

Law, Legislation, and Consent in the Plantagenet Empire: Wales and Ireland, 1272–1461

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To what extent was law an instrument of English imperial authority in the later Middle Ages? This long-standing question of medieval historians has gained renewed relevance in view of the spotlight that currently shines on the role and representative nature of the Westminster Parliament.¹ Today, the question revolves around the claims of English MPs to exercise exclusive voting rights on English laws.² In the later Middle Ages, England's dominant political position within the British Isles was expressed in terms of the claim of its kings to exercise overlordship over Ireland, Wales, and Scotland; the central issue concerned England's right to dictate the laws adopted in these other lands of the archipelago. But some underlying questions resonate across the centuries: how was law to be made and who should have a say in its formulation; how far was Westminster to be seen as the principal hub of centralized government or merely the colloquial center of English political and legislative life; how should power be negotiated, with England very much dominant politically and economically; and what balance was to be struck by the dominions between association with,

¹ For the best overviews, see Rees Davies, "The English State and the 'Celtic' Peoples, 1100–1400," *Journal of Historical Sociology* 6, no. 1 (March, 1993): 1–14; and idem, "The Peoples of Britain and Ireland, 1100–1400, III, Laws and Customs," *Transactions of the Royal Historical Society* 6 (1996): 1–23.

² See "The Implications of Devolution for England: Presented to Parliament by the First Secretary of State and Leader of the House of Commons by Command of Her Majesty," December 2014,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387598/implications_of_devolution_for_england_accessible.pdf.

or separation from, England and its legal and political institutions? The set of issues raised by this final question in particular went far in shaping the complex interplay between center and periphery in the fourteenth century for, as this discussion will show, it would be wrong to assume that the extension of English influence beyond England's borders was received only with hostility. Balancing the advantages of self-determination, on the one hand, with the stability and order offered by incorporation within a much more powerful and resourceful state entity, on the other hand, lay at the heart of the dilemma faced by the peoples of the English dominions of the fourteenth century.

Two underlying points can be made from the outset. First, it needs to be stressed that the "Plantagenet Empire"—as historians have come to term the lands over which late-medieval English kings exercised power—was not some unwieldy, monolithic constitutional edifice imposed on England's weaker neighbors by sustained and systematic coercion.³ It was, rather, formed by a dynamic and constantly changing set of relationships between center and periphery, and it drew its strength from the mutual interests that it served and from the diversity of its constituent parts. But within this arrangement England was still the dominant—and domineering—partner. The way that law and legislation extended beyond England's borders therefore invite reflection not only on how they were received but also on how they came to be projected. In this, the picture was as complicated and contradictory for the English as it was for the peoples of the dominions, for whilst there might have been a natural tendency to impose English institutions and political and legal cultures on the

³ For useful discussion of the term, see Peter Crooks, David Green, and W. Mark Ormrod, "Introduction: The Plantagenets and Empire in the Late Middle Ages," in *The Plantagenet Empire, 1259–1453: Proceedings of the 2014 Harlaxton Symposium*, ed. Peter Crooks, David Green, and W. Mark Ormrod (Donington, 2016), 1–34.

outlying lands of the British Isles as an affirmation of the superiority of “the English way of doing things” and as a central plank of a “state-building” program,⁴ this attitude was tempered by an equally compelling imperative to keep those who were not English at arm’s length. For political and legal integration implied constitutional parity, and this was a privilege that very few Englishmen would readily have countenanced bestowing on peoples beyond England’s borders.⁵ What follows is an attempt to delineate these complex and contradictory agendas and to place them within broader questions about the consensual nature of English rule and the impact of English institutions beyond England’s borders.

Second, the English crown’s constitutional relationships with its dependencies varied significantly, which meant that the way law was used and the motives behind its extension from the center were correspondingly diverse. As this discussion is principally concerned with the projection and reception of English law and legislation, the focus is on Wales and Ireland, where English influence was most intensively sustained. Gascony and Scotland were also theoretically part of the Plantagenet Empire, but their ties with England were less strong. The duchy of Gascony, though an English dependency since the mid-twelfth century, had remained for the most part impervious to English influence, retaining its own church and

⁴ See, in particular, Alan Harding, *Medieval Law and the Foundations of the State* (Oxford, 2002), chaps. 5–7. At various points this superiority was explicitly articulated, for which see H. S. Sweetman, ed., *Calendar of Documents Relating to Ireland, Preserved in Her Majesty’s Public Record Office, London, 1252-1284* (London, 1877), no. 1408; *Statutes of the Realm*, 11 vols. (London, 1810–28), 1:55(i); and E. L. G. Stones, ed., *Anglo-Scottish Relations, 1174–1328: Some Selected Documents* (Edinburgh, 1965), 126.

⁵ R. R. Davies, *The First English Empire: Power and Identities in the British Isles, 1093–1343* (Oxford, 2000), 113-41.

aristocracy and, importantly, its own systems of law and government.⁶ In the case of Scotland, English dominion was only fleeting, and within a year or so of Edward I's declaration of legal sovereignty in 1305 Scotland had freed itself from the yoke of English overlordship. Scotland's relationship with English law was not, however, straightforward, and it raises issues that resonate in the Welsh and Irish contexts. Even at the height of English imperialism in the 1300s, some Scotsmen still looked to England for deliverance. In the parliament that met at Westminster in 1305, the "king's husbandmen of Scotland" petitioned Edward I, asking to be allowed to hold their land "in the manner in which the king's villeins do in England."⁷ Also in this assembly the community of Galloway asked for the king's aid in resisting "a strange and wrongful law" known as *surdit de sergaunt* that enabled the sergeants of great lords to investigate crimes and demand hospitality from local communities

⁶ Margaret Wade Labarge, *Gascony: England's First Colony, 1204–1453* (London, 1980), 51–67; David Green, "Lordship and Principality: Colonial Policy in Ireland and Aquitaine in the 1360s," *Journal of British Studies* 47, no. 1 (January, 2008): 3–29; Andrea C. Ruddick, "Gascony and the Limits of Medieval British Isles History," in *Ireland and the English World in the Late Middle Ages*, ed. Brendan Smith (Basingstoke, 2009), 68–88, at 78; eadem, *English Identity and Political Culture in the Fourteenth Century* (Cambridge, 2013), 219–20. Gascons still looked to the king of England to arbitrate in local disputes, for which see Gwilym Dodd, "Petitions from the King's Dominions: Wales, Ireland and Gascony, c. 1290 – c. 1350," in Crooks, Green, and Ormrod, *Plantagenet Empire*, 187–215, esp. 201–11.

⁷ C. Given-Wilson et al., eds., *Parliament Rolls of Medieval England* (Leicester, 2005), CD version, Edward I, Roll 12, item 430 (400) (hereinafter cited as *PROME*). For discussion, see G. W. S. Barrow, *Kingship and Unity: Scotland, 1000–1306* (London, 1981), 138; Cynthia J. Neville, *Land, Law and People in Medieval Scotland* (Edinburgh, 2010), 167–69.

as they travelled the country.⁸ The petitioners pointedly declared that “the bodies of the men of Galloway belong to the king [i.e., Edward I] and nobody else, so no great lord ought to make or shape any law for them that they have had not had and used since the aforesaid time [of King Alexander].” This was an assertion by Scotsmen of the supremacy of royal (English) law over the private (Scottish) law of local lords. It was a principle that even the greatest stalwart of Scottish independence, Robert Bruce, was ready to acknowledge in 1324 when he granted what he described as “English law” to the people of Galloway.⁹ The cases of 1305 highlight how individual receptivity to law could be guided as much by local circumstances and hard-headed pragmatism as by an overarching sense of national or political affiliation.

Wales

⁸ *PROME*, Edward I, Roll 12, item 288 (276); Edward I, Petition 3, no. 71. For background, see William Croft Dickinson, “Surdit de Sergaunt,” *Scottish Historical Review* 39, no. 128 (October, 1960): 170–75; and Hector L. MacQueen, “The Laws of Galloway: A Preliminary Survey,” in *Galloway: Land and Lordship*, ed. Richard D. Oram and Geoffrey P. Stell (Edinburgh, 1991), 131–43.

⁹ Cf. G. W. S. Barrow, *Robert Bruce and the Community of the Realm of Scotland* (Edinburgh, 1965), 418–19. For general discussion, see W. David H. Sellar, “The Common Law of Scotland and the Common Law of England,” in *The British Isles, 1100–1500: Comparisons, Contrasts and Connections*, ed. R. R. Davies (Edinburgh, 1988), 82–99; Hector L. MacQueen, *Common Law and Feudal Society in Medieval Scotland* (Edinburgh, 1993), 5–26; Davies, *First English Empire*, 157–58, 160–61.

If Edward I made little headway in his attempt to subjugate Scotland permanently to the authority of the English crown, his fortunes were entirely different in Wales, where an initial punitive invasion in 1277 was followed by outright conquest and annexation of the Principality in 1282. The English king was now in a position to impose his will comprehensively on the Welsh people. But the picture was more complicated, for Edward did not regard the people of Wales as a conquered people but as his subjects. They owed him their loyalty and obedience, but he also had an obligation to offer them good lordship and fair and just rule. Thus, the Statute of Rhuddlan of 1284 (alternatively known as the Statute of Wales) was conceived not as an instrument of oppression but as an expression of the king's munificence: it enabled the people of Wales to benefit from the enlightened legal customs developed by the English, as Edward himself would no doubt have viewed the situation. Some of the provisions of the Statute invoked for the Welsh the rights that Englishmen had long fought to establish for themselves, in particular, guarantees against the oppression of local officials. The Statute was written as though a charter—that is to say, it was *granting* rather than imposing the new legal system on the Welsh—and it employed a form of address that was reminiscent, perhaps deliberately so, of Magna Carta.¹⁰ There is even evidence to suggest that the Welsh had some input into its terms.¹¹ Scholars have also pointed out that parts of the legislation introduced mechanisms that represented improvements to existing common-law practice in England.¹² It also, famously, made provision for the retention of

¹⁰ Paul Brand, “An English Legal Historian Looks at the Statute of Wales,” *Welsh Legal History Society* 3 (2003): 20–56, at 26–27.

¹¹ *Ibid.*, 34–35.

¹² Llinos Beverley Smith, “The Statute of Wales, 1284,” *Welsh History Review* 10, no. 2 (December, 1980): 127–54 (at 144–52); Brand, “English Legal Historian,” 48.

