

# A CONSIDERATION OF CERTAIN ASPECTS AND PROBLEMS OF THE ENGLISH *MODUS TENENDI PARLIAMENTUM*

By J. S. ROSKELL, M.A., D.Phil.

PROFESSOR OF MEDIEVAL HISTORY IN THE UNIVERSITY OF MANCHESTER

THE English *Modus Tenendi Parliamentum* is an anonymous treatise of uncertain date, but produced not later than the fourteenth century.<sup>1</sup> Written in Latin, it purports to be a description of how an English parliament had been held in the time of Edward the Confessor and since, how it had been habitually summoned, who composed it, what officials of the Crown should attend and record its transactions, how it should be begun, what it should do, how it should end, where its records should be deposited, and the rest.

The earliest extant manuscripts of the *Modus* belong to the reign of Richard II. But they themselves point to an earlier origin. Most historians would be prepared (on the basis of the work of M. V. Clarke<sup>2</sup> and W. A. Morris<sup>3</sup>) to ascribe the original production of the treatise to the second half of Edward II's reign; and I am myself ready to accept Professor Morris's closely defined date of 1321, with which Miss Clarke's conjectures (independently arrived at) do all but precisely agree. Professor Galbraith's more recent dictum on this point of dating is that "Neither [of these two writers] is far out".<sup>4</sup>

The main reasons for accepting the particular date of 1321 are that the *Modus* (article XVII) would assign to the earl steward (then Thomas, earl of Lancaster), the earl constable (then

<sup>1</sup> The best text so far available is that based on a collation of sixteen early manuscript versions and printed in the appendix of M. V. Clarke, *Medieval Representation and Consent. A study of early parliaments in England and Ireland with special reference to the Modus Tenendi Parliamentum* (1936), pp. 374-84. My references to particular articles of the *Modus* are in accordance with the enumeration of her text.

<sup>2</sup> Clarke, *op. cit.*

<sup>3</sup> W. A. Morris, "The Date of the 'Modus Tenendi Parliamentum'", *English Historical Review*, xlix. 407 ff.

<sup>4</sup> V. H. Galbraith, "The *Modus Tenendi Parliamentum*", *Journal of the Warburg and Courtauld Institutes*, xvi (1953), 84.

Humphrey, earl of Hereford), and the earl marshal (then Thomas, earl of Norfolk), an important part in arranging for a committee of twenty-five representatives of parliament (if parliament could not achieve a majority decision) to settle cases of great difficulty, including dangerous discord between the king and magnates or between magnates ; that in the spring and summer of 1321 it was possible that some such procedure might be needed to effect the banishment of Hugh Despenser the younger, Edward II's over-mighty chamberlain ; that in that year Lancaster was sympathetic to, and Hereford was actually involved in, a rising in the marches of Wales directed against this " favourite " ; and that these two major earls were then, after a period of political separation, once again actively allied against the court party until their untimely deaths in March of the following year. Might not the *Modus* be identified with the " quidem tractatus ex antiqua consuetudine ordinatus et approbatus ", which, according to the Pauline Annals,<sup>1</sup> the earl of Hereford and his confederates, in their advance on London in 1321 to depose and destroy the Despensers, " fecerunt in scriptis . . . ante adventum . . . parliamenti " ? Whatever might be thought of this suggestion, it may perhaps be said that the main political purpose of the *Modus* was to emphasize the significance of the part which ought to be played in parliament by the higher baronage in the circumstances of a Lancastrian " come-back " and, to put the matter crudely, to secure the support of the representative elements in parliament for Lancaster's programme—the old Ordainers' policy with some important changes—of using parliament as an instrument for controlling the king and the government of the country. The *Modus* is, of course, much more than this. But here, it may be thought, is one of its chief political aims.

Stubbs once referred to " the proved worthlessness " of the *Modus*.<sup>2</sup> He later relented, at least to the extent of calling it " a somewhat ideal description of the constitution of parliament "

<sup>1</sup> *Chronicles of the Reigns of Edward I and Edward II* (R.S.), ed. W. Stubbs, p. 293. I see no reason to accept Miss Clarke's identification of this *tractatus* with the treatise on the office of the steward of England (op. cit. p. 242).

