some debate. The Lords made numerous amendments necessitating the parchment bill to be numbered by the clerk every fifth line. 148 The Skinners spent a good deal of money promoting the bill, including fees and gifts to officials. 149 Another Londoner, the Grocer William Sevenoaks, was the main benefactor of Sevenoaks, the first endowed school in the country. When the authorities of Sevenoaks school obtained statutory confirmation of their foundation, endowments and 1560 charter, they did so by initiating it in the Lords and it seems to have passed the Commons smoothly. 150

No less than schools, the universities required statutory approval for their existence and, again, this had much to do with the need to establish conveyances and endowments in law. Three such private bills were initiated in these parliaments, two in 1584–5 and one in 1593. All became private acts and passed both houses without difficulty, in two cases because they simply confirmed royal letters patent. Queen’s College, Oxford, sought support from Burghley and Walsingham, writing to the former before the bill’s introduction in the Lords and to the latter on the day it was committed in the Commons; with Leicester’s help they had secured the college’s grant. 151 That for Clare Hall (now College), Cambridge, also passed without any revision. 152 In 1593 a measure was required to allow Trinity College to sell the lands of the dissolved Gray Friars to Lady Sussex for the building of a new college in Cambridge; its own statutes forbid such conveyances. 153

148 HLRO, 31 Eliz. OA 24; D’Ewes, pp. 437, 439, 441, 443, 451, 452–3; PRO, SP 12/223/6; LJ, II, 161, 162, 164, 165.
149 Skinners’ Company, London, Court Book I (1551–1617), ff. 44v, 50, 52, 52v; Book II (1577–1617), f. 176v, Renter Wardens Accounts for 1588 and 1589.
151 LJ, II, 71, 73, 75, 78, 82; D’Ewes, p. 346; TCD, MS 1045, f. 80v; PRO, SP 12/176/17; BL, Lans. MS 42/63; HLRO, 27 Eliz. OA 31.
152 TCD, MS 1045, f. 81–81v (D’Ewes entirely misses this bill); LJ, II, 82, 85, 89, 90; HLRO, 27 Eliz. OA 32.
Along with ensuring the right to dispose of property for charitable and educational uses, localities sought to confirm their incorporation and so establish themselves more firmly in law. A 1584–5 bill ‘for incorporation of Chester’, which only had a single reading in the Commons, may have been an offspring of earlier palatine legislation, namely the 1563 act providing for the registration of land transactions in the palatine court. In 1601 a public act provided that fines levied and proclaimed in Chester’s portmoot court were to be as good as if levied and proclaimed in the county; Chester, a county in its own right since 1506, had escaped the Edwardian statute giving fines and proclamations in the county the status of those levied at Common Pleas. Another bill, ‘for liberties of Chester’, survives undated. It confirmed a Chancery enrolment declaring the city and county of Chester free from the jurisdiction of the Council of Wales, ratified royal letters patent issued in 1559 and carried provisos protecting quarter sessions, assizes and justices of the peace and the election of knights and burgesses for parliament. As Dr Peter Roberts has argued, Westminster lawyers were probably behind the 1598 bill attempting to limit the jurisdiction of the Council of Wales. Entitled ‘for the repealing of a branch of a statute made in the 34th yeare of King Henry 8 intituled the Ordinance for Wales’, it was a Commons’ bill engrossed after the second reading ‘not being spoken against by any’, but failed in the Lords.

Such questions of legal jurisdiction arose not infrequently. In 1584–5 a Lords’ bill providing that all quarter sessions should be held in Caernarfon passed both houses only to be vetoed by the Queen. It was put in by Caernarfon’s MPs and deprived the town of Conwy with its share of the sessions; the latter petitioned Burghley, informing him that they had not even been able to get hold of a copy of the bill and he presumably encouraged the use of the royal veto. In the same session a bill for keeping of

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154 TCD, MS 1045, f. 91. This provoked a petition to Burghley over the deanery lands, PRO, SP 12/177/18; Elton, Parliament, p. 292.


158 LJ, II, 71, 72, 81; D’Ewes, p. 342; TCD, Ms. 1045, ff. 77, 78, 81v; PRO, SP 12/176/49.
county court at Morpeth, which had MPs, and Alnwick, which did not, was also vetoed; Alnwick had been added by the Commons.

The jurisdiction of the City of London was the subject of one act and one failed bill. In 1584–5 an act establishing twelve wards and burgesses with twelve assistants for the 'good government' of Westminster reached the statute book – a private act but eventually printed in the *Statutes of the Realm*.

A matter of particular concern to Burghley who was high steward of Westminster since 1561, it was a Commons' bill much amended and added to by the Lords. These additions provoked further amendment by the Commons, and these were subsequently amended in the Lords. Something unusual seems to have happened here, for between two third readings, the latter recording approval, in the Lords, D'Ewes notes a committal in the Commons presumably to consider the Lords' suggestions at the joint conference rather than the bill itself. A conference was needed because the Lords disliked the provisions limiting the jurisdiction of the Dean of Westminster. Among other amendments, they added three provisos: giving the chancellor or steward of the Duchy of Lancaster the same authority over Duchy lands in Westminster as were to be enjoyed by the Dean and high steward; exempting the Dean and Chapter from the authority of the burgesses; and protecting the jurisdiction of the searcher of the sanctuary.

Fleetwood, a member of the committee and frequent advisor to Burghley may have written a paper of observations which survives. He supported the measure, arguing that there was much need to control the city of Westminster, 'a common harboring and hostry of the basest and baddest sort of persons both of men and wemen'. Evidently some MPs felt JPs were sufficient to punish such wrongdoers, and there was no need to establish a further level of authority, whether this consisted of 'some great men' especially appointed or a specific number of burgesses. This was 'litle enough for a place so pestered with such pestilence' and, in any case, 'many handes mak light work'. He predictably asked 'who sees not what advantage' the system of aldermen and deputies in their wards had for government?

159 *LJ*, II, 83, 92, 96, 106; D'Ewes, pp. 368, 368–9, 373; TCD, MS 1045, ff. 90v, 92v, 93v.

160 *HLRO*, 27 Eliz. OA 47; *SR*, IV, 763–4 as c.31. It was noted as number five in the sessional statute's list of private bills, Pepys Library, Magdalene College, Cambridge, vol. 1995.


162 *HLRO*, MP 1582–5, pp. 28–33; TCD, MS 1045, f. 75v; *HLRO*, 27 Eliz. OA 47; *SR*, IV, 764. The proviso for the Duchy of Lancaster was prepared by one Mr Vale who wrote his opinions, mostly unfavourable, on the bill, PRO, SP 12/177/27.

163 BL, Lans. MS 43/74, ff. 178v–9v.
However, Fleetwood’s comments might refer to another proposal which, while praising Burghley’s good work as high steward, argued that the court leet could not deal with the problems of ‘many great murders, riots, routs, robberies etc’. It gave the high steward the authority to call officers and inhabitants to determine cases according to common law and especially powers to license alehouses, make laws to regulate them and punish offenders. This limited legislative proposal was dropped in favour of one establishing a new government for Westminster. The latter’s preamble was content to refer only to the increased number of tenements in the area and the poverty of the inhabitants ‘many of them gyven whollie to Vyce and ydlenes’. 164

The Lords added a limitation clause and consequently in 1586–7 a bill declared the necessity of the measure and made it perpetual. The opportunity was taken to provide that none should practise trades without having served a seven-year apprenticeship and this, or the provisions concerning the selling of goods, may have caused the bill to fail. The absence of any recorded reading might mean this measure was never initiated; certainly the statute was continued until the next parliament by inclusion in the expiring laws continuance act of 1586–7 and so it was in every such act until the end of the reign. 165

The Westminster act included a clause that the burgesses would enforce ‘the lawdable and lawfull Custome of the Citie of London’. In 1601 it was thought necessary to confirm the authority of City officials in an area in London itself, St Katherine Christchurch. During the Commons’ debate Soame declared that the inhabitants were ‘the very sniche of Sinne, the Nurserye of lewd Persons, the harboures of Thieffes, Rogues and Beggers, the maintayners of idle persons, For when our shippes and howses be Robbed thether they Flye For Releiffe and Sanctuarye and wee cannot helpe ourselves.’ After purchasing the area from Lord Thomas Howard, the City authorities had discovered that they still did not have full jurisdiction. Yet not all supported the bill. Wiseman complained that ‘this Parliamente hathe been more Troubled with Bills For incroachinge of Libertyes aboute the Civtye of London, then any three Parliamentes beffore’. He objected to the bill because it overthrew the rights of the inhabitants. ‘Particular persons’, he told the house ‘had purchased Landes within the Libertye and had given much more For the same, in Respect of the Privelidge, then otherwise they would have done’. Wiseman’s opinion won the day and the bill was rejected. 166

164 PRO, SP 12/177/29; SR, IV, 763.
165 PRO, SP 12/199/58; SR, IV, 770, 809, 854, 917, 973.
166 D’Ewes, p. 685; BL, Stowe MS 362, ff. 246v–7 (Townshend, Hist. Coll., p. 325).
The sorts of concerns revealed in the Westminster and St Katherine’s bills were not limited to the elite of the City of London. In July 1580 the Council had issued a proclamation restraining new building and the dividing up of tenements in London and Westminster. In 1586 they wrote to JPs in Middlesex ordering them to carry out a survey of recent building in London. Burghley’s Westminster ordinances included a sort of sixteenth-century neighbourhood watch scheme in which neighbours were to report on inmates to the newly appointed burgesses.167 Burghley altered and commented on the 1593 Lords’ bill to restrain new building. Prohibiting the building of new houses within three miles of the City gates, although allowing owners worth £5 goods or £3 lands to enlarge their own houses, it imposed a monthly fine of £5 on inhabitants unless the property was reunited with the original house. Owners suffered a similar fine, as did those taking tenants and the bill also provided that open fields within three miles of the City should not be enclosed. Both mariners’ hostelries, certified by the Lord Admiral, and hospitals were protected. The act was to last for seven years and then until the end of the next parliament.