Welsh legal practices: while criminal law came to fall more squarely within the auspices of English common law practice, civil law matters continued to be determined overwhelmingly by reference to long-established Welsh custom. This showed that Edward was not uncompromisingly seeking to establish legal uniformity across his lands. Nor was he—now that the Principality was firmly under his control—intolerant of, or hostile to, local custom.¹³ Compared to the native people of Ireland, the legal position and status of the Welsh was unquestionably superior.¹⁴

Given this context, it should come as no surprise to find that the Statute of Rhuddlan was positively received by some sections of Welsh society. In 1321 the “liegemen of the three counties of Snowdon” (as they styled themselves) complained that the sheriffs of those parts had changed the Statute in several ways, illegally in their view, for they stated that no minister could do this other than the king himself, as was specified in the Statute.¹⁵ They asked the king to “command your justice, sheriffs and other ministers of those parts that they be guided peaceably and according to the laws granted at Rothelan [i.e., Rhuddlan].” It is noticeable that the laws were said to have been *granted* at Rhuddlan, not imposed or forced upon the populace. A few years later, Ririd ap Carwet complained to the English king that he

¹³ This contrasted with the period before the conquest of 1282, for which see R. R. Davies, “Law and National Identity in Thirteenth-Century Wales,” in *Welsh Society and Nationhood: Historical Essays Presented to Glanmor Williams*, ed. R. R. Davies, R. A. Griffiths, I. G. Jones, and K. O. Morgan (Cardiff, 1984), 51–69, at 59–68.

¹⁴ Robin Frame, “The Immediate Effect and Interpretation of the 1331 Ordinance ‘una et eadem lex’: Some New Evidence,” *Irish Jurist* ns 7 (summer, 1972): 109–14.

¹⁵ William Rees, ed., *Calendar of Ancient Petitions Relating to Wales* (Cardiff, 1975), 107 (hereinafter cited as *CAPW*) (The National Archives (TNA): SC 8/74/3694).

had been wrongfully disseized of his fishery near Aberglaslyn by the former sheriff of Caernarvon, Sir William Trumwyn.¹⁶ Again, the context for the complaint was the body of rights that had been established by the Statute of Ruddlan in 1284: ap Carwet's petition noted that Edward I, "after his conquest in the parts of North Wales, ordained and granted to all freemen of those parts to hold from that time forward their lands and tenements of which they were then seised." Similar sentiments were articulated in the petition of Atha ab Eignon and Agnes his (English) wife, who in 1327 complained that the burgesses of Flint had barred Atha entry into their town because he was a Welshman.¹⁷ "The suggestion of the burgesses cannot be regarded as reasonable," Atha asserted, "either by the Statute of Wales [i.e., Rhuddlan] or by other law [. . .] since, after the conquest of Wales, it was especially ordered by King Edward [. . .] to foster peace and agreement between English and Welsh that alliances by marriage should be allowed in all the good towns of Wales which are enclosed with walls." In 1330–31, the "commonalty of North Wales" petitioned Edward III, asking that "the points and the articles of the crown be used and held in North Wales according to the common law of England as the Statute of Rhuddlan requires."¹⁸

In two important respects it is clear that the Welsh – or those speaking on behalf of Welsh – felt the Statute of Rhuddlan did not in fact go far enough in introducing English legal custom. First, in 1308 complaint was made of the lack of remedies available from the chancery of Caernarfon as a result of the limited scope of the writs registered for use in the

¹⁶ *Ibid.*, 130–31 (TNA: SC 8/89/4437).

¹⁷ *Ibid.*, 172 (TNA: SC 8/109/5433).

¹⁸ *Ibid.*, 282–85 (TNA: SC 8/167/8348).

Statute.¹⁹ And secondly, there was dissatisfaction in some quarters with the persistence of the Welsh custom of partible inheritance.²⁰ This had fallen within the body of Welsh law that the Statute of Rhuddlan sought to preserve. In 1305, the “community of Wales” petitioned the prince of Wales to ask that they be allowed to buy and sell lands freely, thus circumventing the restrictive nature of the traditional Welsh inheritance custom.²¹ On this occasion the prince refused, on the grounds that such a concession was not contained in the Statute. Later, however, when he was king, and in the aftermath of a rebellion in Glamorgan early in 1316, Edward was moved to meet Welsh demands: an ordinance issued at the parliament held at Lincoln in February 1316 conceded that in North Wales the community would be able to buy and sell land without restriction, though this was to last for three years only.²² A few years later, with Welsh custom reinstated once more, the “king’s free tenants of north Wales”

¹⁹ Ibid., 174 (TNA: SC 8/110/5455); *Calendar of Chancery Warrants Preserved in the Public Record Office*, vol. 1, A.D. 1244–1326 (London, 1927), 306–307; Beverley Smith, “Statute of Wales,” 136–37, 142–44; J. Beverley Smith, “Edward II and Allegiance of Wales,” *Welsh History Review* 8, no. 2 (December, 1976): 139–71, at 144, n. 23; Brand, “English Legal Historian,” 42–45.

²⁰ The effects of partible inheritance are illustrated by M. H. Brown, “Kinship, Land, and Law in Fourteenth-Century Wales: The Kindred of Iorwerth ap Cadwgan,” *Welsh History Review* 17 (1995): 493–517.

²¹ Sir Henry Ellis, ed., *Registrum Vulgariter Nuncupatum “The Record of Caernarvon,”* (London, 1838), 214–15.

²² Thomas Rymer, ed., *Foedera, conventions, litterae et cujuscunque generis acta publica*, 10 vols. in 40 parts (The Hague, 1739–45), 2:i.283–84; *Calendar of Patent Rolls (CPR), 1313–17*, 433–34; Smith, “Edward II,” 150–51.

renewed their plea.²³ They stated that “they are greatly impoverished because they cannot sell their lands or give them according to the laws and customs of England, for if a gentleman of the country has a carucate of land and has five sons or more, the land will be divided up among them after the death of their father so . . . that they become each a beggar living on their parents, whereby their said parents feel greatly burdened and aggrieved.” The king’s response is significant: “The king does not feel himself advised to do away with the ancient customs of Wales.” An English king was thus in the unlikely position of defending native Welsh custom in the face of Welsh demands to supplant these with English legal custom. Historians have struggled to explain Edward’s reluctance to concede to these demands, other than to suggest that it reflected the king’s unbending faith in the terms of his father’s settlement of the Principality and his desire to act as the “guardian of traditional interests.”²⁴ R. R. Davies’s suggestion that the king’s response reflected cynical “profiteering self-interest” is more plausible, since the desire of the Welsh to circumvent native legal practices provided a ready source of income to their powerful English lords, in the form of fines and licenses.²⁵ But it may also be that Edward was reluctant to make such a grant in the face of opposition from English colonists, especially those of the royal boroughs founded by Edward

²³ CAPW, 99 (TNA: SC 8/64/3179). See also TNA: SC 8/110/5462 (1322), the fourth demand.

²⁴ J. Beverley Smith, “Crown and Community in the Principality of North Wales in the Reign of Henry Tudor,” *Welsh History Review* 3, no. 4 (December, 1967): 145–71, at 148.

²⁵ R. R. Davies, *Conquest, Coexistence, and Change, 1063–1415* (Oxford, 1987), 433.

I, anxious to preserve their superior legal standing and wealth.²⁶ It is even possible that not all Welsh subscribed to the views expressed by the authors of these petitions.

In a period that is usually characterized as an age of precocious English expansion, the issue of partible inheritance in the Principality of Wales is an important reminder that English kings did not necessarily regard a multiplicity of legal custom in the lands under their control as incompatible with their claims to exercise overall sovereignty. It should be remembered that, even in England, the common law was not a universally applied legal code. In some parts of the kingdom, such as in Kent, where the custom of partible inheritance or gavelkind held sway, or in the palatinate of Durham, where the bishop exercised quasi-regal authority, variation in legal process and types of legal institutions was accepted or tolerated.²⁷

²⁶ Rees Davies, “Race Relations in Post-Conquest Wales: Confrontation and Compromise,” *Transactions of the Honourable Society of Cymmrodorion* (1974–75): 32–56, at 39–43; J. Beverley Smith, “‘Distinction and Diversity’: the Common Lawyers and the Law of Wales,” in *Power and Identity in the Middle Ages: Essays in Memory of Rees Davies* (Oxford, 2007), 139–52, at 143–44; Matthew Frank Stevens, *Urban Assimilation in Post-Conquest Wales: Ethnicity, Gender and Economy in Ruthin, 1282–1348* (Cardiff, 2010), 38–39.

²⁷ Frederick Pollock and Frederick Maitland, *The History of English Law before the Time of Edward I*, 2 vols. (Cambridge, 1898), 2:270–73; F. R. H. Du Boulay, “Gavelkind and Knight’s Fee in Medieval Kent,” *EHR* 77, no. 304 (July, 1962): 504–11; Tim Thornton, “Fifteenth-Century Durham and the Problem of Provincial Liberties in England and the Wider Territories of the English Crown,” *Transactions of the Royal Historical Society*, 6th ser., 11 (2001): 83–100. See also Robert Somerville, “The Palatinate Courts in Lancashire,” in *Law-Making and Law-Makers in British History: Papers Presented to the Edinburgh*

Late-medieval English kings were sensitive to the dangers of imposing laws and customs on a hostile population: the relative weakness of the state apparatus meant that legal systems could only work if local communities were compliant. And who was to say that centralization and uniformity necessarily equated with strength and dominion?²⁸ In 1279, in a plea to preserve his authority and legal autonomy, the last native Welsh prince, Llewelyn ap Gruffydd, wrote to Edward I and declared that “the fact that each province under the lord king’s dominion—the Gascons in Gascony, the Scots in Scotland, the Irish in Ireland and the English in England—has its own laws and customs, according to the mode and usage of those parts in which they are situated, amplified rather than diminished the Crown.”²⁹ A multiplicity of legal custom and law was perhaps much more the mark of “empire” than a single unitary legal system that bound all the people together.

Such a perspective might have helped English kings to tolerate the status of the Welsh Marches as independent territories in all aspects apart from the underlying sovereignty which belonged to the crown. A distinct, but ill-defined and extremely variable, body of March law

Legal History Conference, 1977, ed. Alan Harding (London, 1977), 54–63; and Tim Thornton, *Cheshire and the Tudor State, 1480–1560* (Woodbridge, 2000), 143–50.