<sup>2</sup> W. Stubbs, *The Constitutional History of England*, Library edition (Oxford, 1880), iii. 465.

or "a theoretical view for which the writer was anxious to find a warrant in immemorial antiquity".<sup>1</sup> Professor Galbraith has recently termed it "a paper constitution", but considers it worthy of serious consideration as such.

The venerable antiquity of the parliament which the *Modus* describes we may, of course, reject as quite inane or even fatuous. What the treatise says of the functions of the serjeants-at-arms in attendance upon parliament, the usher and crier of parliament, and the principal and secondary clerks and official members of the king's council, of the sealed duplicate warrants of the elected clerical and lay representatives, of the roll-call of those summoned, of the seating arrangements (doubtfully stated to be under the control of the hereditary steward of England), of the opening sermon before parliament and the *pronunciatio* of its causes of summons by the chancellor or chief justice or their deputy, of the proclamation of a time-limit for the submission of petitions and complaints, of the order of deliberation upon the business of the king and his family and of the realm, and of the auditing of petitions in the order of their filing, may well be true, even though such particulars cannot all be verified from the rolls of the parliaments themselves. (These records are, of course, very uninformative regarding such details in the period when the *Modus* was written or, for that matter, at any time in the Middle Ages.) But what the tract says on the very important questions of the position of the king in parliament, of parliament's composition, and of its political and tax-voting functions, in other words, about the nature and purposes of parliament, cannot be seriously regarded as authentic or as worth-while evidence of what parliament was, how parliament worked, or what parliament did at any time in its early history. Regarded, however, simply as a political pamphlet,<sup>2</sup> whose text is made more life-like and realistic by what we may call its antiquarian details, the *Modus* still deserves proper consideration. This is so, if only because it was evidently composed by someone who cared enough about English government to wish to reform parliament drastically in

<sup>1</sup> Stubbs, *Select Charters* (9th edn.), p. 500.

<sup>2</sup> I accept Professor Galbraith's ideas on this point.

certain of its aspects, and was able to do so according to a reasoned plan.

If we regard the parliamentary “antiquities” of the *Modus* as merely incidental and only its political content or “message” as crucial, we can—as Professor Galbraith has suggested—cease to decry the “misstatements” alleged against the *Modus* as aberrations or anomalies or departures from current practice. These are in all conscience difficult to account for in a treatise obviously composed by a “professional”, but this need not be the case if we regard them as proposals (however extravagant in themselves) in a large and well-ramified scheme of parliamentary reform. The *Modus* is a political pamphlet. All of what is odd or eccentric in it ought to be considered not as statements of fact—that they are so represented in the tract is beside the point—but as projects for reform. If we were to translate the title of the tract into modern English, that title might well be, as Professor Galbraith has said, “How to hold a—perhaps *the*—parliament”. On this hypothesis, each and every “misstatement” of the *Modus* has its own intrinsic value, especially when it is clearly related to the whole, common purpose of the tract.

Thus far with Professor Galbraith. It is, however, on a matter arising out of this last point that to some degree I part company with him. Because to one particular article (article II) of the *Modus* (to which I shall eventually return), the especially important article which provides for the summoning of two proctors for each archdeaconry (not each diocese, as was current practice), he takes exception on the grounds that it “looks like a plain mistake”. If it is taken as an account of existing parliamentary practice, the *Modus* is full of mistakes. That is to say, it contains some statements about parliamentary practice that cannot be verified, some statements that can be contradicted. It seems to me unwise—if we are to take the tract at all seriously as a piece of political propaganda or as proposals for reform—to discriminate in this way between its “mistakes”, regarding some as deliberate and others as accidental, especially if we accept Professor Galbraith’s view (and I think that we may) that “the author knew his subject minutely and at first hand”.