The main change during passage was the addition of a clause allowing mariners to build new houses as long as they were not used as an alehouse and was constructed thirty feet from the Thames and twenty from the nearest house. The proviso protecting hospitals was dropped, presumably because it was thought to be unnecessary, as was a clause providing that any inhabitant who had built or subdivided since the 1580 proclamation, and who proved to be of insufficient standing in the subsidy according to his act, was to be evicted and the houses rejoined within two years. The Commons removed this, a diarist tells us, because it was felt ‘that the bill should not looke back but only take place even from this day forward’.168 Within a few months the Privy Council was writing to the authorities in Westminster asking them to assess how many inmates were left after the summer plague; their places were not to be taken up, the fines approved in the statute were to be levied and the sums used, as provided in the act, for relief of the poor.169

Two failed bills of 1597–8 intended to confirm the power of Statutes merchant (the power of taking bonds for the seizure of land on non-payment of debts based on the 1283 statute Acton Burnell). Lostwithiel, Cornwall, had succeeded in getting such an act in 1571, now Lincoln, Nottingham, Coventry and Northampton hoped for success, although the last

167 Hughes and Larkin, II, 649 (see also the proclamation of June 1602, ibid., III, no. 815); APC, XIV, 355; CLRO, Rep. 20, f. 456; Webb and Webb, The Manor, I, 214.
168 Salis. MSS, IV, 456. BL, Cotton MS Titus Fii, ff. 82v–3, 95v; SR, IV, 832–3; HLRO, 35 Eliz. OA 6; D’Ewes, pp. 519, 521.
169 Salis. MSS, IV, 382.
two were dropped by the time the bill reached the Lords. Amended there, it did not get to a third reading. While the Lords were considering the bill for Lincoln and Nottingham, the Commons were dealing with the Lords' bill for Newcastle. Although it passed both houses smoothly it was vetoed. Unlike Lostwithiel, none of these towns could claim that it was too far from the three cities so empowered – Bristol, London and York. Lincoln, at least, had its Statutes merchant by letters patent and as such statutory confirmation may have been thought to be superfluous. They may have not wished to push their luck, having succeeded in getting an act in 1593 confirming letters patent pertaining to appropriations.

Northampton tried to get another bill through in this parliament pertaining to taxes. Committed in the Commons for the consideration of local men who met, unusually, at Sir Thomas Cecil's London house, the bill returned to be engrossed but was rejected on the third reading by 153 votes to 100. Even less successful was a bill for 're-edifienge' Langford Estover in Somerset, which was reported as being 'unmeete to have any passing' and was rejected without a soul speaking for it. Tithes in Norwich and Exeter churches were the subject of bills in 1601; both died in committees influenced by local men.

These were among a number of bills pertaining to localities which failed to get very far in the legislative process and about which little is known. Others would include the 1584–5 bills to translate St David's, Pembrokeshire, to St David's, Brecknockshire; London innholders and 'corn-meaters'; the 1589 bill 'for Berwick'; and the 1601 bills for the 'inhabitants' of Rochdale, Lancashire and concerning the shipping of coals near Newcastle.

A few others survive which apparently did not receive any attention whatsoever, such as those allowing Banbury's markets to deal in wool and yarn, changing High Barnet's market day, securing the banks in

170 Elton, *Parliament*, p. 287; D'Ewes, p. 570; *LJ*, II, 219, 223; Inner Temple, Petyt MS 537, vol. 6, pp. 303, 304 (Sainty, pp. 15, 16); HLRO, MP Suppl. 1596–1601, ff. 9–10v; HLRO, Parch. Coll. Box 1D, no. 3242a (Bond, *Lords MSS*, pp. 41–2). Another bill, lacking any endorsements and thus probably not initiated simply confirmed letters patent granted to Lincoln earlier that year, HLRO, Parch. Coll. Box 1D, no. 3242b and c.

171 *LJ*, II, 221, 222; Inner Temple, Petyt MS 537, vol. 6, pp. 296, 300 (Sainty, pp. 9, 13); D'Ewes, pp. 590, 591, 592; HLRO, MP, Suppl. 1596–1601, ff. 173–4v; HLRO, Parch. Coll. Box 1D, no. 3249 (Bond, *Lords MSS*, p. 57).


173 D'Ewes, pp. 557, 562, 565.

174 Ibid., pp. 555, 558.

175 BL, Egerton MS 2222, ff. 29v, 65v; D'Ewes, pp. 633, 654; PRO, SP 12/282/49, 50; Dean, 'Locality and Parliament', pp. 89–90.

176 *LJ*, II, 91; D'Ewes, pp. 446, 634, 688; TCD, MS 1045, ff. 89v, 91.
Somersham, Huntingdonshire, against floods and, perhaps most curiously, authorising officials to prosecute the English merchant thought to have poisoned Ralph Scudamore while he was on royal business with the King of Morocco.\(^{177}\)

Although there were a few notable exceptions, like the perennial bills for Dover haven or Plumsted marshes, the majority of Elizabethan private bills were one-offs. Initiated, thought about, but ultimately unsuccessful, many never returned to trouble another parliament's agenda. It has to be assumed that their sponsors either gave up or found other ways of achieving their ends. After all, in many cases parliament was only one of the arenas in which they pursued their causes. However, parliament was, after all, the 'highest court' of the realm and as such there was never a shortage of people anxious to pursue private matters there.

The peers and MPs attending the later Elizabethan parliaments did not only enact law, they also repealed law. There were two ways of doing this. One was simply to introduce a new bill repealing the unwanted act, a method that involved all the expense and time of getting an enactment through parliament. In the case of private acts, there was little choice because almost all private acts were made in perpetuity. In the case of public acts, however, there was the chance that the act had not been made permanent but carried a time-limitation clause. Instead of a specific bill of repeal, the act could be omitted from the list of statutes being renewed in the expiring laws continuance act; the law would simply be allowed to lapse.

In the last six Elizabethan parliaments sixty-six acts were made perpetual; thirty-one carried some limitation of time. The most common limitation was to keep the statute in force until the end of the next session of the next parliament, the formula used in twenty-three of the thirty-one time-limited acts. One, an act of 1597–8 concerning labourers, was to remain in force until a full year after the end of the next session of the next parliament. The remaining seven statutes were to continue for periods of between three and ten years, and then until the end of the next parliament. In contrast to the early Elizabethan sessions, no act was limited to the duration of the Queen’s life; this was now a much more sensitive issue. It may be that some move was afoot to standardise limitation: whereas only two of the eight time-limited acts of 1584–5 were continued until the end of the next parliament, the proportion increased from two of three in 1589, four of five in 1593, nine of ten in 1597–8 to all five in 1601.

1 The act for Westminster, 27 Eliz. c. 31, was a private act which carried a time-limitation clause. Presumably so did that of 1589 for Lincoln, 31 Eliz. OA 21, since it was included in the list of expiring laws continued in 1593, on the recommendation of the Lords.
2 HLRO, 27 Eliz. OA 14 (three years), 15, 17, 24 (five years), 16 (six years) and 4 (ten years), 35 Eliz. OA 6 (seven years).
3 See, for example, 14 Eliz. cc. 1, 2 and 23 Eliz. cc. 2, 4; SR, IV, 588, 589, 661, 666.
By the second half of Elizabeth’s reign the practice of continuing several probationary acts in one statute had become the norm. Expiring laws continuance acts usually had two parts: a list of statutes to be renewed until the next parliament and a series of provisos altering, amending or clarifying measures continued by the act. The very titles of these acts testified to careful drafting, as in 1584-5 and 1593 when the act ‘for the revivynge, contynewacion, explanacion and perfittinge of divers Statutes’ changed many statutory provisions, or in 1597-8 when the act ‘for the revivinge, contynuance, explanacion, perfectinge and repealing of diverse Statutes’ also repealed a measure in its entirety.

Such careful drafting was the work of those officials who checked the statute books for probationers. As such, the expiring laws continuance act was an official measure; the Solicitor General had introduced the first of such acts in 1539 and he played an important role in the Elizabethan sessions as well. However, whereas in most previous parliaments the measure had been initiated in the Lords, in the parliaments held from 1584-5 to 1601 it always began in the Commons. This was not entirely novel: the 1566 continuance bill began in the Commons, perhaps, as Elton has suggested, because the Privy Council’s parliamentary manager, William Cecil, sat there. It would follow that the 1571 and 1572 continuance acts reverted to the Lords because Cecil had become Lord Burghley. This does not, of course, help to explain the change in 1584-5: whatever the talents of Mildmay, Knollys and Hatton, Burghley seems still to have been very much the leading parliamentary manager.

One of the primary aims of management was to keep parliaments short and the decision to initiate the bills in the Commons may have been an attempt to reduce the time spent on continuance bills. Earlier statutes had been delayed because of the large number of amendments the Commons desired; in 1572, although the bill passed the Lords without change, it was much altered by the Commons and a conference had been required. Burghley and the Council may have decided that they would save time by initiating continuance acts in the lower house.

It must be said that this made a good deal of sense and perhaps was even a little overdue. The main purpose of the act was not only to continue

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5 HLRO, 39 Eliz. OA 18 (clause v); ‘repeal’ was also mentioned in 1601 because of 43 Eliz. OA 9, clause iv.

6 Lehmberg, Later Parliaments, p. 59.
Expiring laws continuance acts

Expiring laws but also to offer the chance of amendment. Since the majority of the acts so continued pertained to the commonweal, alterations were most likely to be proposed by MPs in light of their experience as local magistrates enforcing the law or as merchants and manufacturers affected by the law. Indeed, providing such an opportunity for revision or abolition was the main reason for making a statute probationary in the first place.

If the saving of time was the main reason for the decision to have such bills introduced in the Commons rather than in the Lords, it was not very successful in 1584-5. The bill took up time from 1 December 1584 to 26 March 1585 (in a parliament which effectively ran from 27 November to 29 March) and was rewritten twice.

On 1 December a motion was made for a small committee of lawyers to be appointed to consider expiring laws. The committee of eleven included both lawyers and officials, many of whom also had experience as local justices. The committee finished its work by 16 December when the bill was first read and one further reading was squeezed in before the Christmas recess. This second reading also saw the first casualty, Cromwell noting that a measure for the killing of crows was ‘rejected’. MPs also moved that acts concerning vagabonds (1572), the navy and foreign wares (both 1563) be included. These motions certainly forced a rethinking of the continuance bill, as perhaps did the committee appointed on Egerton’s motion on 21 December to consider laws that were unnecessary, obsolete, ‘unprofitable or over-burdensome’.