²⁸ See Peter Crooks, “State of the Union: Perspectives on English Imperialism in the Late Middle Ages,” *Past and Present*, no. 212 (August, 2011): 3–42, at 8–16.

²⁹ James Conway-Davies, *The Welsh Assize Roll, 1277–84* (Cardiff, 1940), 266. See also J. Goronwy Edwards, ed., *Calendar of Ancient Correspondence Concerning Wales* (Cardiff, 1935), 72–73 (xvi, 102). For discussion, see J. Beverley Smith, “England and Wales: The Conflict of Laws,” in *Thirteenth Century England VII: Proceedings of the Durham Conference, 1997*, ed. Michael Prestwich, Richard Britnell, and Robin Frame (Woodbridge, 1999), 189–205, at 193–94.

had emerged in the late-eleventh and twelfth centuries in response to the highly militarized and feudalized nature of Marcher society.³⁰ Crucially, the “law of the March” was established before the great expansion and codification of common law in England. From the thirteenth century this placed an almost insuperable obstacle in the way of any attempt to challenge the power of the Marcher Lords within their lordships, for long-established tradition and closely guarded legal precedent were not easily overturned by a king who wished to retain the political support of the powerful Marcher barons. The formal endorsement of the “law of the March” in clause 56 of Magna Carta in 1215 was also an important statement of principle in favor of Marcher law, even if this and the two other Welsh clauses were omitted in the re-issues of Magna Carta in 1217 and 1225.³¹ The legal autonomy of the Marcher lordships was manifested not just in the day-to-day running of the courts but also in the immunity they enjoyed from outside interference, whether in the form of judicial overview by the courts at Westminster or in the application of “English” ordinances or statutes setting out normative legal process. Thus, in 1319, when the Countess of Gloucester cited the statute of

³⁰ For background, see Davies, *Conquest, Coexistence, and Change*, chap. 10; and Beverley Smith, “Distinction and Diversity,” 146–47.

³¹ Clause 56 specified: “And if a dispute arises. . . it shall be settled . . . for tenements in England according to the law of England, for tenements in Wales according to the law of Wales, for tenements in the March according to the law of the March.” David Carpenter, *Magna Carta* (London, 2015), 61. Its omission did not indicate any royal challenge to Welsh Marcher legal autonomy, but reflected the changed circumstances of Anglo-Welsh relations and the fact that the clauses of 1215 arose from specific political and diplomatic conditions that no longer pertained under Henry III. See also J. Beverley Smith, “Magna Carta and the Charters of the Welsh Princes,” *EHR* 99, no. 391 (April, 1984): 344–62.

Westminster II (1285) in a dispute with the earls of Norfolk and Pembroke over a wardship pertaining to the lordship of Chepstow, the earls retorted that “the people of the parts of Wales do not use the laws and statutes of England.”³² Instead, they claimed the regalian right to determine what laws should run in their territories. In 1391, Richard, earl of Arundel had declared that he and his heirs, “reserve to themselves the right whenever and howsoever it pleases them to declare, to add to or reduce the . . . laws, customs and services of their lordship . . . for the security and convenience of themselves, their tenants and the aforesaid lands.”³³ What gave this declaration special poignancy was the fact that the earl had lifted these words directly from the Statute of Rhuddlan. There could be no better illustration of the belief by a Marcher Lord that he was, in effect, king within his own domain.

The Statute of Rhuddlan was explicit in stating that the right and authority to make laws in the Principality of Wales belonged to the king. The same principle applied in the Welsh Marchers in respect to the authority of the Marcher lords. Thus, in general, no provision was made to allow the inhabitants of Wales a voice in shaping the laws which circumscribed their lives. By the end of the thirteenth century the majority of statutes were enacted by the English crown in parliament, so the king could claim with some justification that English laws had been enacted with the consent of the English people or at least their representatives who were present at parliament. But with the exception of two occasions under Edward II, representatives were never returned to the English parliament from Wales,

³² T. F. T. Plucknett, ed., *Year Book 12: Edward II, 1319*, 70 (1951), 4–8, discussed in J. Beverley Smith, “The Legal Position of Wales in the Middle Ages,” in *Law-Making and Law-Makers*, ed. Harding, 21–53, at 43–45.

³³ Cf. R. R. Davies, “The Law of the March,” *Welsh History Review* 5, no. 1 (June, 1970): 1–30, at 9.

and so the legislation that the English parliament generated, and that in theory applied as much to Wales as it did to England, could never claim to be representative of the views and interests of the broader Welsh populace.³⁴ It is unclear how much impact English legislation routinely made in Wales and even less so how the Welsh people felt about their disenfranchised position. References to the enactment of statutes in Wales are sparse. One exception is the Statute of Carlisle (1307), whose preamble specified that the legislation was intended to improve the king's "entire dominion," and that it was to be "observed in future in England, Ireland, Wales, and Scotland."³⁵ The fact that in Wales, unlike in Ireland, there was no straightforward transplantation of English law and institutions might have meant that legislation—and especially statutes relating to legal matters—could not be easily transferred from an English to a Welsh context. Although in theory the Westminster courts had oversight of justice in Wales, very few cases were actually transferred there, and there is little evidence to show that Welshmen attempted to use the common-law courts of King's Bench and Common Pleas for their own ends.³⁶ In practice, therefore, England and Wales operated more or less independent legal systems, though it is to be noted that, like the inhabitants of the king's other dominions and legal franchises, the Welsh still exploited the opportunities that

³⁴ Ralph A. Griffiths, "The English Realm and Dominions and the King's Subjects in the Later Middle Ages," in *Aspects of Late Medieval Government and Society: Essays Presented to J. R. Lander*, ed. J. G. Rowe (Toronto, 1986), 83–105; Smith, "Legal Position of Wales," 45–46.

³⁵ *Statutes of the Realm*, 1:150.

³⁶ Smith, "Legal Position of Wales," 23–28, 34.

existed to gain legal remedy and royal favor by appealing directly to the king.³⁷ That there is no evidence to suggest that the Welsh people craved the presence of representatives in the English parliament nevertheless suggests that the application of English statutes to the Principality, if this happened at all, was never strongly resented. The two occasions when Welsh MPs were returned to the English parliament—in 1322 and 1327—occurred entirely at the behest of the English crown and were intended to serve specific political (rather legislative, or fiscal) ends.³⁸

The absence of Welsh MPs in the English parliament raises a number of important questions about the constitutional status of Wales. Without contemporary comment on the matter, for an explanation we must look to broader political and cultural assumptions on the part of the English crown. First, when Wales had been conquered by Edward I, the land was not incorporated into the English kingdom but remained a separate entity, its inhabitants becoming subjects of the English king but quite distinct from the king's English subjects.³⁹ In 1284, Wales was said to have been “annexed and united to the *crown* of England,” not to England itself. The reluctance of the English to extend the franchise to the inhabitants of Wales thus reflected a belief that the Westminster parliament was quintessentially an English

³⁷ Dodd, “Petitions,” 189–201; Thornton, *Cheshire and the Tudor State*, 103–18; C. M. Fraser, ed., *Northern Petitions Illustrative of Life in Berwick, Cumbria and Durham in the Fourteenth Century*, 194 (Gateshead, 1981), 158–275.

³⁸ Smith, “Edward II,” 161–67.

³⁹ Griffiths, “English Realm and Dominions,” 36; Andrea Ruddick, “Ethnic Identity and Political Language in the King of England's Dominions: A Fourteenth-Century Perspective,” in *The Fifteenth Century*, ed. Linda Clark, vol. 6, *Identity and Insurgency in the Late Middle Ages* (Woodbridge, 2006), 15–31, at 18–21.

institution and that only Englishmen should enjoy the privilege of participation in the English polity.⁴⁰ Secondly, English attitudes to a Welsh presence in parliament might have been different had there been the promise of a significant contribution by the inhabitants of Wales to English royal revenue; but Wales was extremely poor and its taxable potential was almost non-existent.⁴¹ Since the presence of representatives in parliament was closely linked to their role as assenters to royal demands for subsidies, the absence of Welsh fiscal potential removed the most obvious need to have Welsh MPs returned to parliament. From the

⁴⁰ For the separation of England, and the English, from the rest of the king's dominions, see Ruddick, *English Identity*, 63, 184–85, 221–25.

⁴¹ Natalie Fryde, "Councils and Consent in Medieval Wales, c. 1200–1327," in *Album François Dumont: Studies Presented to the International Commission for the History of Representative and Parliamentary Institutions 60* (Brussels, 1977), 41–60, Appendix. For comparisons, see Bruce M. S. Campbell, "Benchmarking Medieval Economic Development: England, Wales, Scotland, and Ireland, c. 1290," *Economic History Review*, n.s., 61, no. 4 (November, 2008): 896–945. For general discussion of taxation in the king's dominions, see Joseph R. Strayer and George Rudisill, Jr., "Taxation and Community in Wales and Ireland, 1272–1327," *Speculum* 29 (April, 1954): 410–16; Tim Thornton, "Taxing the King's Dominions: The Subject Territories of the English Crown in the Late Middle Ages," in *Crises, Revolution and Self-Sustained Growth: Essays in European Fiscal History, 1130–1830*, ed. Mark Ormrod, Margaret Bonney, and Richard Bonney (Stamford, 1999), 97–109; and W. M. Ormrod, "The English State and the Plantagenet Empire, 1259–1360: A Fiscal Perspective," in *The Medieval State: Essays Presented to James Campbell*, ed. J. R. Maddicott and D. M. Palliser (London, 2000), 197–214.

perspective of the Welsh, this was a good reason not to press too strongly for the franchise: with representation came financial burden.

Finally, the absence of Welsh parliamentary representatives reflected the very different political cultures, ideologies, and structures of the two lands. England was, for its time, a highly centralized, unified, and integrated state. As R. R. Davies put it, “[r]oyal authority within this kingdom was ubiquitous and, on its own terms, exclusive; taxes, justice, governance, coinage, and law were more or less universal; political power was ultimately court-centred; [and] a single assembly—the great council or parliament—represented a national, unitary conclave of the political nation with its king.”⁴² The county gentry and urban oligarchies of England were fully assimilated into this polity, and their outlook was governed by a respect for the law, the preservation of social hierarchy, and wealth accumulation. Welsh society, on the other hand, while undergoing a rapid process of Anglicization following the conquest, retained many of the characteristics of its pre-conquest existence.⁴³ It also remained fundamentally “foreign” to the English observer⁴⁴ and “colonial” in its organization.⁴⁵ In

⁴² Davies, *First English Empire*, 93.