Of unusual theory and practice there is certainly no lack in the

*Modus*. At first sight the most surprising features of the tract are to be found in articles XVII and XXIII, those respectively entitled “ De Casibus et Iudiciis Difficilibus ” and “ De Auxiliis Regis ”. The former I have already referred to as suggesting a Lancastrian inspiration for certain parts of the *Modus* and as likely to appeal to the higher baronage.<sup>1</sup> But in the committee of twenty-five persons appointed (in article XVII) to resolve disagreements in parliament on difficult questions where there is discord (between king and magnates or among the magnates) serious enough to hazard the peace of the realm, a place is found for the representation of the clerical proctors and knights of the shire, citizens, and burgesses. These together make up three of the five *gradus* of parliament.<sup>2</sup> Indeed such a place is afforded these representative elements as would give them a large majority in this committee over those of its members who were bishops, earls, and barons, a majority of eighteen<sup>3</sup> over seven.<sup>4</sup> Almost as surprising as this preponderance of elected representatives over prelates and magnates in the committee is the preponderance, among the lay commoners, of the citizens and burgesses. For, although citizens and burgesses comprise together only one of the five parliamentary *gradus*, they figure on this committee of twenty-five as though they were two separate *gradus*, being represented by five citizens and five burgesses (the knights of the shire, too, being five in number).

Startling, too, is the reference in the *Modus* to all the members of every *gradus* as “ pares parlamenti ”. This “ parity ”, so “ clearly at variance with contemporary practice ” (as Professor Galbraith puts it), is sustained in the article “ De Auxiliis Regis ”: although a demand for an extraordinary financial grant to the king is to be considered by each *gradus*, all the “ pares parlamenti ” are to consent and, lest there should be any doubt

<sup>1</sup> The standing of the great lords in that single one of the six *gradus* which (in the *Modus*) embodies the lay magnates was likely to be enhanced if individual summonses were restricted to earls and barons and those with landed estate comprising not less than 13½ knights’ fees (article III, “ De Laicis ”).

<sup>2</sup> In counting five I omit the *gradus* of which the king was the sole member.

<sup>3</sup> The 18 comprise 3 clerical proctors, 5 knights of the shire, 5 citizens and 5 burgesses.

<sup>4</sup> The 7 comprise 2 bishops, 2 earls and 3 barons.

of what this means, two knights of the shire are to have a greater voice than a "maior comes Anglie", and all the proctors of a diocese (provided they agree) than their bishop. The theoretical justification for such a remarkable suggestion is that the presence of the "communitas regni", glossed a few lines later as "communitates cleri et laici", is alone essential to a parliament's proper constitution and valid operation, provided that members of the other *gradus* entitled to individual summonses have, in fact, been summoned. The "communitas parliamenti", made up of proctors of clergy, knights, and citizens and burgesses, personifies the "tota communitas Anglie": the prelates and lay magnates represent no one but themselves. This was a proposal clean contrary to the earlier policy of the Lords Ordainer of 1310, who had then regarded themselves as entirely competent to speak for the community of the realm and had all but ignored the elected commons when devising their programme of reform of the royal administration and household.

If the *Modus* was the work of somebody bidding for Lancastrian support—and there is more than a suggestion that its author was aware of the doings of Lancaster's private parliament held at Sherburn in Elmet (Yorkshire) in June 1321—it only serves to show how far Lancaster may have been prepared to go to secure the assistance of the middling elements, lay and clerical alike, in English society, and, therefore, how precarious the earl's situation had become at that time. But, as Tout once put it, "behind the narrow circles of barons and bishops, courtiers and officials, who were the permanent governing classes, lay the great masses of the smaller landed proprietors and of the traders of the towns, who, if still unable to lead, were now competent to take a side." "For their support", he went on, "both parties to the main conflict eagerly competed at every great crisis. We are now [under Edward II] getting to the period when these lesser folk were almost in a position to turn the scale."<sup>1</sup> And certainly we need only look at the ranks of the "contrariants" (of 1322 and later) to perceive how crucial to Lancaster and his kind was the support of (at any rate) that class which supplied the knights of

<sup>1</sup> T. F. Tout, *Chapters in the Administrative History of Mediaeval England*, ii. 190-1.