On 19 February, fifteen days after reassembly, a new continuance bill was introduced and was read once, as were two new provisos and a saving clause. Reinforced by new members, the committee met several times before Hatton brought in a *nova billa* on 5 March. The act of 21 Henry VIII concerning cables and ropes, which had been specifically referred to the committee, now headed the list. We have a tiny glimpse of part of a debate concerning the measure when Mildmay spoke on a statute prohibiting the killing of calves between Easter and Whitsuntide. This probably relates to the act of 24 Henry VIII against the killing of ‘younge Beastes called Weanelinges’ which was included despite John Hele’s protest that it was disadvantageous for the west country: ‘for if he may not kill in that tyme the calf will eat up that which could relyve his children and howse, and

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7 D’Ewes, pp. 334, 340, 343; TCD, MS 1045, ff. 73, 78v, 79v.
8 Egerton specifically mentioned an act for apparel made in Henry VIII’s reign, D’Ewes, p. 345; TCD, MS 1045, f. 80; BL, Lans. MS 43/72, f. 171. The rejected statute on crows was probably 24 Henry VIII c. 10 which offered 2d. for each dozen captured; it was designed to protect corn and grain, Lehmberg, *Reformation Parliament*, p. 173.
9 D’Ewes, pp. 333, 355, 355–6, 361, 363; TCD, MS 1045, ff. 89v, 90.
therfor, I have knowne to avoyd the penalte of the promoter we have had xl kild in diches'.

Even after the new bill was brought in MPs were not reluctant to offer changes from the floor of the house. On 6 March Strickland offered a proviso which was simply handed over to Thomas Hannam, a lawyer committee member, without being read and on the second reading of the new bill no less than six provisos or additions were proposed and given two readings: two were rejected and four committed. The committee, with Strickland added, was to meet that afternoon.

The bill was returned to the house by Cromwell and Hannam: of the four provisos all but one, 'for the Ports', had been objected to and they were rejected by the House. The accepted proviso seems to be the one permitting the importation of pins. The whole bill was then ordered to be engrossed but even at this late stage someone offered a proviso concerning statutes of tillage; after several speeches, this proviso was 'respited to be further considered of', but was not to delay the engrossment. In the end it was added on the third reading and the whole bill finally passed the Commons on 13 March. An examination of the act reveals that at this stage one deletion was made: the 1576 act for highways in Oxford was dropped; its time-limitation clause had been added by the Lords when it had originally passed.

The 1584-5 continuance bill's passage in the Lords was no more straightforward than it had been in the Commons. On the second reading the peers requested a conference to discuss one of Burghley's favourite projects, prohibiting the eating of meat on Wednesdays as a means of promoting the fishing industry and supporting the navy. He had succeeded in getting such a proviso added to the 1563 navy act which the Commons had removed while continuing the other provisions of the statute. The Commons did not leave it at that, however. A new provision was added allowing fishermen to sell fish in towns on any day notwithstanding any privileges or charters and another imposed a fine of £5 and ten days' imprisonment on tavern keepers who sold flesh on fish days, with a saving clause for Yarmouth's free fair.

Cromwell, one of the delegates to the conference, noted that while the Lords strenuously put forward their viewpoint, 'we on the contrarye stooode

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11 D'Ewes, pp. 364, 365-6. D'Ewes notes the addition of Strickland, Fleetwood, Hele, Sandys and Egerton to the committee but the last four had been appointed originally. D'Ewes also says a new, smaller, committee was appointed, but two original members reported the committee's work to the house.
13 Ibid., pp. 259-62.
to the meytentawnce of that we had passed and neyther parte seemed satisfayed'.

According to the Lords journal a first reading was given to a nova billa on 20 March. Assuming that this is not simply an error by the clerk, the Commons seems to have convinced the Lords to abandon this new measure because it was the Commons' bill which became law. At the conference held on 24 March the Lords proposed a compromise proviso prohibiting the eating of meat on Wednesdays in all places within twenty-five miles of the sea and within five miles (and in) London, York and Bristol. Although Knollys informed the Commons that the delegation had not said anything 'because they knew not the pleasure of this House', the Lords seem to have given up; two days later they approved the Commons' bill without alteration.

The 1584-5 continuance act also ensured that its predecessor of 1572 remained in force; both were continued by the expiring laws continuance act of 1586-7. This measure had a smooth passage through both houses although as usual changes were made: provisos were added in the Commons on both the second and third readings, the Lords made some amendments and a conference was necessary. Of interest with regards to the statute is a preliminary list of acts 'Continued the last parliament and now determined whether to be continued further.' It lists all eighteen statutes which were continued by the act until the end of the next parliament; fifteen had been continued by the 1584-5 act and three were probationers from 1584-5 (continuance, jurors and Westminster). In addition the 1586-7 statute made perpetual three acts which were only continued until the next parliament in 1584-5: those of 1563 concerning perjury and highways (itself reviving an act of Mary’s reign) and that of 1571 concerning conveyances.

Those drafting the 1586-7 continuance act felt it was necessary to attach a proviso confirming that those provisions of the 1563 navy act currently in force remained so. A major addition was the proviso allowing defendants to use attorneys in the first process before the Westminster courts; the preamble asserted that those living ‘in the remote partes’ of the country had

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14 D’Ewes, p. 371; TCD, MS 1045, f. 91v; LJ, II, 98, 100, 103.
15 D’Ewes, pp. 372, 372-3; LJ, II, 103, 106. An unendorsed paper bill survives which must be the bill read in the Lords on 20 March. It is a clean copy of the statute with one exception, an additional phrase retaining the Henrician provisions for those living within twenty-five miles of the coast, HLRO, MP, Suppl. 1575-1601, ff. 71-6. The statute is HLRO, 27 Eliz. OA 11; SR, IV, 718-19.
16 D’Ewes, pp. 412, 416, 417, 418; LJ, II, 139, 141.
17 PRO, SP 12/194/64. The paper has ‘x’s against all but four of the acts: those concerning vagabonds (1572), poor relief (1576), jurors (1584-5) and the navy (1563), and that of 1584-5 for Westminster is marked by a floret, but the meaning of the markings is not clear. There are minor marginal notes to the 1571 usury act and the 1572 continuance act.
been ‘maliciouslye’ troubled by suits and forced to attend in person and put up bail ‘to their great troble and undoinges’. The original act reveals that it was to this proviso the Lords’ amendments pertained; they wanted the Common Pleas included as well as Queen’s Bench and the Exchequer.¹⁸

As noted in our discussion of initiatives, the Privy Council asked a select committee of legal men to consider the laws in force prior to the 1589 parliament, perhaps itself an initiative of Egerton’s given that it was his motion which set up a similar committee of MPs before the Christmas recess in 1584–5. It might have been expected that the committee of lawyers would have recommended changes causing the continuance act of 1589 to look very different from its predecessors, but this is not the case. The act of 1589 is a virtual copy of the 1586–7 continuance act with one major change: the Lords added a proviso specifying that the 1586–7 proviso for defendants pertained only to English natives and denizens.¹⁹

Of course, the addition required a joint conference; in the Commons the bill had suffered the usual amendments and additions on the second reading but some suggested additions on the third were disallowed.²⁰ Two points about the passage of the bill need comment. First, D’Ewes identifies the man who offered the bill to the Commons in the first place: Francis Cradock, a Middle Temple lawyer sitting for Stafford. His cannot have been a private initiative and his playing such an official role may have come out of his legal work for the Privy Council in 1588. On the other hand, perhaps he was simply the committee member appointed to report back since a diarist notes that a motion for the continuance of statutes had been made on 17 February.²¹ In any case there was some delay after he offered the bill on 25 February; it immediately had a first reading but the second did not occur until 20 March. Secondly, the Lords seem to have been angry enough at the slow passage of the husbandry and tillage bill in the Commons that they sent down a message on 27 March informing the lower house that they were suspending work on the continuance bill until they learnt something of the proceedings in the tillage bill. This could be taken to be a major constitutional issue except for one fact: the continuance bill included the 1563 tillage act and so the Lords may have been simply waiting to see how the new initiative fared and what its provisions would be. In the end, although the 1589 tillage bill became law, it was decided to keep the 1563 act in force.

As in 1589, the expiring laws continuance act of 1593 did not continue its immediate predecessor but it did those of 1572 and 1584–5. In addition

¹⁸ HLRO, 29 Eliz. OA 5; SR, IV, 769–70.
¹⁹ HLRO, 31 Eliz. OA 10; SR, IV, 808–9.
²¹ HPT, I, 667; BL, Lans. MS 55, f. 185.
to the eighteen statutes present in the 1589 act, that of 1593 continued statutes of 1576 concerning highways in Oxford, of 1584–5 for malt (reviving an Edwardian statute) and Norfolk seabanks, and three of 1589 for beer vessels, Dover Haven (reviving an act of 1581) and Lincoln. This much was to be expected, but the statute of 1593 carried no less than thirteen additional provisos amending and clarifying earlier statutes. It was to be the most substantial number of revisions to the law offered by any Elizabethan continuance act.22

Although the parliament began on 19 February, no attempt was made to initiate proceedings until 12 March. ‘Master Sands’, almost certainly the Middle Temple lawyer Miles Sandys, clerk of the crown, attorney in the Queen’s Bench and a member of the 1584–5 committee, moved that a committee be established to consider those laws concerning rogues and poor relief currently in force. Over sixty MPs were nominated and they were also given the task of dealing with the continuance act. In an extraordinary move, and one which they repeated over the subsidy, the Lords asked for a conference over the continuance of statutes on the 13th; sixteen peers were to meet with the Commons’ committee members two days later.23 Bacon reported to the Commons on 19 March that the conference had identified some twenty-six statutes which should be continued and ‘so entring into the particularities thereof, in sundry degrees, whereof some were doubtful and some disputable’ they had resolved to meet again. Bacon’s report is recorded fully by the anonymous diarist.

Among the proposed changes was the view of a nobleman ‘best acquainted with Sea causes’ that the Henrician statute concerning cables should be amended to allow all maritime towns to manufacture cables and ropes; this suggestion was not incorporated. The 1563 tillage act ‘was thought an obscure and doubtfull statut and not much needfull’; its provision that all land under tillage for at least four years since 20 Henry VIII should be so maintained forever was repealed by the 1593 continuance act. Another act of 1563, for the navy, had provided for the sowing of flax and hemp, which the conference felt should be limited to those counties ‘that are fittest’; in the end all such provisions, and an act of 24 Henry VIII on hemp which had been revived, were repealed. Unsuccessful were the bids to amend the purveyance act of 1571 which had prohibited the activity of purveyors of the royal household within five miles of the universities, and the Elizabethan act prohibiting the export of casks because ‘it was thought we cary away much more caske then we bringe in, to be prohibited’.