⁴³ See R. R. Davies, *The Revolt of Owain Glyn Dŵr* (Oxford, 1995), 50–57; Davies, *First English Empire*, 185–86.

⁴⁴ Davies, *First English Empire*, chaps. 4 and 5; Davies, *Conquest, Coexistence and Change*, 369–73, 419–21. Although subjects of the king of England, the Welsh, like the native Irish and Gascons, were regarded as foreigners, requiring denization to enjoy the status and privilege of English-born subjects. Denization for a Welshman meant being given the right to acquire lands in England and in the English boroughs in Wales. Beverley Smith, “Distinction and Diversity,” 144–5.

⁴⁵ R. R. Davies, “Colonial Wales,” *Past and Present*, no. 65 (November, 1974): 3–23.

essence, the English parliament was a product of the English socio-political and economic system and could not easily be projected into other lands. Wales was not permanently represented in the English parliament until 1542, following the first formal act of union with England in 1536.⁴⁶ From the English point of view this was an act of benevolence, for it enabled the Welsh to “grow and rise to more wealth and prosperity.”⁴⁷ But it also brought Wales for the first time into the orbit of regular demands for taxation.⁴⁸

Without integration into the English polity, which parliamentary representation might have facilitated, the Welsh people always stood the risk of falling foul of English prejudices in more troubled times. Thus, the full weight of the English legislature turned on the inhabitants of the Principality at the height of the rebellion of Owain Glyn Dŵr in the consecutive parliaments of 1401 and 1402. The statutes enacted in these years were among the most odious and oppressive of all legislative programs implemented by the medieval English parliament, reflecting the deep indignation of the English political community toward the king’s rebellious Welsh subjects.⁴⁹ There is evidence, in the short term at least, that the legislation had some impact, but it is doubtful that there was strict enforcement in the long

⁴⁶ Lloyd Bowen, “Wales at Westminster: Parliament, Principality and Pressure Groups, 1542–1601,” *Parliamentary History* 22, pt. 2 (June, 2003): 107–20.

⁴⁷ *Statutes of the Realm*, 3, pt. 2, 926(i).

⁴⁸ G. R. Elton, “Wales in Parliament, 1542–81,” in idem, *Studies in Tudor and Stuart Politics and Government, Volume IV: Papers and Reviews 1982–1990* (Cambridge, 1992), 91–108, at 94–95; Glanmor Williams, *Recovery, Reorientation and Reformation: Wales, c. 1415–1642* (Oxford, 1987), 267; Glanmor Williams, *Wales and the Act of Union* (Bangor, 1992), 26–27.

⁴⁹ *PROME*, parliament of 1401, items 15, 16, 77, 102, 105–107; parliament of 1402, items 87–102; *Statutes of the Realm*, 2:124, 129(xii, xvii, xix–xx); 140–41(xxvi–xxxiv).

run.⁵⁰ Historians have identified numerous cases of infringement.⁵¹ The fact that the Commons sought to have the statutes of 1401 and 1402 reconfirmed in 1431, 1445, and 1447 strongly suggests that amongst English MPs there was a widespread belief that the legislation was not nearly effective enough.⁵² Even so, the Welsh “penal” legislation, as it came to be known, remained on the Statute roll for another hundred years.⁵³ This served to reinforce in principle, if not in practice, the idea of the inferiority and subject status of the Welsh people.

One major factor holding back the Welsh population from fuller legal and political integration into the processes and structures of the English state was the presence within Wales of English settler communities, whose members fought hard to preserve their privileged legal and economic status. Most of the legislation of 1401 and 1402 was enacted to serve their interests. In the later reconfirmations of these statutes in the reign of Henry VI, it is clear that the English of Wales were directly lobbying parliament to have the laws enforced rigorously. In 1445, for example, the “mayor, aldermen, bailiffs and burgesses of the English towns of our sovereign lord in the parts of North Wales, and other true Englishmen of our said sovereign lord in that part” successfully mobilized the parliamentary Commons in support of this agenda. They recalled that the legislation of Henry IV’s reign had been “made against the Welshmen to destroy their vainglory and pride and to hold them in obedience for the well-being of this said noble realm [of Wales], and for the security of his true English

⁵⁰ William Rees, “The Charters of the Boroughs of Brecon and Llandovery,” *Bulletin of the Board of Celtic Studies* 2 (1923–25): 243–61, at 251.

⁵¹ Williams, *Recovery, Reorientation and Reformation*, 11–14.

⁵² *PROME*, parliament of 1431, item 32, parliament of 1445, item 26, parliament of 1447, item 23; *Statutes of the Realm*, 2:264(iii); 344(i).

⁵³ Smith, “Crown and Community,” 169.

lieges there.”⁵⁴ Their particular anxiety lay in the crown’s apparent willingness to grant Welshmen denizenship “to the intent that they might be of the same freedom and liberty as Englishmen are there”—that is, to have the same access to legal recourse as Englishmen. Such a state of affairs, they asserted, would “in a short time lead to the utter destruction of all Englishmen dwelling in the said towns and in the land there; for they [the Welsh] should partake in juries and trials of the persons and livelihoods of those toward whom they have no favor, but for whom they have great hatred in heart, countenance and word.”

For the petitioners, the reign of Edward I was remembered as a time when ordinances had been made “for the security of his true Englishmen and in order to keep the said Welshmen and their heirs in subjection to his crown of England.”⁵⁵ This was a reference not to the Statute of Rhuddlan of 1284 but to a fresh set of ordinances enacted in 1295 following the rebellion of Madog ap Llywelyn, when severe restrictions were placed on the Welsh in an attempt to protect the English settler communities.⁵⁶ Throughout the fourteenth century and beyond, the English crown was caught between two contradictory imperatives: on the one hand, it felt an obligation to protect the English populations in Wales as the first line of defense against possible Welsh resistance. This entailed support for some especially divisive and oppressive ordinances.⁵⁷ On the other hand, the crown understood the importance of

⁵⁴ *PROME*, parliament of 1445, item 26. See also *PROME*, parliament of 1447, item 23 (the original petition is TNA: SC 8/27/1336, printed in *CAPW*, 38–39).

⁵⁵ This was also a view expressed by the Commons in 1401. *PROME*, parliament of 1401, item 15.

⁵⁶ Ellis, ed., “*Record of Caernarvon*”, 131–32.

⁵⁷ Davies, “Colonial Wales,” 3–23; D. Huw Owen, “The Englishry of Denbigh: An English Colony in Medieval Wales,” *Transactions of the Honourable Society of Cymmrodorion*

forging meaningful connections with the Welsh population, especially by providing the Welsh gentry with opportunities to serve the crown and to govern on its behalf as a first step toward Anglicization.⁵⁸

Ireland

As in Wales, it was not so much royal policy as strong lobbying from the English settler community that prevented the wholesale extension of English law to the indigenous Irish population. There was a deep-running fissure within Irish society between the English on the one hand, who jealously guarded access to the common law as a means of preserving their English identity, and the Irish on the other hand, who were denied access to the common law and who were seriously disadvantaged as a result.⁵⁹ The Irish welcomed the protection that they felt the English common law offered. Like the Welsh, they did not lean toward English common law because they felt that it was an inherently superior legal system but because those who had access to its benefits (i.e., the English settlers) enjoyed significant advantages

(1975): 57–76; R. I. Jack, “Welsh and English in the Medieval Lordship of Ruthin,”

Transactions of the Denbighshire Historical Society 18 (1969): 23–49; A. D. M. Barrell and M. H. Brown, “A Settler Community in Post-Conquest Rural Wales: The English of Dyffryn Clwyd, 1294–1399,” *Welsh History Review* 17, no. 3 (June, 1995): 332–55.

⁵⁸ Glyn Roberts, “Wales and England: Antipathy and Sympathy, 1282–1485,” *Welsh History Review* 1, no. 4 (1963): 375–96.

⁵⁹ Jocelyn Otway-Ruthven, “The Native Irish and English Law in Medieval Ireland,” *Irish Historical Studies* 7, no. 25 (March, 1950): 1–16; G. J. Hand, *English Law in Ireland, 1290–1324* (Cambridge, 1967), chap. 10.

over those who did not. In 1277 the Irish were represented by a small group of senior clerics who offered to purchase access to the common law at a price of 8,000 marks.⁶⁰ Edward I was keen to accede to the Irish request,⁶¹ as was his grandson Edward III, who in 1331 went so far as to grant English law, in theory, to all free Irishmen.⁶² Edward III might have been persuaded by the strength of the arguments put forward by the mayors, bailiffs, and communities of the cities of Ireland who complained to the justiciar of Ireland and the king's council of the confusion caused by the existence of “three kinds of law”—common law, Irish law, and marcher law—before reflecting that “it seems to us that where there is diversity of

⁶⁰ Sweetman, ed., *Documents Relating to Ireland, 1252-84*, no. 1408; Jocelyn Otway-Ruthven, “The Request of the Irish for English Law, 1277–80,” *Irish Historical Studies* 6, no. 24 (September, 1949): 261–69; Aubrey Gwynn, “Edward I and the Proposed Purchase of English Law for the Irish, c. 1276–80,” *Transactions of the Royal Historical Society*, 5th ser., 10 (1960): 111–27, at 123; Seymour Phillips, “David MacCarwell and the Proposal to Purchase English Law, c. 1273–c. 1280,” *Peritia* 10 (1996): 253–73.

⁶¹ Phillips, “David MacCarwell,” 266–73.