the shire. 1321 would not be the first time that the support of the knights, or even of the clergy, knights, and burgesses together, had been seriously canvassed when king and barons were mutually hostile. We may think back to 1213, to 1261, or, with greater relevance still, to 1265, when for the first time knights and burgesses sat together in parliament, or we may look forward only a little way to their part in the events of 1327. Was Lancaster perhaps taking up again, where his great predecessor in the earldom of Leicester and the stewardship of England (Simon de Montfort) had laid down, the design of leading the middling classes over "the frontiers of political responsibility" (Miss Clarke)? Certainly, Lancaster in 1321 was well aware of the claim of the office of steward of England (appurtenant to his earldom of Leicester) to carry with it a guardianship of the common weal. This claim is writ large in the Lancastrian treatise on the Stewardship, with no fewer than seven of the earliest manuscripts of which copies of the *Modus* were, very significantly, actually written up or associated.<sup>1</sup> Following Miss Clarke,<sup>2</sup> we need only remark the close correspondence between what is advocated in article XVII of the *Modus* ("De Casibus et Iudiciis Difficilibus") and the provision in the treatise on the Stewardship for the election in parliament, by the steward and constable, of the committee of twenty-five persons. In the latter treatise the twenty-five were to be composed of earls, barons, knights of the shire, citizens, and burgesses. In the *Modus* the twenty-five were to be chosen by the earl steward, the earl constable, and the earl marshal ("vel duo eorum") from all the "pares regni". This means that they were to include two bishops and three clerical proctors as well as lay magnates and lay representatives. The inclusion of representatives "pro toto clero" in the version of this proposal in the *Modus* is a notable amendment.

Quite the best part of Miss Clarke's treatment of the *Modus*

<sup>1</sup> Clarke, *op cit.* p. 358.

<sup>2</sup> *Ibid.* p. 244: Miss Clarke was surely right in assuming that the tract on the Seneschalcy came before the *Modus*, and that the author of the *Modus* knew and used it. Both tracts most probably belonged to c. 1321. The reference in the treatise on the Seneschalcy to the time of Edward the Confessor when Earl Godwin was exiled, is worth comparing with the attribution of the parliament of the *Modus* to the reign of the same king.

in her book, *Medieval Representation and Consent*, is in regard to those ecclesiastical issues and problems of the early fourteenth century to which it refers. She saw in the tract "a definite prejudice in favour of the rights and dignity of the Church" or "a decided bias towards the ecclesiastical side".<sup>1</sup> In fact, she went so far as to describe the *Modus* as "an ecclesiastical manifesto".<sup>2</sup> Accordingly she gave more serious consideration than Professor Galbraith has been prepared to do to certain "misstatements" (*alias* reforms) in article II of the *Modus*, entitled "De Clero". This chapter relates to the summoning of the higher and lower clergy to parliament. It states that archbishops, bishops, abbots, priors, "et alii maiores cleri" who hold lands of the Crown by barony are bound to be summoned and to come to parliament by reason of this tenure. Ecclesiastics of lesser dignity are normally not to be individually summoned to attend, unless they happen to be "de consilio regis" or their presence is deemed necessary and advantageous to parliament, and even then they ought to be asked (not ordered) to come and are entitled, when doing so, to receive expenses from the king. And then, by summonses directed in the first place to archbishops, bishops, and exempt ecclesiastics, arrangement is to be made for the election, by deaneries and archdeaconries, of two proctors for each archdeaconry to represent their clergy in parliament. Here was an important change. For current practice was that cathedral chapters and *dioceses* should be represented, respectively by one and two proctors. Miss Clarke at this point<sup>3</sup> suggested that if one purpose of the *Modus* was to counteract the ever-increasingly powerful tendency in Edward II's reign for the lower clergy to secede from parliament and to grant or withstand the king's financial demands upon their spiritualities only in their own provincial councils or convocations, the obvious answer was to give the lower clergy a greater numerical representation in parliament. Surely she was right. This would associate them there on a comparable basis with the lay commons. Moreover, with the three *gradus* of the "communitates cleri et laici" (the proctors of the clergy, the knights, and the burgesses) in joint

<sup>1</sup> Clarke, *op. cit.* pp. 16, 18.

<sup>2</sup> *Ibid.* p. 20.

<sup>3</sup> *Ibid.*



sessions with the two *gradus* of prelates and lay magnates, would then rest control over taxation.