22 HLRO, 35 Eliz. OA 7; SR, IV, 854–6.
23 D’Ewes, p. 499.
However, in line with Sandys' original motion, much of the conference’s time was spent discussing poor relief. The penalties of the 1572 and 1576 poor acts had been severe: vagabonds were to be punished by imprisonment, mutilation and death. As Bacon’s report reveals, the conference was responsible for their repeal and replacement by whipping, the penalty of a statute of 22 Henry VIII. To reinforce the positive aspects of the 1576 act, a proviso confirmed that subjects could make grants for the relief of the poor. Bacon noted that the committee felt that another part of that statute, concerning bastardy, seemed ‘rather to cherish the vice then of use’ but they had postponed making a decision about it. It was to prove a highly contentious issue.

Bacon also reported that the Lords’ list of acts included two private measures which were not in the Commons’ ‘Register’, and it was decided to add them. These concerned the pier and cobb at Lyme Regis, an act of 1584–5, which a separate proviso ensured would now come up for renewal after ten years (and thus in James’ first parliament), and the act of 1589 for Lincoln which was continued, as was usual, until the end of the next parliament. Finally, some changes to the 1563 importing of wares act were desired and, although a motion ‘for all men to transport corne’ was disliked, provisos were added to the continuance act which allowed the export of wheat when prices fell below 20s. a quarter (13s. 4d. for rye, peas and beans and 12s. for barley or malt) and assigned 2s./quarter customs duty for wheat and 16d. for other grains.24

These detailed changes and amendments, some of which had not been resolved, necessitated another meeting of the conference on 22 March and the bill finally appeared to receive two readings on the 28th. It was then recommitted with additional appointments made to the committee; Wroth was entrusted with the bill.25 Among the new nominees were all the burgesses of the Cinque Ports and it was their legal counsellor, Canterbury’s Henry Finch, who reported the committee’s work on the 29th. They had made many amendments, which, ‘after many long Arguments and sundry questions’ and after a division, were approved for insertion into the bill.26

The enhanced role of the Cinque Port MPs was due to the fact that a good deal of trouble had emerged over the question of Dover Haven. According to statutes of 1581 and 1589 tonnage was to be levied for another three years as payment towards the cost of the repair work. Some members felt that it was too expensive and that the work could hardly be improved so there was no need to continue the levy. Speaker Coke called

24 BL, Cotton MS Titus Fii, f. 64v.
25 D’Ewes, pp. 503, 504, 511.
a division but could not decide who won the vote and so allowed the debate to continue, although he was forced by some members to show precedents allowing debate to proceed after the question had been put. In favour of continued payment were a Sandwich burgess who pointed out that half the money collected went on salaries alone; Sir Edward Dymoke who needlessly informed the house that it was a vital harbour; and the lawyer John Hare who noted that Mildmay had wanted the collection to run for seven years whereas the house had originally determined on five. Against the levy were Henry Maynard who claimed that those due pensions had not actually been paid; one of the three Coningsbys sitting who noted that the shifting sand prevented the greatest ships from lying in the harbour; and ‘Olde Grimston’, Orford’s MP who was well into his eighties, who ‘tolde an old tale when Henry 8 bestowed his money there, the Towne of Dover 80 of them ioyning, had a shipp amongst them but could never agree about setting her forth, so there the shipp lay at sea and never went voyage’. The main point of which seems to have been that Dover’s officials could not be trusted to get the job done.

In the end the vote was again put, the voices were still indiscernible and a division was called. Two questions were put: should the statute of 1589 be continued ‘after the end of the 3 yeares untill the end of the next parliament or not’ and whether west coast ships (except those using Dover) should be exempted from payment during the three years the act had still to run ‘or onely after those three years ended’. The house voted in favour of continuation and for the exemption after 8 May 1596, and so reads the original act. A separate proviso, continuing the acts of 1581 and 1589 from the end of the parliament for seven years and then until the end of the next parliament, was dropped, instead, a sentence confirms that the original limitation date remained in force and then until the end of the next parliament.

This was not the end of contentious issues. The same list of questions concerning Dover Haven has another, whether the act of 1584–5 which excluded curriers from the leather retailing trade should be continued; the house voted against and the act was erased from the paper bill. Some members objected to the continuation of Lyme Regis’ act (the diarist at this point reveals his antiquarian interests, explaining that it was called the ‘Cobb’ because it was build by an ancestor of Lord Cobham’s) but it got

27 BL, Cotton MS Titus Fii, ff. 78–9v. The possible deletion of the provision for Dover Haven was noted by the clerk listing the proposed amendments, followed by a lengthy list of changes should the house decide to let the proviso stand, HLRO, MP 1593, f. 36–36v. The questions put, and the result, is noted on f. 37.

28 HLRO, MP 1593, ff. 49–50; SR, IV, 855.

29 HLRO, MP 1593, ff. 37, 41–2.
through. An examination of the paper bill reveals that another proviso, limiting the punishment of innholders selling meat on fish days, was also rejected.30

An even greater problem arose over a proviso giving greater authority to JPs to enforce the 1576 poor relief act's provisions against bastardy by specifically allowing them to order offenders to be whipped. Someone felt that the statute only allowed JPs to imprison but the proviso stood and was ordered to be engrossed. Some members remained unconvinced and the next day the engrossed proviso for bastardy was again objected to because 'many thought too liberall to leave it to the discretion of a Justice of peace to have power to whipp one that should offend that law'. MPs such as Unoton were concerned that such a 'slavish' punishment would be inflicted on gentlemen, and others feared the 'malice' of JPs who 'uppon ill will might give this correction to one not offending if he were accused by a whore'. The diarist seems to have agreed, in noting that 'many good reasons were yeelded to enforce the punishment by whipping', those reasons were answered 'as was easy to doe'. After much debate, Speaker Coke offered a compromise which he drew up on the spot but which seems to have been the judges' belief as expressed by Sergeant Harris: those parents willing to maintain the child and not leave it to the care and expense of the parish should be exempt from whipping.31 However, Coke's proviso was also disliked and the opponents of whipping now wanted a specific clause added to the statute removing whipping altogether. Others now wanted no change at all and the diarist remarked that Wroth 'shewed good cunning to reduce it to this otherwise I feare the act would have passed shamefully'. Not surprisingly, he notes, 'Much a doe was made how a question should be made of this' and in the end Coke offered two: whether the new proviso should be removed and whether a proviso of explanation should be added. The vote was in favour of removal and, by twenty-eight votes, against the addition. Nor did that end the matter because those in favour of the new proviso argued that a new question could not be put since it had already been put, and agreed upon, the previous day. This tactic was unsuccessful. Coke ruled that this was now being put for the question of passage and on this question it could be rejected 'for the former question was for allowance only to have it added and not passed'.32 The lengthy proviso, which had been carefully amended, was struck out of the paper bill.33

The 1593 continuance bill which passed the Commons on 31 March

30 Ibid., f. 49.
31 Coke's amendment is noted in ibid., f. 53v.
32 BL, Cotton MS Titus Fii, ff. 79v-79v, 80v-1v; D'Ewes, pp. 512, 513.
33 HLRO, MP 1593, ff. 36, 48.
thus did not carry any addition concerning the bastardy statute of 1576. It did, however, have a few others not already noted. The penalties for eating meat on fish days, an offence under the navy act of 1563, were reduced. Those living within five miles of Oxford owning land with less than one yard's frontage were exempt from contributing to highway and bridge repair under the 1576 act; those holding more were to pay 4d. per yard. The 1584–5 act for white cloths made in Wiltshire and other counties was made perpetual. The Commons also added a proviso protecting those holding licences for the export of corn from the additions they had made to the act of 1563. In the Lords the bill had two readings on 2 April but a conference was needed to discuss some minor amendments and the addition of a proviso affirming the Queen's power to prohibit the export of corn through proclamation. Thus amended, the bill was approved by the Commons and the most complicated passage of any Elizabethan continuance act was over.\[34\]

Although the continuance act of 1597–8 lacked the controversy which dogged its predecessor's passage, it nevertheless made some important changes to the law. Three acts which came up for renewal were made perpetual: those for usury (1571), issues of jurors, and fraudulent conveyances (both 1584–5). Four laws made in 1593, those concerning allegiance, soldiers, Devon kerseys and clapboards, were added to the list of acts continued until the end of the next parliament. So too was an act for caps from 1571, but then one of the several provisos which followed repealed it. Another proviso was needed confirming the 1593 act's additions to the 1563 navy act and those for Dover Haven and highways in Oxford (1581 and 1576). The remaining provisos were much affected by the Lords' committee.

The act's history began with the committee set up on Hoby's motion on 11 November 1597; it had some trouble getting the busy members to meet and the bill was not brought in until 13 December, with a second reading after the Christmas recess.\[35\] It was then committed to a very large number of MPs who returned the bill on 19 January along with amendments and additions. Two days later a division had to be called over whether the bill should be committed again, a vote which decided against the committal (124 against, 91 in favour) and the bill was engrossed. It passed the Commons on the 23rd.\[36\] The bill proceeded quickly through the Lords, arriving on 23 January and passing, with amendments and a proviso, on 4 February. The Lords' changes required a joint conference and were subsequently

\[34\] D'Eye, pp. 517–18, 518, 519; LJ, II, 185, 187, 188. The Lords' amendments and proviso are in HLRO, MP 1593, f. 38; the proviso forms the last of the act, SR, IV, 856.

\[35\] D'Eye, pp. 555–6, 559, 568, 572, 580.

\[36\] Ibid., pp. 580, 583, 585, 586.
approved by the Commons. On delivering the Lords’ request for a joint conference, the legal assistants noted that ‘their lordships do wish good success’ to the bill. Certainly the legal officers and the judges considered it thoroughly.

The resulting changes are evident on the original act which has a paper sheet of amendments and a parchment proviso attached. The amendments concerned the 1563 import of wares act; the Commons seem to have wanted an unusual continuance, the Lords reduced it to the normal ‘until the end of the next Parliament’, an erasure testimony to the change. However, something else may have been going on since the Lords’ replacement phrase simply did what had already been provided for in the act. A clue may be the letter which survives amongst Secretary Cecil’s papers from the patentee for playing cards. The author hoped for the recipient’s support ‘in a small matter that will be moved by some friends of mine’ in the committee. They were to lobby to have playing cards added to the list of prohibited goods in a 1584–5 act against importing certain wares. Since he must be referring to the 1584–5 continuance act, which continued the imports act of 1563, it seems possible that his friends would have succeeded but for the Lords.