⁶² Emmett O’Byrne, “The Politics of Grievance and the Making of Medieval Irish Identity: Blood, Law and Identity in Leinster and the Crown of England, 1200–1340,” in *The March in the Islands of the Medieval West*, ed. Jenifer Ní Ghrádaigh and Emmett O’Byrne (Leiden, 2012), 229–49, at 237–38, 244–49. For the ordinance of 1331, which was agreed to at the parliament held at Westminster in September 1331, see Henry F. Berry, ed. *Statutes and Ordinances and Acts of the Parliament of Ireland, King John to Henry V* (Dublin, 1907), 324–35 (item III).

law the people cannot be of one law or one community.”⁶³ Their allusion to disunity was a powerful argument and on the face of it a surprising one to emanate from this quarter, given the general hostility that existed among the colonists toward the Irish.⁶⁴ Theoretically the lordship of the king of England extended across the whole of the land of Ireland, and the native Irish were as much his subjects as the English settler population. But the exclusion of the Irish from the king’s justice fundamentally undermined this principle for, as James Lydon has put it, access to the common law was “the very badge of being a subject and the means by which a subject got from the king the protection to which he was entitled.”⁶⁵ Exclusion from the common law fueled resentment among the Irish, and it gave them little incentive to recognize the authority of the king of England. This, in turn, generated much of the disorder and instability that blighted the land throughout the period. In the 1390s Richard II came closest to addressing these issues when a demonstration of English military might persuaded Irish chieftains that their interests lay in coming to terms. They accordingly swore oaths of

⁶³ Gearóid Mac Niocaill, ed., *Na Buirgéisí, XII-XV Aois*, 2 vols. (Cló Morainn, 1964), 2:336, n. 21, discussed—and dated to 1331—by G. J. Hand, “English Law in Ireland, 1172–1351,” *Northern Ireland Legal Quarterly* 23, no. 4 (Winter, 1972): 393–422, at 413–14. It is possible that this representation had been made in the reign of Edward II: *Calendar of Close Rolls (CCR), 1313–18*, 405.

⁶⁴ However, for the limited application of the statute, see Frame, “Immediate Effect,” 110–12; and for its limited impact, see Bryan Murphy, “The Status of the Native Irish after 1331,” *Irish Jurist*, n.s., 2 (1967): 116–28, at 122–23, 126–27; and O’Byrne, “Politics of Grievance,” 246–47.

⁶⁵ James Lydon, “Ireland and the English Crown, 1171–1541,” *Irish Historical Studies* 29, no. 115 (May, 1995): 281–94, at 286.

allegiance and performed acts of homage in return for access to English law.⁶⁶ But the settlement did not last, because of Richard's downfall and the lack of cooperation among the English in Ireland.⁶⁷ In 1280 Edward I wrote to the English community, stating that he did not wish to accede to Irish requests to purchase access to the common law without their consent, which, as it turned out, they appeared unwilling to give.⁶⁸ Many Irish men and women gained access to the English common law by individual charter, usually purchased at a high price, but it never became a universally applicable legal code for the Irish population as a whole.⁶⁹

Nevertheless, unlike Wales, in Ireland English influence took on a territorial dimension that allowed institutions of government and law to emerge. Whereas in Wales the English were confined to small and isolated communities (i.e., "Englishries") surrounded by the indigenous population, in Ireland English settlers had come to dominate the eastern and southern parts of the island, with Dublin functioning as the principal administrative center.

⁶⁶ Dorothy Johnston, "Richard II and the Submissions of Gaelic Ireland," *Irish Historical Studies* 22, no. 85 (March, 1980): 1–20.

⁶⁷ Dorothy Johnson, "The Interim Years: Richard II and Ireland, 1395–1399," in *England and Ireland in the Later Middle Ages: Essays in Honour of Jocelyn Otway-Ruthven*, ed. James Lydon (Blackrock, 1981), 175–95. On the rising hostility toward the Irish in the fourteenth century, see Robin Frame, "'Les Engleis néés en Irlande': The English Political Identity in Medieval Ireland," in *Ireland and Britain, 1170–1450*, ed. Robin Frame (London, 1998), 131–50.

⁶⁸ Sweetman, ed., *Documents Relating to Ireland, 1252-1284*, no. 1681. Cf. Otway-Ruthven, "Request of the Irish," 264.

⁶⁹ Murphy, "Status of the Native Irish," 123.

From the outset, the government of “the English in Ireland” had been conceived along the lines of the structures and systems of governance to be found in England: an Irish exchequer and chancery were in place early in the thirteenth century; English common law was used in the lordship and administered by the court of common pleas based in Dublin; and local governance was based on the English shire and office of sheriff.⁷⁰ The governance of the lordship had developed in accordance with the principle, articulated by Edward III in 1357, that “both the English born in Ireland and those born in England and dwelling in Ireland are true English” and ought therefore to be subject to English-style government.⁷¹ This explains why Magna Carta was extended to the English of Ireland in 1217 but never extended to the Welsh. The English in Ireland were especially sensitive to the legal traditions and processes that emanated from across the Irish Sea and that they felt ought to be theirs as a matter of right. In 1297 a petition was presented to Edward I in the name of the people of Ireland that remarked upon the fact that, “whereas Ireland had previously been maintained and governed by the laws of England and the usages of their country since time out of mind, the justice of Ireland [was] now pleading and harassing them by bills and petitions of trespass, debt, covenant and all other contracts without the king’s writ, to the great damage of the king and

⁷⁰ For background, see Gerard McGrath, “The Shiring of Ireland and the 1297 Parliament,” in *Law and Disorder in Thirteenth-Century Ireland: The Dublin Parliament of 1297*, ed. James Lydon (Dublin, 1997), 107–24.

⁷¹ *Statutes of the Realm*, 1:363. For background, see Frame, “Les Engleys néés en Irlande,” 147; and Robin Frame, “Exporting State and Nation: Being English in Medieval Ireland,” in *Power and the Nation in European History*, ed. Len Scales and Oliver Zimmer (Cambridge, 2005), 143–65.

their great damage and loss [. . .] and against the common law.”⁷² This was a complaint against the king’s principal officer and representative in Ireland, the justiciar John Wogan, who was ordered to cease such practice.⁷³ Significantly, the petitioners also asked the king to “grant them the Great Charter of England and the articles under his seal,” which suggests that Edward I had never renewed Henry III’s commitment to the English settlers of Ireland that they should enjoy the same body of rights contained in Magna Carta as the inhabitants of England.⁷⁴

It was also, perhaps, a particular mark of the Englishness of the lordship that a separate parliament emerged in the course of the thirteenth century to serve the needs of the settler population. The assembly developed in parallel to the parliament in England: by the late-thirteenth century representatives from the Irish shires and boroughs were attending many of the assemblies, particularly those in which grants of taxation were sought, just as

⁷² TNA: SC 8/53/2643, printed in *Documents on the Affairs of Ireland Before the King’s Council*, ed. G. O. Sayles (Dublin, 1979), 44–45.

⁷³ Geoffrey J. Hand, “Procedure without Writ in the Court of the Justiciar of Ireland,” *Proceedings of the Royal Irish Academy* 62 (1961–1963): 9–20; *CCR, 1296–1302*, 22. In fact, discontent in Ireland with the use of procedure by bill preceded Wogan’s appointment as justiciar. G. O. Sayles, ed., *Select Cases in the Court of King’s Bench under Edward II*, 4:74 (London, 1957): lxxxix and n. 2.

⁷⁴ In 1305, the justiciar’s court ruled that the king (i.e., Edward I) “had not yet granted to the men of this land [i.e., Ireland] the liberties contained in the Great Charter.” James Mills, ed., *Calendar of Justiciary Rolls, Ireland: 1305–1307* (Dublin, 1914), 158.

representatives were attending the English parliament for the same reasons.⁷⁵ The Irish parliament served an important legislative function. In a landmark assembly that met in Dublin in the spring of 1297 representatives were called to attend with full power (*plena potestas*) to bind the community not to a grant of taxation (as was usually the case when such a clause was stipulated) but to a whole raft of legislation designed to curb the lawlessness of the lordship. The principle appears to have held on a number of later occasions when important legislation was enacted.⁷⁶ The Irish parliament thus ensured that a measure of consensus was built into key aspects of the lordship's governance. It also helped shape a political community that coalesced around matters of particular local concern and common interest. Perhaps the most pressing of these was safeguarding the community from the threat of the Irish. All except one of the twelve statutes passed by the Dublin parliament in 1297 focused on the problem of the defense of the lordship.⁷⁷ Also of concern to the settler community was the issue of Irish "contamination." One of the 1297 statutes forbade Englishmen from adopting Irish hairstyles in case they were accidentally mistaken for Irishmen and killed. Englishmen who went "native" risked foregoing the right to sue at

⁷⁵ H. G. Richardson and G. O. Sayles, "The Irish Parliaments of Edward I," *Proceedings of the Royal Irish Academy* 38 (1928/1929): 128–47, at 131–32; H. G. Richardson and G. O. Sayles, *The Irish Parliament in the Middle Ages* (Philadelphia, 1952), 69–70, 76–78.

⁷⁶ Representatives were present in the parliament of 1320, 1324, two Great Councils of 1351 and the parliament at Kilkenny in 1366 when major legislation was enacted. Richardson and Sayles, *Irish Parliament*, 77; *Statutes and Ordinances*, 280–90, 306–309, 374–96, 430–68.

⁷⁷ Cormac Ó. Cléirigh, "The Problems of Defence: A Regional Case-Study," in Lydon, *Law and Disorder*, 25–56. The texts of the statutes are printed in Lydon, *Law and Disorder*, 148–61.

common law.⁷⁸ Later, fears about the gaelicization of the English community reached their apogee in the Statute of Kilkenny in 1366. This envisaged a strict racial division between the Irish and English communities, forbidding Englishman from making any sort of alliance with the Irish “by marriage, gossip, fostering of children, concubinage or by armour” and insisting that the English population spoke English, used English names, and adopted English modes of riding and apparel.⁷⁹ Significantly, it was felt necessary to specify that, in disputes among the English in the lordship, the common law was to be used and “that no English be governed in the settlement of their disputes by March or Brehon [i.e., Irish] law.”⁸⁰ This was an embarrassing acknowledgement that English cultural superiority in the lordship was not universally assumed, even among the English themselves, and that the prospect of a unitary system of government across all the dominions was now fast fading.⁸¹

In their study of the relationship between the English and Irish parliaments, H. G. Richardson and G. O. Sayles remarked that “there was no definite hierarchy of parliaments,” though they added, somewhat contradictorily, that “the parliament in England was a superior

⁷⁸ Ibid., 159.

⁷⁹ *Statutes and Ordinances*, 431–69 (items ii and iii). For the most recent discussion and context for this legislation see David Green, “The Statute of Kilkenny (1366): Legislation and the State,” *Journal of Historical Sociology* 27, no. 2 (June, 2014): 236–62.