The inception, in 1295, of Edward I's scheme for including representatives of the lower clergy in parliament had unfortunately all but coincided with the papal bull *Clericis laicos* of 1296. And since then the English clergy had followed a policy of obstruction to the royal plan. This they had done by objecting to the form of their summons (reinforcement of the " *praemunientes* " clause in the parliamentary writs convening the archbishops and bishops by a provincial letter issued by the archbishop, acting upon a royal mandate and citing his clergy to parliament as if to a provincial council), by declining to obey the extra-provincial citation, and by exploiting the difficulties likely to arise from the chronic dispute over primacy between the archbishops of Canterbury and York, when either was summoned to a parliament meeting in the other's province. Could the lower clergy, despite their wish to be separate from parliament, be induced to return to it willingly by reforming the system of their direct representation there in such a way as to give them greater numbers and presumably, therefore, a stronger voice? Such an intention seems to be the drift of the argument of the *Modus*.<sup>1</sup>

That a considerable increase in the number of the clerical proctors in parliament would theoretically<sup>2</sup> accrue from the reform proposed by the *Modus* in article II is undoubted. On paper, under this new dispensation, the clerical proctors returned from the archdeaconries of England and Wales would number 120 instead of the usual 65 elected proctors from cathedral chapters and dioceses. The number of elected proctors would be almost doubled. We should not have regarded the total number

<sup>1</sup> The objection of the clergy—sometimes at any rate—was that parliament was a lay court which they therefore ought not to attend. This difficulty is not met by the *Modus*.

<sup>2</sup> I say "theoretically", because it occasionally happened that one person acted as proctor for more than one ecclesiastical dignitary or body of clergy: for example, to the York parliament of 1322 was sent Master David Fraunceys as proctor for the bishop of St. David's, the archdeacons of St. David's, Carmarthen, Cardigan and Brecknock, and the cathedral-chapter and the clergy of the diocese of St. David's, each appointment being by separate letter (P.R.O., S.C.10/8, nos. 358, 367, 373, 376, 377, 387, 397).

of the clergy in parliament below the rank of bishop, abbot and prior as so remarkably changed by article II of the *Modus*, had we not made a distinction between those of the middle clergy normally summoned as individuals (the priors or deans of cathedral chapters and archdeacons) and those clergy who were as a rule proctorially represented (the cathedral and diocesan clergy). The elimination in article II of the *Modus* of the cathedral deans (11 in number), of the archdeacons (60), of the single proctor for each cathedral chapter (23), and of the two proctors for each diocese (42), accounted in all for as many as 136 clergy.<sup>1</sup> The total number of clergy in parliament below the rank of bishop, abbot, and prior, would have been, therefore, in fact, diminished by 16 if the plan of the *Modus* had ever been made effectual. It was only the elected proctors whose number would have been drastically increased. In other words, what the author of the *Modus* intended here was to effect an important shift of the balance of the representation of the clerical order in parliament away from the dignitaries to the rank and file of the Church, as well as to raise the numbers of his separate *gradus* of the proctors of the clergy in the reformed parliament envisaged in his tract. The enhanced localism of the electoral units, rural deaneries and archdeaconries, is also worth remark.

Professor Galbraith dismissed these proposed changes of the *Modus* with their restriction of proctorial representation to archdeaconries, observing that "it looks like a plain mistake", and that "perhaps the author was misled by the practice of the Convocation of the northern province". My own feeling, and I use Professor Galbraith's own words against him here, is that the *Modus* is "most valuable when it is most at fault, for

<sup>1</sup> Admittedly, in article IX there is a reference to deans among those prelates and clerks required to appear on the fifth day of parliament and in article XII to archdeacons among the *gradus*. Such inclusions are, however, quite inconsistent with article II, which provides for the *regular* summoning of only prelates and other clerics who hold by barony, and also with article XXVI, where the second *gradus* is composed "de archiepiscopis, episcopis, abbatibus, prioribus, per baroniam tenentibus" and the third *gradus* "de procuratoribus cleri". In taking the clause to imply the exclusion of deans and archdeacons and proctors from cathedrals and dioceses, I have followed Miss Clarke's conclusion on this point (op. cit. pp. 18-19, 326).