With regards to the 1563 tillage act, it was altered so that its provisions concerning tillage were repealed, but those dealing with the maintaining of houses of husbandry remained in force, if not superseded by an act of 1597–8. Such an act was passed (c. 2), but the proviso remained. Both poor relief acts (1572, 1576) were similarly continued unless repealed or altered by an act of 1597–8, which they were. The Lords’ proviso made identical provision for the 1593 act for relief of soldiers and mariners.

It is easy to see why the Lords’ amendments, though substantial, were easily agreed to by the Commons, especially given the delay in 1593. They were sensible precautions given the complex passage of the social and economic legislation of the 1597–8 parliament. If the Lords did remove a clause benefiting the patentee for playing cards, this might have been in response to the agitation over monopolies. In 1601, the Lords made no changes and no conference was required, a rare event in the history of these acts. By

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37 *LJ*, II, 220, 221, 223; Inner Temple, Petyt MS 537, vol. 6, pp. 296, 298, 304 (Sainty, pp. 10, 11, 17); D’Ewes, pp. 592, 593, 594. The Lords’ clerk apparently noted ‘expedita’ when it arrived there, but this seems to be a mistake in Bowyer’s transcription.
38 *Salis. MSS*, VIII, 34; Hatf. MS 49/18; SR, IV, 918; HLRO, 39 Eliz. OA 18. One still wonders why the entire clause was not removed. The act had been continued in every continuance act since 1571; that of 1571 added an exemption concerning treaties, but it was repealed in the continuance act of 1572, SR, IV, 561, 602.
39 HLRO, 39 Eliz. OA 18; SR, IV, 917–18.
40 *LJ*, II, 253, 254, 255.
contrast, its passage in the Commons was fraught with difficulty and debate.

Like the 1593 committee, that of 1601 was appointed on a motion for amendment of the statute for the relief of the poor and consideration of the continuance of statutes. The committee, appointed on 5 November on Wroth's motion, delivered a bill to the house on the 23rd. Five days later the first issue arose: whether or not the bill concerning charitable uses, which had just been read, should contain a clause repealing the 1597-8 act for charitable uses or whether the latter should be repealed in the expiring laws continuance act. The charity bill was committed to those considering that for continuance which was bolstered by the appointment of all those MPs who were members of the Queen's learned counsel, the Masters of Requests and others. They were specifically empowered to decide on the matter.41

On 7 December it was decided that the repeal of the 1597-8 charity act should be inserted in the continuance bill which had just itself had its second reading. Moore had then offered an 'Exposition of the Justices' on the 1597-8 statute on rogues which he hoped would be added. He met with an eloquent rebuttal from Bacon. Laws, he declared, had either been made 'Articuli super Chartas, when the Sword stood in the Commons' or 'Articuli Cleri, when the Clergy of the Land bare sway, and that done upon deliberation and grave advice'. He demanded whether they would allow a law 'done by Judges and privately perhaps in a Chamber' to pass without examining it. To do so, Bacon asserted befitted not the 'gravity' of the house and after 'a long Speech' he succeeded in squashing Moore's proposal.42 It is interesting to note that Bacon had already moved the house to setting a committee to work on 'Lawes, both needless, and daungerous' wishing that as a committee was always established for the continuance of laws, so one should be created for the repeal of statutes. 'The more Lawes wee make', he told them, 'the more snares wee laye, to intrapp our selves.' It was a favourite topic of his.43

Further debate took place on 9 and 10 December. The first concerned the 1563 statute of tillage which had been partly continued in the 1597-8 continuance act and for which another separate act had passed which was now due for renewal. Sergeant Harris had moved on 4 December that the bill have its continuance, apparently in response to opposite opinions: 'yf we shall Contynue, and discontynue (upon every slight motion) good

41 D'Ewes, pp. 626, 631, 650, 657; BL, Stowe MS 362, f. 76v.
42 D'Ewes, p. 670.
43 His idea was that each MP deliver information on the statutes 'hee thincketh the Fitt to bee Repealed, or which Brunche to bee superfluous', BL, Stowe MS 362, f. 81v. See Bacon's views in 1593, D'Ewes, p. 473.
Lawes, wee shalbe lyke little Children which make Babyes and beate them and then putt them Abroad agayne'. In the later debate those in favour of its repeal were the Buckinghamshire gentleman Robert Johnson and Raleigh. Johnson declared that when the act was made, at a time of dearth, 'it was not considered that the hand of God was upon us'. Now corn was cheap, a potential threat to the livelihood of the husbandman, 'the Staple man of the Kingdom'. Raleigh's points were specific: poor men could not find enough seed to plough the land as required by the statute; there was now an abundance of corn in France and the Low Countries while the Spanish would rather buy it 'of the very Barbarian' than from Englishmen. 'And therefore', he concluded, 'I think the best course is to set it at liberty, and leave every man free, which is the desire of a true English man.'

His speech drew Cecil to his feet. 'I do not dwell in the Country, I am not acquainted with the Plough; But I think that whosoever doth not maintain the Plough, destroys this Kingdom.' When the Council sent out letters for levying of troops it was the ploughmen who were returned. In all nations, except perhaps in the 'feigned Common-Wealth' of Thomas More's *Utopia*, the ploughmen were 'chiefly provided for'. To neglect them would 'not only bring a general but a particular damage to every man'. In Edward I's days a law had been made for young fish; in Henry VII's one for the eggs of wild fowl: would the house now dispense with this much more important law? Cecil reminded the house that the matter had been much debated in 1597–8 and he suggested that this law could only be repealed if the full force of the 1563 act returned. If there was a surplus it could always be exported. He ended with a vision of despair:

If we debar Tillage, we give scope to the Depopulator; And then if the poor being thrust out of their Houses go to dwell with others, straight we catch them with the Statute of Inmates; if they wander abroad, they are within the danger of the Statute of the Poor to be whipt. So by this means undo this Statute, and you indanger many thousands. *Posterior dies discipulus prioris.* If former times have made us wise to make a Law, let these latter times warn us to preserve so good a Law.

Cecil was not the only one in favour of the bill. Before he spoke Francis Bacon stated that 'it stands not with the policy of the State, that the wealth of the Kingdom should be ingrossed into a few Graziers hands'. If the Commons persisted in adding so many provisos 'You will make so great a Windowe out of the Lawe that wee shall putt the Lawe out at the Windowe.' Like Cecil, he emphasised the importance of the husbandman, 'a strong and hardy man, the good footman, which is a chief observation of good Warriers etc.'.

The last speech before the house voted came from one of the three Selbys sitting for Northumberland in this parliament, most probably the knight of the shire, William. He wanted the county exempted on the grounds that
it was close to Scotland and so hard hit by the plague, 'that not only whole Families but even whole Villages have been swept away'. The house voted in his favour and in favour of the committal of the tillage bill. But the committee had also brought a related problem to the attention of the house, a proviso for John Dormer protecting a licence to enclose 300 acres in Buckinghamshire. The gentleman appeared with his counsel and his arguments were accepted, but only after two votes and a division. Cecil, who opposed it, claimed that 'good sums of money' had been offered for its furtherance.

On the following day the house was offered 'questions upon the continuance of Statutes' but MPs called instead for the ordnance bill and the continuance was put off until the afternoon. Then the counsel and representatives of the Fishmongers' Company were heard. Nicols of the Middle Temple told the Commons that they were an ancient company with some 1,200 factors who bought fish at the coast and sold them in London. Recently some sixty had engrossed the trade, sending prices up, quality down. They could take no effective action because the statute had extinguished all their licences and grants. They advanced 'divers other Reasons' which 'for wante of light' Townshend was unable to record in his diary. Their proviso to the 1563 fishing act was twice read and committed to the committee who were empowered to add it or reject it.

The committee comprised the MPs who were members of the Queen's learned counsel, Raleigh and others and it returned the bill on 14 December. Then the amendments, additions and provisos were all read, but then those for Dover Haven had to be committed. Moore, who reported the committee's work, had noted there were two for the haven and that the committee approved the former. So did Cecil who spoke eloquently in its favour: 'yf ever there was a Tyme to looke to the Portes and havens it is nowe. Yf you Remember what place is ex opposito to Dover, what neighbors wee have, and howe greatlye that haven doth stand us in stead, I Beleive you would bee more willinge to add then take any thinge awaye from the Maintenance thereof.' Finally the third reading took place on the following day and the bill passed, but not before Cecil had the satisfaction of seeing Dormer's proviso dropped on a vote of 146 to 111. Townshend implies, and perhaps this is what was done on every third reading of these acts, that each measure was called out and voted on.

45 D'Ewes, pp. 675–6; BL, Harl. MS 75, ff. 270v–2v.
47 D'Ewes, p. 684; BL, Stowe MS 362, f. 244–244v (Townshend, Hist. Coll., p. 323).
48 D'Ewes, p. 686.
The 1601 continuance act is unique in that some amendments to statutes continued are actually noted when they are listed rather than as separate provisos. Thus the 1571 act for leases of benefices was amended and, in listing the 1576 poor act, the statute highlights the provisions concerning bastards. This list also notes the 1593 clause concerning the 1581 Dover act. Of course new acts make their appearance for the first time: those of 1597–8 concerning husbandry, accountants, navigation, labourers, wool cards, pretend soldiers and rogues. All were continued until the next session of the next parliament.