⁸⁰ *Statutes and Ordinances*, 437.

⁸¹ R. R. Davies, “The Failure of the First British Empire?: England’s Relations with Ireland, Scotland and Wales, 1066–1500,” in *England in Europe, 1066–1453*, ed. Nigel Saul (London, 1994), 121–32; Brendan Smith, “Lordship in the British Isles, c.1320 – c.1360: The Ebb Tide of the English Empire?,” in Pryce and Watts, eds., *Power and Identity*, 153–63.

tribunal.”⁸² In some respects the two institutions did work in parallel. The English parliament had no power to grant taxation on behalf of the English in Ireland. Nor did the English parliament exercise appellate jurisdiction over the Irish parliament: judgments made in the Irish context were very rarely subject to parliamentary review in England.⁸³ In other respects, however, the shadow of the English parliament loomed large over the lordship. The inhabitants of the colony regularly bypassed the Irish institution and presented petitions directly to the English parliament.⁸⁴ This was because the king’s presence in the English parliament conferred a jurisdictional omnipotence upon that assembly that could not be equaled elsewhere. More significant for the present purposes, the Irish parliament, though capable in its own right of legislating on the needs of the lordship, also regularly found itself in the position of giving approval to legislation that had been generated in England. This legislation came in two kinds.

First, there were new laws and regulations that applied specifically to the land of Ireland. In the late-thirteenth and early-fourteenth centuries these sometimes took the form of executive decisions sent by the king and council for observance in the lordship. This is what occurred in 1293 when Edward I transmitted a series of six ordinances on different aspects of

⁸² Richardson and Sayles, “Irish Parliaments,” 133.

⁸³ Dodd, “Petitions from the King’s Dominions,” 206–207.

⁸⁴ Ibid. See also Philomena Connolly, ed., “Irish Material in the Class of Ancient Petitions (SC 8) in the Public Record Office,” *Analecta Hibernica* 34 (1987): 1–106; and Beth Hartland, “Edward I and Petitions Relating to Ireland,” in *Thirteenth Century England IX: Proceedings of the Durham Conference 2001*, ed. Michael Prestwich, Richard Britnell, and Robin Frame (Woodbridge, 2004), 59–70.

the lordship's governance.⁸⁵ In similar fashion, in November 1323, Edward II met with his council at Nottingham and produced a set of ordinances regulating the office of the justiciar, apparently to coincide with the new appointment of John Darcy to the position.⁸⁶ In July 1325 the king affirmed statutes made in various Irish parliaments in the course of his reign, adding penalties to make them more effective and a further decree against men who attended parliament carrying excessive arms.⁸⁷ In May 1326 the Irish staple was established at Dublin by command of the king and his council.⁸⁸ A series of measures was agreed in the English parliament that met at Westminster in September 1331 to put the lordship into order ahead of the king's planned expedition.⁸⁹ And in 1336 Edward III sent his ministers in Dublin "certain things ordained by him and his council for the reformation of the state of Ireland and the direction of the king's affairs there."⁹⁰

These occasions underscored the status of Ireland as an English colony, subject to direct executive control by the English crown. Later in the fourteenth century, a greater measure of consensus underpinned the legislation affecting the lordship: much of it was generated at the behest of the English community of Ireland itself, though the measures still ultimately emanated from England. In October 1357, for example, a set of ordinances

⁸⁵ *Statutes and Ordinances*, 190–95.

⁸⁶ *Ibid.*, 293–95.

⁸⁷ *Ibid.*, 310–13.

⁸⁸ *Ibid.*, 314–21.

⁸⁹ *Ibid.*, 322–29; and Robin Frame, *English Lordship in Ireland, 1318–1361* (Oxford, 1982), 196–97.

⁹⁰ *CCR, 1333–37*, 579. For the ordinances, see TNA: C 49/6/30. For discussion, see Frame, *English Lordship*, 232–35.

“concerning the state of Ireland” was enacted almost certainly in response to complaints received by the king directly from his English settler subjects.⁹¹ The reforms to the Irish exchequer outlined in a set of ordinances made by the king and council in March 1361 were similarly drafted in the context of a concerted campaign of determined lobbying by the Irish community.⁹² And another ordinance “concerning the land of Ireland” was drafted after representations had been made to the king by the lay and spiritual lords and Commons of Ireland at a meeting of his Great Council at Guildford in July 1368.⁹³ These later legislative programs show that the English of Ireland could be effective in mobilizing the king into taking action on their behalf, but the very fact that they looked across the Irish Sea to England for relief underscores the limitations of the Irish parliament and of the Irish administration in general.

The second category of legislation comprised English statutes that were straightforwardly transferred into an Irish context. Many of the set-piece statutes of the reigns of Edward I and Edward II were used in this way. They included the Statute of Mortmain (1279), the Statute of Rhuddlan (1284), the Statutes of Westminster I and II (1275 and 1285), the Statute of Gloucester (1278), the Statute of Merchants (1285), the Statute of Winchester (1285), the Statute of Carlisle (1307), and the Statutes of Lincoln (1316) and York (1318).⁹⁴

⁹¹ *Statutes and Ordinances*, 408–19; *Statutes of the Realm*, 1:357–64. For discussion, see Frame, *English Lordship*, 318–19.

⁹² *Statutes and Ordinances*, 422–29; Frame, *English Lordship*, 319–25.

⁹³ *Statutes and Ordinances*, 470–71.

⁹⁴ *Statutes and Ordinances*, 36–39, 40–45, 46–85, 86–101, 101–103, 104–77, 254–57, 241–43, 298–99, 300–353. For general discussion, see Hand, *English Law in Ireland*, 161–71. For the Statute of Mortmain, see Paul A. Brand, “King, Church and Property: The Enforcement

It would be easy to characterize this transmission of English legislation as the mark of English dominion over a colonial territory, but in the late-thirteenth and early-fourteenth centuries the creation of new law was not conceived in this way. The projection of English legislation was an expression of the king's obligation to his subjects to provide good governance and justice. Like the Statute of Rhuddlan, the English statutes transferred into an Irish context were regarded as serving the needs of the people living there rather than the inhabitants or government of England. When Edward II sent the Statute of Winchester to Ireland in 1308, to help restore law and order in the land, the preamble stated that he did so "because we are hereto bound by the bond of an oath."⁹⁵ That oath was the coronation oath, in which the king swore to protect all his subjects and serve their interests.

Nor do these statutes have anything significant to say about the respective powers or standing of the Westminster and Dublin parliaments, since, for the most part, they emanated from the initiative of the king and his senior judges and councilors. They were therefore expressions of royal rather than of parliamentary authority. It is true that the majority received formal assent in the English parliament, but in reality the king's English subjects of England had no more input into their formulation than his English subjects of Ireland. Thus, the statutes did not expose inequality between England and Ireland or between the parliamentary institutions of the two lands. On the contrary, they underlined the homogenous nature of royal authority and the constitutional equivalence of the king's English subjects of England and Ireland. This, however, was to change as the fourteenth century progressed, and

of Restrictions on Alienation in Mortmain in the Lordship of Ireland in the Middle Ages," *Peritia* 3 (1984): 481–502.

⁹⁵ *Statutes and Ordinances*, 245. Cf. Lydon, "Ireland and the English Crown," 283.

the initiative in formulating legislative programs passed from the royal executive to the wider English political community.

In the absence of a comprehensive contemporary record of the legislation promulgated in Ireland it is difficult to judge how much of the legislative output of the English parliament continued to be sent across the Irish Sea. In the first years of Edward III's reign, however, there is evidence to show that transmission was common.⁹⁶ At the end of the long lists of statutes made in the parliaments of January 1327, April 1328, November 1330, and September 1331 it was specified that the legislation was to be sent to Ireland for observance there.⁹⁷ What makes these statutes noteworthy is that they had for the most part been prompted not by the king and his council but by the MPs in parliament, through presentation of their common petitions.⁹⁸ This raised a difficult point of constitutional principle, for whereas previously English statutes might readily have been accepted by the English settlers in Ireland as diktats from the king, now these settlers were expected to adhere to a legislative agenda set by the wider English political community: in effect, the gentry and townsmen of Ireland were now to be presented with statutes that had been prompted by the gentry and townsmen of England, from whom the MPs of the English parliament were drawn. It also raised a more practical issue, in that the legislation produced in England began to reflect the more narrow Anglo-centric interests of the local communities who sent MPs to

⁹⁶ See Richardson and Sayles, *Irish Parliament*, 147–48, 225–26.

⁹⁷ *Statutes of the Realm*, 1:251–55, 257–61, 261–65, 265–69.

⁹⁸ *PROME*, parliament of January 1327, C 65/1. Lists of common petitions for the remaining assemblies no longer exist, though it is highly likely that they were presented: see “Introductions” to *PROME*, parliament of 1328, parliament of November 1330 and parliament of September 1331.

parliament.⁹⁹ The question of the relevance and application of English statutes had already been raised in 1320 when the Dublin administration, led by Roger Mortimer, had asserted its right to have the “statutes made in England by the king and his council [. . .] read and examined [so] that the points which are applicable to the people and the peace of the land of Ireland be from thenceforth confirmed and held.”¹⁰⁰ The clear implication was that anything *not* applicable to the Irish context would, and could, be ignored.

It may have been the realization on the part of the English crown that English statutes no longer readily translated into an Irish context that explains why evidence exists for only a small amount of such dissemination after 1331.¹⁰¹ These were generally “set-piece” legislative acts and included a series of ordinances relating to the regulation of exports and the operation of the Staple (1337, 1353, 1369, November 1380, November 1390, September

⁹⁹ Richardson and Sayles, *Irish Parliament*, 92.

¹⁰⁰ *Statutes and Ordinances*, 283.

¹⁰¹ For the following references I have benefited from consultation of Alfred Gaston Donaldson, “The Application in Ireland of English Law and British Legislations Made before 1801,” PhD thesis, Queen’s University Belfast, 1952.