when it is wrong it is wrong to a purpose".<sup>1</sup> Even if the plan of the *Modus* for representation by proctors from archdeaconries was grounded on the practice of the convocation of York, where the fewness of the episcopal sees (York, Durham, and Carlisle) made recourse to such a system obviously preferable to one based on dioceses, that need not detract from the sincerity of the proposal. But in the province of Canterbury itself, in fact, representation of the lower clergy by archdeaconries would have appeared not at all unreal or even novel. In the first quarter of the fourteenth century the existing arrangements for the election of diocesan proctors (apparently to both convocation and parliament) in at least the great diocese of Lincoln were based upon a system whereby the rural deaneries elected proctors who chose one for their archdeaconry to join with the proctors of other archdeaconries for the purpose of finally electing two proctors for the diocese. And a similar system of pre-elections in at any rate archdeanconries, preliminary to a final diocesan election, was being employed at this time in the diocese of Salisbury also.<sup>2</sup> Moreover, it was not unknown for the election of the two proctors for those dioceses which were divided into only two archdeaconries, to be made directly by these archdeaconries, one proctor being elected from each. In 1307, 1316 and 1318<sup>3</sup> the two archdeaconries of the bishopric of Winchester (the archdeaconries of Winchester and Surrey) each elected one proctor to parliament, so supplying the two required from the diocese without any further election being needed. In 1309 the archdeaconry of Lewes elected one proctor to parliament,<sup>4</sup> and it may be conjectured that the other archdeaconry of the diocese of Chichester (that of Chichester itself) elected the second diocesan proctor required. Similarly in 1318 the archdeaconry of Durham elected one proctor to parliament,<sup>5</sup> and presumably the other archdeaconry of the diocese (Northumberland) did the same to make up the diocesan complement. For the same parliament the archdeaconry of Gloucester made its own election of a proctor,<sup>6</sup> and perhaps the archdeaconry of

<sup>1</sup> Galbraith, *op. cit.* p. 94 and n. 2.

<sup>2</sup> Clarke, *op. cit.* pp. 327-9.

<sup>3</sup> Clarke, *op. cit.* pp. 328-9, 329, n. 1; *Parliament and Council, Parliamentary Proxies*, P.R.O., S.C. 10/5, nos. 247, 248.

<sup>4</sup> S.C. 10/2, no. 55.

<sup>5</sup> S.C. 10/6, no. 256 A.

<sup>6</sup> S.C. 10/6, no. 263.

Worcester (the other archdeaconry of the diocese of Worcester) supplied his fellow. There are actually a few cases where a single archdeaconry sent up two proctors independently to parliament : Salop in 1307,<sup>1</sup> Hereford in 1309,<sup>2</sup> and Stafford (one of five archdeaconries in the diocese of Lichfield) in 1309.<sup>3</sup> It is important to recognize that in all these instances the body making the return of proctors was expressly stated in the letter of proxy to be the clergy of the archdeaconry, and where there were two archdeaconries in a diocese the election of a proctor in one archdeaconry was clearly made independently of the election in the other, although such separate elections in all probability resulted from a common acceptance of so convenient a usage by the bishop and diocesan clergy together. Moreover, we should not forget that there were as many as five dioceses in the southern province (Canterbury, Rochester, Ely, Llandaff, and St. Asaph) and one in the northern province (Carlisle), where there was a single archdeaconry only, so that in these dioceses the proposal of the *Modus* to have proctorial representation by archdeaconries would have made no actual change. But clearly, that on one side, archdeaconries (and sometimes even rural deaneries) were already in occasional use as ecclesiastical electoral units outside the limits of the northern province. And, as Miss Clarke says, "the direct representation of archdeaconries laid down in the text [of the *Modus*] was probably intended to standardize a practice sometimes actually followed".<sup>4</sup> The requirement, in the *Modus*, of proctors from archdeaconries instead of from dioceses (as was normal) was, to my mind, no slip.

Article II of the *Modus* would have had some other effects on clerical representation in parliament than simply to double the numbers of the proctorial element there (although whether its author was aware of them may be doubtful). To confine proctorial representation, as he evidently intended, solely to archdeaconries would to some extent have had the remarkable effect of co-ordinating the parliamentary representation of the lower clergy with that of the lay folk of the communities of the shires.

<sup>1</sup> Clarke, *op. cit.* p. 329.

<sup>3</sup> S.C. 10/2, no. 61.

<sup>2</sup> S.C. 10/2, no. 62.

<sup>4</sup> *Op. cit.* p. 329.