Among the additions are a continuation of the proviso for John Dutton in the 1597–8 vagabonds act for only one year unless his licence for minstrels was approved before Chancery within that time whereby it would have the same continuance as the rest of the act. Another proviso showed that the Commons had learnt from the judges in 1597–8: earlier acts for poor relief and wandering soldiers were to remain in force until the next parliament unless new provisions were made in this one. The 1597–8 charitable uses act was repealed, though the commissioners' rulings were confirmed; Northumberland was exempted from the 1597–8 tillage act; the provisions against the Fishmongers' ordinances in the 1597–8 navigation act (replacing that of 1581) were repealed, but only if they did not restrain others from buying or selling salted fish or herring. A final proviso granted some exemptions to those liable for duty for the repair of Dover Haven. The original act also shows Dormer's proviso clearly struck out.50

In several ways the expiring laws continuance acts mirror the functioning of parliament as a whole. Its procedure was like those of most measures and its origin was mixed. Both government and unofficial bills needed continuation and so the full range of initiatives could be brought to bear on the continuance acts. Lords, Commons and, through her officials, the Queen determined their content and the varied initiatives are reflected in their enacting clauses. Those of 1584–5, 1586–7 and 1597–8 carry long clauses, the rest short, a very different picture from the earlier continuance acts which all carried long clauses.51

These varying enacting clauses in the later statutes can only partially be explained by any peculiarity in their passage. Given that MPs proposed a large number of revisions to the 1584–5 bill, a long clause might be said to reflect those initiatives, but then they did so in 1601 when the act carries a short clause. One might be tempted to see the committee of lawyers set

50 HLRO, 43 Eliz. OA 9; SR, IV, 973–4.
up to revise the law before the 1589 parliament as causing that act to have a short clause, indicative of official initiative, and such an argument could be put forward for 1601 when Wroth implied in his motion for the committee that some amendments were desired to the existing poor law. Some historians might argue that the short clause of 1593 reflects the unique intervention of the Lords while the bill was still in its early stages in the Commons. But this accepts too easily the view that the Lords were a rubber stamp for officialdom and in any case they also revised the 1597–8 act which carries a long clause, although admittedly they did so only after the bill arrived for their approval. Moreover, whatever the role of the Lords, we have seen just how detailed and extensive were the initiatives of MPs in the shaping of that statute.

Nor can the acts themselves explain it: both types repealed laws (for example in 1597–8 and 1601) and made them perpetual (1593 and 1597–8). One simple explanation would be that the clerk simply got it wrong and that from 1589 these acts were supposed to carry the short clause, indicative at least of official drafting at the earliest stages. If so, this would follow on from the shift in origin from the Lords to the Commons which began in 1584–5 and might have been an indirect result of that legal committee set up before the 1589 parliament.

Another curiosity may also have its origins there, a bill ‘for the Repeal of certain Statutes’ which passed both houses and yet was vetoed by the Queen. This bill repealed statutes concerning grain, caps, flax and hemp, breeding horses, clogs and records. Later continuance acts did indeed repeal some of these (flax and hemp in 1593 and caps in 1597–8), but why this bill was needed and what its relationship was with the continuance act is uncertain. The bill was initiated some twelve days before the continuance act and it was in the Lords before the continuance act emerged from the committee appointed on the second reading.52

The history of the expiring laws continuance acts reveals that the passage of apparently straightforward measures could become highly complicated. Many bills which were continued, or clauses therein, had provoked debate and opposition when originally passed. The expiring laws continuance act not only reopened old wounds, but they provided the opportunity for further adjustment or amendment. As we have seen in several cases, sometimes the opponents of a measure were forced to secure a time-limitation clause as a last resort; to fight the next battle in the committee for the

52 BL, Lans. MS 55, f. 184v; D'Ewes, pp. 436–7, 439, 442, 445, 447, 450; LJ, II, 163, 165. Cromwell and the lawyer Richard Grafton were much involved in its drafting. When Sergeant Harris brought it back to the Commons on 18 March after the committee had met, he did so ‘without any report'.
Law-making and society in late Elizabethan England

continuance bill was cheaper than promoting an entire bill of repeal.\textsuperscript{53} But such cases seem to have been few. Laws were made probationary because this provided a straightforward means of reform. As More told the Commons in 1601 while speaking to a bill for setting night watches, 'it is good to have Tryall of Lawes, before wee make them perpetuall . . . it were good to Lymitt the Contynuance of this Lawe, and that the defectes therein might bee examined'.\textsuperscript{54}

\textsuperscript{53} Cases in point seem to be the 1584–5 acts concerning fish and leather which were allowed to lapse in 1593, the first probably on the instigation of Yarmouth and southern fishing ports and the second because of the opposition of the Curriers' Company of London. Nor was the 1593 London building act or that of 1597–8 concerning malt continued when they came up for renewal in 1601.

\textsuperscript{54} BL, Stowe MS 362, ff. 80v–1.
A new reign always provided even greater opportunities for lobbying. The change of monarch brought new hope to those who had previously failed to realise their legislative objectives while winners worried that they could now lose their advantage. The accession of James VI of Scotland to the English throne in 1603 was no exception. Indeed, the tyranny of Elizabeth's old age may have heightened expectations of change and James certainly encouraged petitions on his progress to London. Although the legislative history of the Jacobean parliaments is another story, the history of many later Elizabethan bills was concluded in James' first parliament which sat in five sessions between March 1604 and December 1610.¹

The Painters' Company of London were a lobby who had failed to obtain legislative protection against plasterers in 1597–8 and 1601 but succeeded in 1604. Although the Lords had rejected their last Elizabethan attempt on its third reading, a virtually identical measure was approved in the new King's first session despite expensive lobbying by the Plasterers.² Two further acts of 1604 must have been of considerable interest to London companies. Curriers, butchers, cordwainers and others involved in leather manufacture vied for influence on the comprehensive Jacobean statute demarcating and regulating their work. It repealed, but then re-enacted much of, the 1563 act which had caused so much controversy in Elizabeth's reign. Thames watermen had sought a bill in 1601; a 1604 act insisted that they serve proper apprenticeships and that the company's orders were read openly in hall twice a year.³

MPs of 1597–8, 1601 and 1604 were confronted with bills trying to protect consumers against corrupted spices and other garbleable goods.

¹ The history of the bills and acts of James' first parliament is presently under investigation by Kurt Fryklund.
² 1 Jac. I c. 20; SR, IV, 1037–8, cf. HLRO, Parch. Coll. Box 1E, no. 3262 (Bond, Lords MSS, p. 67); GL, MS 6122/1, 3 February 1603, 6 July 1604. See also W.A.D. Englefield, The History of the Painter-Stainers Company of London (London, 1923), pp. 74–6.
³ 1 Jac. I cc. 16, 22; SR, IV, 1034, 1039–48.
Again the 1601 bill, then vetoed by the Queen, was renewed in 1604 and passed the new King's scrutiny. Perhaps significantly the jurisdiction of the garbler was restricted to London and its liberties (whereas the 1601 bill had read 'London or elsewhere'), powers of search and seizure were more firmly located in the garblers' hands, and the earlier penalty for false garbling was dropped. Someone also secured the omission of rhubarb, frankincense and mastic, and bayberries seem to have been replaced by barberries.4

The MPs of 1604 and 1606 wrestled with the vexed questions of alehouses and drunkenness, choosing solutions that had not been entirely unknown to their predecessors in 1601. Kerseys, woollen cloths and pawn-brokers were also the subject of statutes in the first Jacobean parliament. The law against bankrupts, considered by the Commons in 1601, was comprehensively legislated for three years later. Orders made in the Exchequer were also confirmed by an act in this session while some provision restricting the number of attorneys and solicitors was made in 1606.5

More closely associated were the 1601 bill for hats and the almost identical act which passed in 1604. Needed because the 1566 act was ineffectual (it did not reward informers with a share of the penalties imposed) the act carried provisions against aliens and protecting feltmakers which had been absent from the 1601 bill. On the other hand, the act omitted the 1601 provision allowing those working in the industry for ten years to continue although they could not have apprentices.6

MPs and peers in 1604 and 1606 were more successful in legislating against hunting deer and coneys than those in later Elizabethan parliaments. An act of 1606 followed closely the provisions of the failed bill of 1601. However, as well as other differences, the act widened the list of authorities charged with enforcing its provisions and added various implements to the list of hunting equipment. It also omitted the bill's proviso that anyone refusing to co-operate with the authorities would suffer as much as the principal offenders as well as a second which protected owners who killed offenders. Curiously, the body of the act omitted hunting during the night in its main enactment but later referred to hunting during both day and night; the Lords added a provision limiting it to the night-time, as the MPs of 1601 had also intended. Not surprisingly, this led deer poachers to shift their activities to the day-time and so in 1610 an act repealed the proviso so far as hunting deer was concerned. It also provided an easier means whereby victims could secure compensation; they

4 1 Jac. I c. 20; SR, IV, 1036-7, cf. HLRO, Parch. Coll. Box 1E, no. 3261 (Bond, Lords MSS, pp. 65-6).
5 1 Jac. I cc. 9, 15, 21, 26; 3 Jac. I c. 7, 16; 4 Jac. I cc. 2, 5; 7 Jac. I c. 10; SR, IV, 1026-7, 1031-4, 1038-9, 1052-5, 1083-4, 1091, 1137-40, 1142-3, 1167.
were now to be offered a choice between £10 or waiting for treble damages to be assessed.\(^7\)

Similarly, a bill protecting pheasants and partridges was attempted in 1601 and was successful in 1604. The act was a more comprehensive measure but both took as their starting point the need to imprison offenders because they were usually 'the vulgar sorte and men of small worthe' unable to pay the fines imposed by earlier acts. The bill would have imposed fines and six months' imprisonment for killing pheasants and partridges at night or stealing their eggs. It limited those able to keep hounds, nets and other hunting equipment and required victuallers to certify the names and residence of sellers to the JP. The act reduced the level of fines and terms of imprisonment, but increased the sureties required for release. It also allowed more people to keep greyhounds and dropped the unrealistic duties placed on purchasers while imposing fines on sellers. A proviso protected licensed hawkers.\(^8\) Further improvements were made in 1610, a session which saw the vetoed 1597–8 and 1601 bill on shopbooks enacted, after some rewording.\(^9\)

Some specific legislative histories went beyond 1601 and 1597–8. A 1589 bill against the 'false-packing' of hops had been rejected by the Commons but in 1604 another attempt was successful. Anyone caught importing hops whose weight had been boosted by the addition of leaves, sand, straw or other materials would forfeit them and brewers caught using such hops would forfeit their value. The aims of a failed 1586–7 Commons’ bill providing against delays in actions of debt may have been realised by an act of 1606 which claimed writs of error in debt actions had been more troublesome in recent years.\(^10\) The problem of pluralities of benefices, focusing on the dispensing clause of the Henrician act, was the subject of a Jacobean bill as it had been in 1584–5, 1589 and 1601. Papers of arguments against the Elizabethan bills were reused.\(^11\)