1397),¹⁰² the Ordinance of Laborers of 1349,¹⁰³ the Statute of Treasons (1352);¹⁰⁴ the Statutes of Purveyors and Pleading, both enacted in 1362;¹⁰⁵ the labor legislation of 1388;¹⁰⁶ and the Statute of Truces (1414).¹⁰⁷ What is notable is that many of these statutes derived not from requests made by the Commons, as was now usual at this time, but from the executive action of the crown. They had been introduced in parliament at the behest of the king and his advisors to address specific legislative needs. Thus, the representative quality of these statutes

¹⁰² 1337 (export of wool): *Statutes of the Realm*, 1:280–81; 1353 (red and white wine): *Statutes of the Realm*, 1:331 (viii), though evidence for its transmission to Ireland dates to 1385 (*Statutes and Ordinances*, 589); 1353 (staple): *Statutes of the Realm*, 1:332–44; 1369 (staple): *Statutes of the Realm*, 1:390(i); November 1380 (wine): *Statutes of the Realm*, 2:16(i); November 1390 (wool; staple; merchants): *Statutes of the Realm*, 2:76–77(i–x); September 1397 (staple): *Statutes of the Realm*, 2:108(xvii). For fifteenth-century legislation relating to the staple, see Donaldson, “Application in Ireland,” 137–38.

¹⁰³ *Statutes of the Realm*, 1:307–308; *Statutes and Ordinances*, 366–73. The legislation was extended to Ireland by writ. Donaldson, “Application in Ireland,” 100.

¹⁰⁴ There is a note indicating that the legislation passed by the Westminster parliament of 1352 (including, notably, the Statute of Treasons) was to be sent to the justiciar of Ireland for enactment. *Statutes of the Realm*, 1:324. See also *PROME*, parliament of 1352, Appendix (1).

¹⁰⁵ The legislation of 1362 (including a series of important regulations on purveyance and the Statute of Pleading) was conveyed to Ireland by writ in November 1363. *Statutes of the Realm*, 1:371–76; and *CCR, 1360–64*, 494. Cf. Donaldson, “Application in Ireland,” 101–102.

¹⁰⁶ Donaldson, “Application in Ireland,” 143–44.

¹⁰⁷ *Statutes of the Realm*, 2:178–81(vi).

remained, for it was axiomatic that expressions of the royal will, which these examples embodied, expressed the common interest of the king's subjects whoever they were and wherever they resided.

The final element in this changing political environment was the English political community in Ireland, for as the fourteenth century progressed that community developed a much sharper sense of its own constitutional independence. Famously, in 1341, its members refused outright to comply with Edward III's decision to revoke all grants of lands and liberties made there since 1307.¹⁰⁸ In the session of parliament that met at Kilkenny in November 1341 the indignation of the community was expressed in a set of petitions that laid the blame for the lordship's woes squarely in the hands of the incompetent and inefficient royal ministers running the administration.¹⁰⁹ Protesting their loyalty to the king, the petitioners nevertheless stated that such a policy "seems to your said lieges contrary to right."¹¹⁰ And they won their case: in April 1342, Edward III retreated from his earlier position, having restored the lands which had been taken into royal custody, and sacked the ministers who had been responsible for introducing his unpopular policies the previous year. Some decades later, in the mid-1370s, the issue hinged on taxation: on three occasions in 1375 Edward III summoned representatives from Ireland to convene before him with the view to granting taxation. The English of Ireland flatly refused on two occasions and on the third occasion delegates were sent but *without* the power to bind the community to

¹⁰⁸ Frame, *English Lordship*, 242–61.

¹⁰⁹ *Statutes and Ordinances*, 332–63.

¹¹⁰ *CCR, 1341–3*, 508–16; *Statutes and Ordinances*, 345.

taxation.¹¹¹ The community resisted the royal commands on the grounds that, “according to the rights, privileges, liberties, laws and customs of the land of Ireland, since the time of the Conquest and before, they are not bound to send anyone from the aforesaid land to parliaments or councils to be held in England.”¹¹² It was an extraordinary assertion of the principle that the English of England and the English of Ireland operated within separate political spheres and that the rights of the English in Ireland took precedence over the royal prerogative.

A few years later, the “prelates and clergy of Ireland” presented a petition to the Westminster parliament of 1381 asking for the repeal of the “statute” of absentees made in the assembly of January 1380.¹¹³ They stated that the statute allowed the king to take two thirds of the value of the benefices of men who had not secured a license to be absent from Ireland but also (and more important for our purposes) that the statute was one “to which they

¹¹¹ The episode has been discussed most recently by Peter Crooks, “Negotiating Authority in a Colonial Capital: Dublin and the Windsor Crisis, 1369–78,” in *Medieval Dublin IX: Proceedings of the Friends of Medieval Dublin Symposium*, 2007, ed. Seán Duffy (Dublin, 2009), 131–51, at 136–7; and idem, “Representation and Dissent: ‘Parliamentarianism’ and the Structure of Politics in Colonial Ireland, c. 1370–1420,” *English Historical Review* 125, no. 512 (February, 2010): 1–34, at 18–19, 28.

¹¹² Thomas Leland, *The History of Ireland from the Invasion of Henry II*, 2nd ed., 3 vols. (Dublin, 1814), 1:376.

¹¹³ TNA: SC 8/118/5900 (full transcription in Richardson and Sayles, *Parliaments and Councils of Medieval Ireland*, 1:205–206). The “statute” was not in fact enacted on the statute roll (*Statutes of the Realm*, 2:13–15): it was enrolled as an answer to a petition. *PROME*, parliament of January 1380, item 42.

did not assent as they were not summoned to the parliament.” This was the first occasion that representation and legislation had been linked directly. In the fifteenth century, the principle was to gain more explicit articulation on both sides of the Irish Sea: in 1441 Chief Justice Fortescue upheld the point that “the land of Ireland is separate from the kingdom of England . . . and if a statute be made here [in England] it shall not bind those in Ireland unless they approve it in their own parliament, *even though the king under his great seal shall send this same statute to Ireland.*”¹¹⁴ In the celebrated Dublin parliament of 1460, the English political community declared that the “land of Ireland is, and at all times has been, corporate of itself . . . freed of the burden of any special law of the realm of England” except those agreed to in the Irish council or parliament.¹¹⁵

If the significance of the Irish colony’s quasi-declaration of independence in 1460 is diminished by the fact that the sentiments were in part driven by the political agenda of Richard, duke of York,¹¹⁶ they nonetheless appear to have been reflective of broader views

¹¹⁴ M. Hemmant, ed., *Select Cases in the Exchequer Chamber before All the Justices of England, 1377–1461*, 51 (1933), 82–83 (my emphasis).

¹¹⁵ Henry F. Berry, ed. *Statute Rolls of the Parliament of Ireland, Reign of King Henry the Sixth* (Dublin, 1910), 644–46. For context, see Art Cosgrove, “Parliament and the Anglo-Irish Community: The Declaration of 1460,” in *Parliament and Community. Historical Studies XIV* ed. Art Cosgrove and J. I. McGuire (Belfast, 1983), 25–41; James Lydon, “‘Ireland Corporate of Itself’: The Parliament of 1460,” *History Ireland* 3, no. 2 (Summer, 1995): 9–12. In 1423 the chancellor and treasurer of Ireland declared that English statutes were applicable to Ireland only if they had been considered by the Irish parliament. Frame, “Les Engleys néés en Irlande,” 146.

¹¹⁶ Cosgrove, “Parliament and the Anglo-Irish Community,” 31.

about the relationship between England and Ireland in this period. In the 1440s, a bitter conflict over the appointment to the office of chief baron of Irish exchequer revealed the underlying tensions that existed over the question of just how far the colony ought to be controlled from England.¹¹⁷ Two candidates had a claim to the office. The first was John Cornwalshe, who was appointed at the behest of James Butler, fourth earl of Ormond on 5 October 1441, in the latter's capacity as deputy lieutenant, using the Irish seal as the basis of authority.¹¹⁸ Cornwalshe's rival was Michael Griffin, a supporter of Richard Talbot, archbishop of Dublin,¹¹⁹ who was locked in a bitter and acrimonious feud with Ormond.¹²⁰ Griffin was appointed to the same office, under the authority of the English seal, on 31 October 1441. The case is significant because both Ormond and Talbot, on separate occasions, upheld the superiority of the Irish seal over the English seal to preserve their respective choice of candidate for the office: in 1443, Ormond, now lieutenant of Ireland,

¹¹⁷ There is discussion of this episode by E. A. E. Matthew, "The Governing of the Lancastrian Lordship of Ireland in the time of James Butler, Fourth Earl of Ormond, c. 1420–1452," PhD thesis, University of Durham, 1994, 388–89.

¹¹⁸ For Ormond's career, see Elizabeth Matthew, "Butler, James, Fourth Earl of Ormond (1390–1452)," in *Oxford Dictionary of National Biography*, ed. H. C. G. Matthew and Brian Harrison (Oxford, 2004); online ed., ed. David Cannadine, September 2013, <http://www.oxforddnb.com/view/article/4187>.

¹¹⁹ For Talbot's career, see Elizabeth Matthew, "Talbot, Richard (*d.* 1449)," in *Oxford Dictionary of National Biography*, see online ed., ed. David Cannadine, (Oxford, 2004), <http://www.oxforddnb.com/view/article/26939>.

¹²⁰ Margaret C. Griffith, "The Talbot–Ormond Struggle for Control of the Anglo-Irish Government, 1414–47," *Irish Historical Studies* 2, no. 8 (September, 1941): 376–97.

ignored orders emanating from the English chancery to reinstate Griffin to the office;¹²¹ and in 1445 Talbot, who was now justiciar, ignored a decision taken by the king to have Cornwalshe reinstated.¹²² This revealed an underlying ambiguity about where ultimate authority within the lordship was understood to reside. Of even greater significance, however, was the chancery bill presented by Cornwalshe that led to the decision in his favor in 1445. In his complaint against Griffin, Cornwalshe claimed that Griffin had wrongfully dispossessed him of both his office and his lands and tenements. But he then added,

forasmoch as the custom of the seid lond of Irland used of tyme that no mynde revuyth is that there as right faillith unto enny liege man of oure said soverayn lord the kyng in the sayd lond of Irlond that than he lay lafulli sue here unto oure said soverayn lord the kyng in his chauncery in this his reume of Ingelond & here to have right determyned of iniuries & wronges eny of them don inthe seid lond of Irland.¹²³

It is significant that Cornwalshe felt it necessary to justify to the chancellor the underlying probity of his recourse to English justice, even though the whole thrust of his argument was that Griffin had seized his office and goods in violation of the king's writ, issued under the great seal of England. It becomes clear why Cornwalshe was anxious to affirm this principle when we consider the contents of a document that recorded the arguments made by Griffin in

¹²¹ *CCR, 1441–47*, 104.