In by no means all, but certainly in many, cases a shire would have been similarly and equally represented in its ecclesiastical and lay aspects, respectively by two clerical proctors and two knights of the shire. For, as A. Hamilton Thompson once made clear,<sup>1</sup> the archidiaconal system was founded in the main upon the county divisions, the more important exceptions being almost invariably supplied by the larger counties. Almost half of the shires were exactly, or so nearly as makes no matter, coterminous with archdeaconries, which carried the name of their shire itself. In the large medieval diocese of Lincoln, for instance, there was "a nearly symmetrical example of division by counties" into archdeaconries. It would be unwise, perhaps, to press the implications of this fact with regard to the *Modus*, but it seems that in the larger context of the operation of the ecclesiastical and secular jurisdictions generally in England the territorial identity or correspondence of shires and archdeaconries has not been given the attention it may deserve.

Of one other corollary of article II of the *Modus*, I feel sure, its author was not at all unaware. In his "model" parliament not only would he substitute the general proctorial representation of the clergy on the basis of archdeaconries for representation by dioceses, but he would omit altogether the proctorial representation of cathedral chapters and abolish the personal attendance (normally required under the "praemunientes" clause of the royal summonses to the bishops) of the deans<sup>2</sup> of cathedral churches and of archdeacons. And here, it seems to me, a prosopographical approach to the problem has something to recommend it.

It is well known that the political tendencies of Edward II's reign stressed the baronial as against the professional, official element in parliament. Mr. Richardson and Professor Sayles<sup>3</sup> have shown that under Edward I "the conduct of the business of parliament was throughout very largely in the hands of

<sup>1</sup> A. Hamilton Thompson, "Diocesan Organisation in the Middle Ages: Archdeacons and Rural Deans", *Proceedings of the British Academy*, xxix (Raleigh Lecture), 165-7.

<sup>2</sup> And priors.

<sup>3</sup> H. G. Richardson and G. O. Sayles, "The King's Ministers in Parliament", *English Historical Review*, xlii, 532; xlvii, 202.

trained lawyers and administrators", primarily though not exclusively in the hands of the more important Chancery clerks, royal officials of whom some received their own individual summons to parliament; that under Edward II the inclusion of magnates among the triers of petitions was "deliberately designed to restrict the authority of the official class"; and that, after the political "feudal reaction" of the middle years of Edward II's reign, "the official class did not recover the predominance that had been theirs under Edward I". But Chancery clerks, at any rate on occasion, continued to be well represented on committees of the council performing parliamentary business, as Mr. Richardson and Professor Sayles's work itself makes clear. Article XV of the *Modus*, where the duties of the principal clerks of parliament are described, suggests that its author wished to diminish the part played by the judicial and other official elements in examining parliamentary petitions, and to give a bigger share in this work to all the proper members of parliament, the "pares parliamenti". Miss Clarke<sup>1</sup> also saw in these changes a step towards the emergence of common petitions as the basis for legislation. Be that as it may, it is here sufficient to notice in the *Modus* a certain antipathy to any restoration of royal officials to that central place in parliament which undoubtedly they had once held but were in process of losing or had lost. For there is implicit, I believe, in the proposed reform in the *Modus* of the character of the representation of the lower clergy, with its concomitant exclusion of the proctors of cathedral chapters and the abandonment of the personal attendance of deans of cathedrals and of archdeacons, summoned as such, something of the same "anti-official" bias.

There can certainly be no doubt that many of the king's clerks would have been affected in their ecclesiastical capacity by the reform of clerical representation in parliament proposed in article II of the *Modus*. One only needs to investigate the composition of the secular cathedral chapters at the time about when the *Modus* was composed, to appreciate the relevance and significance, in this respect, of the abandonment of their direct representation in parliament as proposed by the tract.

<sup>1</sup> Op. cit. pp. 234-5.