Of course, even the short passage of time between the passing of statutes in 1597–8 or 1601 and the next parliament of 1604 gave justices a chance to see how the new laws worked in practice. Many were confused, for example, over who came under a clause in the 1597–8 vagabonds act which sought to punish beggars using 'subtle crafts' such as palmistry and fortune telling, minstrelling or unlicensed acting to earn a living. A new act of 1604 prohibited noblemen from discharging such persons. It also repealed the

\(^7\) 3 Jac. I c. 13; 7 Jac. I c. 13; SR, IV, 1088–9, 1169–70, cf. PRO SP 12/282/51.
\(^9\) 7 Jac. I c. 11, 12; SR, IV, 1167–9; HLRO, Parch. Coll. Box 1D, no. 3247, Box 1E, no. 3258 (Bond, Lords MSS, pp. 51–2, 63).
\(^10\) 1 Jac. I c. 18; 3 Jac. I c. 8; SR, IV, 1036, 1084.
provision which allowed men to trade in glasses and gave further strength to the JPs' powers of banishment by ordering them to brand all rogues so treated with an 'R' on the left shoulder so that they could be recognised. It attempted to give greater force to the earlier act by widening the responsibility to apprehend rogues and bring them before the constable.\textsuperscript{12}

One individual who must have felt his chances of restitution were better under James than the Queen against whom his father had plotted was William, son of Thomas, Lord Page, attainted in the first act of the 1586–7 parliament.\textsuperscript{13} Of course, as with public acts, private acts could also need amendment. In 1604 an act was needed to make good some of the provisions of the 1601 statute for the Nevilles and another was passed in 1610.\textsuperscript{14}

As expected, certain later Elizabethan statutes needed consideration in 1604 because they had carried a time-limitation clause. These included poor relief (43 Eliz. c. 2), soldiers and mariners (c. 3), perjury (c. 5), trifling costs in law (c. 6) and woollen cloths (c. 10) which were all continued until the end of the first session of the next parliament. That for poor relief was amended: those who were given the custody of children by the overseers of the poor could now take them on as apprentices. The rogues act of 1597–8 had a proviso added protecting John Dutton's licence for keeping minstrels in Chester, one which he secured also in the act of explanation passed in this parliament. Clearly he had passed the test imposed in the continuance act of 1601.\textsuperscript{15}

It was also decided to drop the 1597–8 act making the lands of accountants liable for the payment of their debts to the crown; MPs and peers preferred to revive the earlier act on the matter passed in 1584–5. Lyme Regis secured a continuance of its 1584–5 act for ten years and then until the end of the next session of the next parliament; they thus enjoyed its benefits for much longer than they could have hoped for in 1604. They also ensured that their merchants escaped contributions to the upkeep of Dover Haven.\textsuperscript{16}

Sir George More had been appointed to committees dealing with spices, hats, poor relief and the Neville lands in 1601 and found himself faced with these matters again in 1604. Sir Robert Wroth, Sir Edward Montague, Sir Henry Montague and many others were MPs active in both later Elizab-

\textsuperscript{12} 1 Jac. I c. 7; SR, IV, 1024–5. Another statute strengthened provisions for houses of correction, paying special attention to unmarried mothers and people who deserted their families, 7 Jac. I c. 4; SR, IV, 1159–61.
\textsuperscript{13} HLRO, 1 Jac. I OA 40.
\textsuperscript{14} HLRO, 1 Jac. I, OA 68, 7 Jac. I OA 41.
\textsuperscript{15} See SR, IV, 973–4.
\textsuperscript{16} 1 Jac. I, cc. 25, 32; SR, IV, 1050–2, 1062.
ethan and early Jacobean parliaments. Their experiences remind us that there was more continuity between these parliaments than the accession of a new monarch might suggest.  

Some issues troubled parliamentarians session after session, reign after reign. MPs in 1624 were confronted by a bill reviving and making perpetual the 1597-8 hospitals act and like their later Elizabethan predecessors discussed measures concerning drunkenness, swearing, alehouses, law suits, woollen cloth, bankrupts, butter and cheese and Colchester Haven. Likewise those of 1640 dealt with mariners, Michaelmas term and weights and measures. Indeed, the Curriers were still initiating bills allowing them to buy and sell leather, and the Cordwainers were still lobbying hard against them, in the 1730s. Only by studying such activities over a longer period can these measures be properly understood and only when their enforcement is examined can their effectiveness, and even their relevance, be determined. It is hoped that this book will be a useful contribution to that larger project.

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18 GL, MS 7360, 7361.

Conclusion

On six occasions during the last nineteen years of Elizabeth's reign several hundred members of the governing class met for a total of over fifty-six weeks at Westminster. A few had taken great pains to obtain the right to attend, and many travelled considerable distances to be there. They came to play a significant constitutional role. As knights, burgesses and citizens, as peers, bishops and judges, they assumed a duty to give counsel to their sovereign in parliament. Advising the government and discussing problems with each other, their actions would lead to the making of laws which would affect almost every aspect of the life of the nation. For some this was a God-given duty, for others one which rested more on their experiences as magistrates; they came determined to serve their localities and communities well. All were aware that others had undertaken such a role before them, and many were conscious of parliament's important place in establishing the laws and customs within which they lived their lives.

It might seem odd to think that not so very long ago historians were convinced that a sizeable minority of these men came hoping to wreck the established church, to overthrow the ecclesiastical hierarchy and replace it with a new church based on a reformed prayer book. To these religious grievances were grafted economic ones involving abuses of the royal prerogative, such as excessive purveyance or the issuing of patents of monopoly to courtiers. It was not difficult to conclude that Elizabeth's parliaments were dominated by conflict and opposition between the crown and the Commons, a conflict in which the Lords played little part, and then only as an ally to the royal will.

After all, this binary paradigm fitted in well with others which historians had devised as a way of understanding and describing England in the half-century before the civil war: Court versus Country, prerogative law versus common law, centre versus locality, absolutism versus liberty. It also fitted neatly into the wider European context where constitutional struggles between princes and parliaments, absolutist monarchs and representative assemblies were a regular feature of the political landscape. There seemed
little doubt, therefore, that the significance of parliaments in Elizabethan history, and of Elizabethan assemblies in English parliamentary history, was their contribution to the struggle which eventually led to the formation of modern British constitutional monarchy.

This perspective, most identified with the work of Sir John Neale but rooted firmly in the earlier writings of A.F. Pollard and Wallace Notestein, was subject to severe and sometimes aggressive revisionism in the 1970s and 1980s. In a seminal 1976 article Conrad Russell lay the foundations of early Stuart revisionism with its insistence on the absence of constitutional conflict, the importance of patron–client relations and on the wider context of parliamentary assemblies, to be viewed more properly as 'events' rather than irregular meetings of a developing institution. Much revisionism in Tudor parliamentary history followed these lines. Jennifer Loach concluded that co-operation, not conflict, was typical of Mary’s parliaments; Michael Graves recovered the political and institutional role of the mid-Tudor House of Lords; and Norman Jones demonstrated that the puritan opposition played little role in the formation of religious policy at the beginning of Elizabeth’s reign. Thomas Norton can no longer be viewed as a leader of an organised puritan opposition and a similar fate has fallen to Robert Wroth. Any lingering doubts over the Commons’ use of taxation as a lever to redress grievances seem to have been removed. Above all, in re-examining the archives of parliament and by contributing an exhaustive study of the bills and acts with which early Elizabethan parliaments were concerned, Elton shifted the emphasis from parliament’s political role to its legislative functions. Indeed, he reached the conclusion that parliament played little part in the major political issues of the day, let alone served as a central focus for opposition to the Crown.

The new revisionism, however, has not been left unchallenged. Patrick

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1 Introduction, nn. 1 and 2.
Collinson has recovered and recontextualised Thomas Norton’s radicalism and the role of ‘froward’ protestants in the parliamentary history of the reign. Terry Hartley has reclaimed some ground for the earlier interpretations, most notably over Peter Wentworth and monopolies. The pages of *Past and Present* were the scene of an early reaction to early Stuart revisionism and a new generation of scholars has resisted several key elements to the revisionist’s world of deference, agreement and consensus. Nor, let it be said, have the revisionists ever formed a school of thought. Considerable disagreement exists over, for example, the nature and extent of conciliar management, the power of client-patron relations and, indeed, over the nature of parliament itself. When one leading revisionist reviews a book of another under the title ‘The prisoner of his documents?’, only the incautious would maintain that a unified revisionist party has seized the agenda of early modern English parliamentary history.

It is not difficult to locate a study of later Elizabethan legislative initiatives in this ongoing historiographical debate. By its very nature it is a revisionist work along the lines drawn by Elton, Graves, Jones and others. It focuses on the day to day activities of parliamentarians, on the vast range of bills and acts they drafted and debated, and in doing so emphasises their role as legislators and counsellors rather than as constitutional opponents. Nevertheless, it should be clear that this does not inevitably lead to the conclusion that there was no politics in parliament or that parliament had no political role to play. There is no doubt that these parliaments, called during the supreme crisis of the Elizabethan regime, did discuss and debate matters which can only be described as ‘political’ – the Queen’s safety, the succession, the royal prerogative and religious reform.

There was certainly a number of men – a small number – in these years who attended parliament in the hope of radically reforming the church. Those who supported the ‘bill and book’ in 1584–5 and 1586–7 were determined on overthrowing the essentials of the established church. In this they found few friends, although probably a good deal of sympathy, even among some privy councillors. However, over other issues, such as church attendance, pluralities and especially Jesuits and recusants, they found themselves in the company of the majority. In pursuing their more radical alternatives, this puritan minority were engaged not only in a struggle with their Queen but with a group of councillors who, after the deaths of Leicester, Wal-

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singham and Mildmay, were much less sympathetic to their cause. Moreover, they were opposed by an Archbishop who was not only dogged in his own opposition to their desires in the Lords, but had the support of an active number of MPs in the Commons. There was most certainly an organised puritan opposition in the later Elizabethan parliaments, but it was small and its legislative programme doomed to failure.