¹²² *CPR, 1441–46*, 352–53, 410, 495.

¹²³ TNA: C 1/13/226; calendared and summarized in Paul Dryburgh and Brendan Smith, eds., *Handbook and Select Calendar of Sources for Medieval Ireland in the National Archives of the United Kingdom* (Dublin, 2005), 125.

response to the accusations Cornwalshe had levelled against him.¹²⁴ According to

Cornwalshe, Griffin had

alleggith by his seid answare that the land of Irland *ys departed fro the rewme of Ingeland and undir the ligiaunce and obedyens of the kyng of Ingeland* and by the lawys & custumes of the seid land of Irland all the kynges liege peple ther to be rewled & governed and all the [things?] done in the said land are to plede & be empled by the said lawys & custumes oute of tyme that no mynd ys. [my emphasis]

We do not know how much truth there is in Cornwalshe's allegations, but it is not hard to imagine that Griffin's defense of his actions involved upholding the right of the government in Ireland to run its affairs without interference from across the Irish Sea. Ironically, Cornwalshe had been in exactly the same position as Griffin three years previously, when he had become chief baron of the exchequer at the behest of the earl of Ormond in the face of contrary instructions from Westminster. So we should not necessarily see his arguments, or those advanced by Griffin, as entrenched ideological positions. Instead, they were expedients that suited the protagonists' circumstances and that took advantage of the blurred lines of authority that now existed between England and Ireland. In this instance, as we have seen, Griffin's patron Talbot simply ignored the writs issued in response to Cornwalshe's bill. Eventually, in January 1447, Griffin was removed from office on the grounds that he had obtained it *surreptusement et illoialment* from the Irish chancery.¹²⁵ Significantly, this was done not by process from England but as a result of proceedings in the Irish parliament held

¹²⁴ TNA: C 1/13/227; summarized in Dryburgh and Smith, *Handbook and Select Calendar*, 126.

¹²⁵ *Statute Rolls of the Parliament of Ireland, Reign of King Henry the Sixth*, 66–71, 78–79.

at Trim. Griffin was subsequently brought before the King's Bench in Ireland to answer the accusations against him.

Conclusions

From both the perspective of the crown and the perspective of its "Anglo-Irish" and Welsh subjects, the question of how far the dominions should be integrated into the English polity exposed a confused and contradictory set of priorities. From the colonies' point of view, rule from Westminster offered peace and security, yet this was tempered by a desire to preserve local custom and a measure of self-determination. Attitudes to the "English" system of law were generally positive. This was because it was not in itself a tool of aggressive imperial rule: it could be adopted and adapted to fit local conditions (Scotland), or in the case of the Welsh and Irish it offered individuals security, status, and protection. It was pragmatism rather than national sentiment or an acceptance of servitude that shaped attitudes toward this English export. From the crown's point of view, the extension of its power into the dominions was self-evidently an attractive proposition, but this could not be achieved without a level of investment of money and energy which no late-medieval English king was willing to expend: there were limits beyond which integration and centralization became impracticable and unattractive.¹²⁶ When English legislation was projected into the dominions, this was not to serve imperial ambition, as such, but to fulfill the king's obligation to provide justice and good governance to all his subjects. Even so, with the exception of Richard II,

¹²⁶ Crooks, "State of the Union," 13–16; Seymour Phillips, "Royal Authority and Its Limits: The Dominions of the English Crown in the Early Fourteenth Century," in Ní Ghrádaigh and O'Byrne, *March in the Islands*, 251–60, at 257–58.

English kings generally did not trouble themselves to visit Wales and Ireland. This reflected the low priority given to these dominions and the absence of any driving ambition to have them brought more fully within the orbit of English control.¹²⁷ The limitation of the extension of English power into these lands thus did not reflect a “failure” of imperial strength but a conscious policy deriving from an appreciation that the composite nature of royal power over multiple territories promised greater political acquiescence on the part of the peoples of those territories than the universal imposition of a unitary state structure.¹²⁸ But it is important to recognize that the limits were also set by the king’s English subjects, who showed no appetite for integration and assimilation. Any attempts by the crown to introduce and maintain full institutional homogenization would have foundered on the rocks of deeply ingrained cultural and racial identities; the limitations of union across Britain and Ireland were as much due to the wish of the English to preserve their own identity as that of the other peoples of the archipelago to preserve theirs.

As a result of the “Englishness” of the settlers in Ireland it might be assumed that they enjoyed more harmonious relations with the English crown than the Welsh. But if anything the push-pull nature of the colonial dynamic was more acute as a result of the shared cultural and racial heritage extending over the Irish Sea. As English subjects, the English settler

¹²⁷ Note Frame’s opinion that the English justiciars appointed between 1318 and 1361 “belonged emphatically to the s division.” Frame, *English Lordship*, 89.

¹²⁸ J. H. Elliott, “A Europe of Composite Monarchies,” *Past and Present*, no. 137 (November, 1992): 48–71; Crooks, “State of the Union.” There is also useful discussion of the de-centralized nature of English royal authority in Steven Ellis, “Crown, Community and Government in the English Territories, 1450–1575,” *History* 71, no. 232 (June, 1986): 187–204, at 188–89.

community was more directly subject to English law, governance, and legislation; yet at the same time it was permitted to develop its own English-style administration, including a parliament. This ensured commonality of experience, but over time it fostered a greater sense of the political distinctiveness and cohesion of the English colony, which in turn gave its inhabitants a strong collective and independent political voice. No such privileges were extended to Wales because the Welsh, as “foreign” subjects, remained outside the privileged orbit of the English polity. This meant that, although the Welsh found themselves at a distinct disadvantage in their dealings with English settler communities in Wales, direct interference by the crown in Welsh affairs was minimal, as was the consolidation of the Welsh people into a distinct Welsh polity: there was no Welsh equivalent of the Irish parliament to help to generate a unified political identity.¹²⁹ The absence of a developed English-style administrative structure in Wales thus emphasized the separation of the land from England and reinforced the antipathy of the English to the Welsh as Anglo-Welsh relations deteriorated in the fifteenth century. What created the conditions for separation in the medieval period may, ironically, have been an important factor in paving the way to eventual union between England and Wales, for the absence of a strong Welsh administrative tradition created the circumstances that allowed Wales to be subsumed without significant difficulty, and without serious opposition, into the English polity in the sixteenth century.

These patterns of institutional development find resonance with broader observations about the growth of English political identity in the fourteenth century. Ralph Griffiths has shown that in this time English subject-hood gradually came to apply to only those of English blood or descent; all other peoples, including the native Irish and Welsh, were considered to

¹²⁹ With the exception of the period of Owain Glyn Dŵr’s revolt, for which see Davies, *Revolt of Owain Glyn Dŵr*, 164–66.

be foreign.¹³⁰ Elaborating these ideas, Andrea Ruddick has suggested that what was understood to underpin political identity within the Plantagenet Empire shifted in meaning across the fourteenth century.¹³¹ Initially it was defined in terms of expressions of allegiance, and therefore extended throughout the dominions, but toward the end of the fourteenth century, as a result of economic and political pressure and England's prolonged conflict with France, political identity came to be defined—primarily by the English—in terms of English nationality. In essence, therefore, political identity came to be more narrowly focused on the English people and the English state. These developments have an important institutional dimension. Under Edward I and Edward II, the reach of the English parliament extended well beyond England's borders. Its legislation was routinely sent across the Irish Sea. “Anglo-Irish,” Welsh, and Gascon petitioners flocked to the assembly in great numbers seeking the grace and favor of the king.¹³² Edward I summoned representatives of the “community of Scotland” to attend the Lent parliament of 1305 to discuss ordinances for the settlement of the land.¹³³ He is also known to have wanted Llywelyn ap Gruffydd, Prince of Wales, and John Balliol, king of Scotland, to attend the English parliament as his vassals—a spectacle that was famously, albeit fictitiously, depicted in the sixteenth-century Wriothesly

¹³⁰ Griffiths, “English Realm and Dominions,” 33–53.

¹³¹ Ruddick, *English Identity*, chap. 5.

¹³² CAPW; Connolly, “Irish Material”; Hartland, “Edward I,” 59–70; Guilhem Pépin, “Petitions from Gascony: Testimonies of a Special Relationship,” in *Medieval Petitions: Grace and Grievance*, ed. W. Mark Ormrod, Gwilym Dodd, and Anthony Musson, (Woodbridge, 2009), 120–34; Dodd, “Petitions from the King's Dominions,” 187–215.

¹³³ *PROME*, Edward I, Roll 12 (item 14(13)).

manuscript.¹³⁴ Under Edward II, Welsh MPs were twice returned to the assembly. In these years the English parliament could truly be said to have been international in outlook.

But by the second half of the fourteenth century, English legislation was mostly restricted in its application to England, “foreign” petitions had almost completely dried up, and the idea of extending the franchise beyond England’s borders, even exceptionally, was never seriously considered. The period also witnessed a growing reluctance on the part of the English political community to allow the proceeds of parliamentary taxation to be spent on the defense of anywhere except England itself.¹³⁵ The English parliament had thus become predominantly national, even parochial, in its outlook.¹³⁶ Whereas in the early-fourteenth century it had served the interests of many different nationalities, by the fifteenth century it was overwhelmingly oriented toward England. Insofar as the assembly affected the crown’s non-English subjects, this was mostly confined to protecting English interests abroad and ensuring that “foreigners” living in England did not enjoy any undue advantages.¹³⁷ This shift in focus has many explanations, but one of the most important lies in the way the English parliament came to be defined more clearly as an English institution by the English representatives who attended it. Parliament—and the law and legislation that it produced—thus had the capacity either to consolidate or to undermine “imperial” power. The assembly could be used either to emphasize or to negate common identity and an integrated polity. As the institution came to be more and more swayed by the views of the broader political

¹³⁴ Davies, *First English Empire*, 24–25.

¹³⁵ Ormrod, “English State,” 204–205, 211–12.

¹³⁶ Though see Edmund Curtiss, *Richard II in Ireland* (Oxford, 1927), 58–59.

¹³⁷ For anti-alien common petitions see, for example, *PROME*, parliament of 1433, items 46, 51, and 52.

community of England the vision of pan-British and Irish unity gave way to political differentiation and English insularity.