Such was also the case of those insisting that parliament had a role to play in determining the succession. Later Elizabethans were worried, indeed terrified, at the prospect of a Catholic succession. The parliament of 1586–7 chiefly focused on the fate of Mary, Queen of Scots. Although it was occasioned by the failure of Elizabeth’s councillors to secure Mary’s demise through persuasion at Court and the Council chamber, the fact that they turned to parliament for assistance is significant. Moreover, parliament was seen by Lord Burghley, for one, as essential to maintaining security in the event Elizabeth was assassinated or suddenly died. It alone could determine who should succeed her; it alone could justify and judge the actions of an interim government. All of this had important implications for the meeting of parliament in 1584–5 when much time was spent discussing and determining the means of saving the nation in just such an event. Moreover, the Elizabethan succession crisis loomed in the background of all the parliaments in the 1590s if more explicitly in the meetings organised by Peter Wentworth before the 1593 parliament than in 1597–8 and 1601.

This last parliament, however, met in the shadow of the rebellion of a popular favourite. If opposition to the regnum Cecilianum was not explicit in the meetings of the last two parliaments, it certainly must have clouded the minds of many who were present. Cecil’s famous comment that MPs had been acting like schoolboys may well be testimony to the developing hostility which exploded in the virulent attacks circulated after his death eleven years later. If parliamentary complaints about wardship implied criticism of Lord Burghley (as Master of the Court of Wards), some MPs, and perhaps even fellow councillors, may have seen the agitation over monopolies as an opportunity to undermine the apparent inevitability of his son’s assumption of the reins of power. Nevertheless, whatever manifestations conciliar faction may have had in shaping the attitudes of individuals, it did not have a marked effect on proceedings or come even close to procuring an addled parliament.

The question is, then, not whether parliament had a part to play in the political history of the nation – for it surely did – but whether the men attending expected it to do so and whether their sovereign would allow

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them to realise this expectation. Unlike her father, who used parliament for his own political ends, Elizabeth was reluctant to engage with her Lords and Commons over what she defined as ‘matters of state’. Time and time again discussions over religious reform were terminated on her order while hostility over monopolies was dissipated by her artful intervention. When parliament was more obviously used as a political arena the Queen also played a decisive role. She let the Commons know exactly what was and what was not acceptable in their devising legislation for her safety in 1584–5. She insisted that her ministers keep her absolutely up-to-date with developments even, and perhaps especially, in 1586–7, a parliament from which she deliberately detached herself.

There need be little doubt that MPs and peers attending parliament were well aware of ‘matters of state’ or that on occasion they used parliament as a forum to debate such issues even if, at times, this proved clear contrary to the Queen’s wishes. Their debates were important; they were part and parcel of their duty to offer counsel to their monarch and serve their communities well. Parliament’s political significance was not lessened simply because such initiatives rarely produced legislative results. Parliament provided a place to test the waters; debates over monopolies and purveyance were preliminary to major challenges in the law courts.9 As Patrick Collinson has recently observed, some parliaments ‘made their mark as political sounding boards’.10

The succession, the revival of faction, the overbearing dominance of the Cecils, were not only part of the context in which parliaments assembled, they helped to frame and shape the minds of the men attending. So too, overwhelmingly, did war and burdens it imposed on all the realm’s inhabitants. If any issue eclipsed the anxieties, stresses and strains encouraged by Elizabeth’s failure to resolve the succession crisis, it was the long war with Spain and the economic crisis of the 1590s. Indeed, for many subjects, economic crisis may have seemed an inherent part, perhaps consequence, of the war, and the war as the most obvious manifestation of the realm’s political insecurity. In the middle 1590s, at all levels of society, men and women grappled with life’s daily problems in ever-worsening circumstances. The experience led the inhabitants of Swallowfield to form a ‘free society’ to remedy the social and economic effects of the crisis.11 Others felt the brunt through exercising their responsibilities as churchwardens,

bailiffs, constables, jurors and other offices, low and high. Their efforts helped to shape the assumptions, attitudes and proposals of parliament men.

Confident enough to remove some economic controls in the parliament of 1593, Lords and Commons found themselves considering legislative proposals on poverty, poor relief and charity in 1597–8 and 1601 which would come to dominate the lives of many English men, women and children over the next 200 years. Historians' verdicts on their relative impact and success have varied, but a study of the law on charitable uses, for example, attests to the impact of these acts on society. Whereas there were only some 131 orders to enforce charitable uses and legacies between 1532 and 1601, the new procedures imposed by the acts of 1597–8 and 1601 resulted in over 1,000 decrees in James' reign alone.12

Certainly some localities responded relatively quickly to new laws. London's authorities sought advice from justices, churchwardens and overseers of the poor on how to best interpret and execute the new poor law act of 1597–8 just over a year later. They had moved faster to consult with leading inhabitants, churchwardens and constables over the new building statute in 1593.13 In both cases, actions taken by the City and its inhabitants preceded statutory provision. Attempts to regulate marginal economic activities and the number of alehouses in the 1590s precede legislative attempts to control pawnbrokers and license alehouses.14 Many details of the poor law acts were devised in light of municipal and local experience; many southern and eastern counties had adopted compulsory parish relief before 1597–8. In other localities such action was taken only after that parliament so legislated, with varying success and rapidity, and only after being prodded by government.15 The interplay between locality and legislation, in terms of both causes and consequence, and the process of enactment, enforcement and revision, is crucial to our assessment of the significance and role of the bills and acts discussed here. Much more work is needed on the courts, and on the localities, in order to reach some conclusions.

13 CLRO, Journal 25, f. 45; Journal 23, ff. 213v, 286v (see also Journal 24, f. 214).
Laws intended to ensure that charitable bequests were realised, punish the able-bodied poor and distinguish them from those deserving assistance, or to regulate the behaviour of the poor (through laws on drunkenness and swearing) were not devoid of political dimensions. Conversely, discussions over the powers of parliament in the event of Elizabeth's untimely death took place within a framework of reading a bill for the Queen's safety, while debates over the royal prerogative arose because MPs wished to devise laws for wardship, purveyance and monopolies. In other words, law-making and politics are inseparable and it seems odd to draw a clear distinction between parliament as a political arena on the one hand and its role as the supreme legislative body on the other. Yet this is the framework in which students of Elizabethan parliamentary history have been expected to work in recent years: the 'traditional' view (parliament as political arena with its nascent opposition) versus the 'revisionist' view (parliament as legislative body, summoned to do the business of the Council and act as a 'point-of-contact' with the localities). It is a model which would have made little sense to the men attending parliament.

It is doubtful, for example, that Yarmouth's MPs who rode to Westminster in 1597-8 hoping to protect their control over the herring industry saw this in purely localist terms or their proposals as routinely legislative. Preserving their monopoly guaranteed wealth and prosperity. Maintaining their town's strength was crucial to defending England against the next Spanish invasion. Ensuring full employment kept men from being idle, and idleness, as all knew, was the root of crime and sinful actions. To promote idleness was to offend God and injure the state. In their minds, to fail to do their utmost to preserve Yarmouth's herring monopoly would be to do their town, their country, their Queen and their God, a disservice. As they sat in the chamber listening, and at times participating, in debates over monopolies and church reform, defence and piracy, they did not feel that they were now dealing with political matters, as if their concerns over fish were non-political, localist and unimportant. To them fish, monopolies, defence and the church were all part of the matrix of problems faced by the commonwealth which they had been called upon to debate and legislate.

This is not to say, of course, that MPs saw bills on Warwick's hospital, the importing of pins or Sir Thomas Gresham's will as equally important to the commonwealth as measures concerning the Queen's safety, to replace the prayer book or grant an unusually high subsidy. Rulings to confine the reading of private bills to early morning, when not everyone had arrived,
is proof enough that MPs had priorities. One supposes that a few might have panicked a little once the subsidy was through, anticipating the closure of parliament and realising that they could very well find themselves returning home with unfinished local business to account for. But parliament, after all, was a market place and those at home would have to be content with their representatives’ accounts of what had transpired at the capital.

If revisionists have been accused of suggesting that there was no politics in parliament, or that all bills were regarded as equally important by MPs, it might also be claimed that they have taken the fun out of parliament. Neale’s world of intrigue and campaigning, agitation and conflict, was an exciting one, the actors were fascinating and his prose riveting. By contrast, the historian writing about the rest of what parliament did is left with a comparatively dull task. However, if it now seems clear that the major feature of parliament, at least in terms of what it did and what it produced, was legislative activity, revisionists have also established that even the most mundane piece of legislation could generate great debate between supporters and opponents.

Many such examples have been discussed in this book, and elsewhere. Bills and acts on a wide range of issues stirred feelings inside parliament and beyond. Soldiers and the desperate poor gathered outside parliament’s doors in 1593; others did so in 1601 to agitate for action against monopolies. Shoemakers sought to retrieve draft bills from the hands of a privy councillor and Curriers paid out sums to secure favourable speeches from MPs in their quest to remove restrictions on their right to buy and sell leather. The Brewers’ Company paid large sums of money to sneak a peak at the Vicechamberlain’s speech, all in the cause of defeating unfavourable legislative proposals on barrel making; their rivals, the Coopers’ Company, paid money and gave gifts to Speaker Coke’s brother and clerk. Yarmouth, York, the Cinque Ports, Exeter and other towns sought support from other corporations for proposals which they knew would be opposed, over fish, cloth, apprentices, imports and exports, monopolies, trade and taxation. Families fought each other quite openly over property rights, with a good deal of dirty laundry being aired in the committee chambers of each house.


in every session. And, yes, from the opening day, a band of ardent puritans must have eyed scornfully those career churchmen who they knew would oppose their moves for radical religious reform. Disparaging comments made about 'the courtiers', 'officers' or 'the Londoners' in these parliaments, like Townshend's Devonians who 'made a faction' against a cloth bill, are testimony to the visibility of what would later become known as 'lobbies' to contemporaries. They preferred 'faction', stripped of its connotations of courtly intrigue which historians have assigned to it.

A detailed study of legislation between 1584 and 1601 suggests that it would be fruitful to view parliament as an arena, and only one of many, in which the political, social, economic and religious problems of the nation, at least as perceived by the country's elites, could be aired. The power of statute law, even simply the chance to share problems with others, meant that parliament was a worthwhile place to lobby. Lobbying for new laws, changes in existing laws, the abolition of others, was the dynamic of parliament and the experience of lobbying and law-making has important implications for our understanding of state formation and for social, political and cultural change in early modern England. To adopt this perspective is to move beyond both the traditional and the early revisionist paradigm. While insisting on the importance of parliament's role in shaping the ways in which Elizabethan men and women lived their lives, it offers a framework through which conflict over religion and politics can be given a place in the parliamentary history of the reign once again.
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