One effect of the collusion between the Crown and the Papacy over provision to ecclesiastical benefices, of the exercise of royal rights of patronage during episcopal vacancies, and of the sympathy towards the king's needs felt by the bishops (more than half of whom at this time had formerly been king's clerks themselves),<sup>1</sup> is clear to see in the frequent possession of cathedral prebends by the clerks of the Chancery and of other branches of the royal administration. The most lucrative prebends were those of York, Lincoln and Salisbury. Cathedral prebends generally were sinecures and could therefore be enjoyed in plurality and without obligation to residence (certainly when held by king's clerks), and usually only a small minority of canons undertook residence in their cathedrals. Even so, the connection of non-resident English-born canons with their chapters was never merely nominal.<sup>2</sup> And if a list is compiled of cathedral prebends held by king's clerks in 1321 (the putative date of composition of the *Modus*) it is difficult to imagine that the election of parliamentary proctors from the cathedral chapters went uninfluenced by that element in their constitution.<sup>3</sup> Many king's clerks held prebends in not a few cathedral churches. For example, among the canons of York (whose complement was now stabilized at thirty-six) were, in 1321, the following thirteen king's clerks: William Airmyn, "custos rotulorum cancellarie" (with two prebends), Robert Bardelby, and Henry Cliff, all three of them masters in Chancery and joint-custodians of the Great Seal in this year; two other Chancery clerks, Richard Airmyn (a younger brother of William), and Peter de Dene; Thomas de Charlton, a former controller of the Wardrobe and recently keeper of the Privy Seal; Robert Wodehouse, a baron of the Exchequer who received his own individual writ of summons to parliament in 1321; Hervey

<sup>1</sup> Kathleen Edwards, "The Political Importance of the English Bishops during the reign of Edward II", *English Historical Review*, lix, 312.

<sup>2</sup> For a general review of the situation of the royal clerks in the secular cathedral chapters, see K. Edwards, *The English Secular Cathedrals in the Middle Ages*, chapter I ("The Canons and their Residence"), especially pp. 84-88, and W. A. Pantin, "The English Church in the Fourteenth Century", pp. 59-61.

<sup>3</sup> In compiling these lists I have mainly used H.M. Stationery Office, *Calendars of Patent Rolls, Close Rolls and Papal Registers*, and J. Le Neve, *Fasti Ecclesiae Anglicanae*, ed. T. Duffus Hardy.

Staunton, chancellor of the Exchequer, who was similarly summoned; Roger Northburgh, keeper of the Wardrobe; and Master John de Nassington (official of the court of York), John de Merkingfeld, Robert de Appleby, and Master Nicholas de Ros.<sup>1</sup> William Airmyn, Robert Wodehouse, and Roger Northburgh were also at this time in possession of canonries at Lincoln. Here their fellow-prebendaries then included Master Robert Baldock, in 1321 controller of the Wardrobe and keeper of the Privy Seal; two other king's clerks, Robert de Pickering and Thomas de Clifford; and three more masters in Chancery, Richard Carmel, Master John de Stratford and (with two prebends) Master Gilbert de Middleton, the last two being important ecclesiastical lawyers as well as king's clerks, respectively as dean of the Court of Arches and official of the Court of Canterbury, and both of them independently summoned to parliament in 1321. Fourteen prebends at York and ten at Lincoln were thus held at this one time by king's clerks, some of them important office-holders in the royal service. And if we look further afield into the constitution of the chapters of the remaining seven secular cathedral churches in 1321, we find at least seven king's clerks at both Salisbury and London, five at Lichfield, and four at Hereford.<sup>2</sup> In naming these men we need not go outside the group of those eighteen king's clerks already listed above, except to mention another seven: Adam de Herwyngton, canon of Hereford and in 1321 keeper of the writs and rolls of the Common Bench, who was individually summoned to parliament in that year; Gilbert de Stapleton, canon of Salisbury and the king's escheator north of Trent, who similarly received his own summons to parliament; Nicholas Huggate, another canon of Salisbury, a

<sup>1</sup> There was nothing unusual about the constitution of the York chapter in 1321: discussing it in the primacy of Archbishop William Greenfield about a decade earlier, A. Hamilton Thompson was able to notice "the remarkable prominence of Yorkshire-born clerks, alike in offices of state and in the chapter of York, which continued throughout the greater part of the fourteenth century" (*Publications of the Surtees Society*, cxlv, "The Register of William Greenfield, Archbishop of York, 1306-15", ed. W. Brown and A. Hamilton Thompson, p. xv; *Victoria County History, Yorkshire*, iii. 378).

<sup>2</sup> Were we able to identify more king's clerks and more cathedral canons, our list would surely be somewhat larger.



Chancery clerk who was keeper of the Wardrobe of Prince Edward of Windsor and was later (in November 1326) to become controller of the King's Wardrobe ; John de Everdon, also canon of Salisbury ; Master James de Ispania, illegitimate nephew of Eleanor of Castile, canon of St. Paul's and of Salisbury, and in 1321 a chamberlain of the Exchequer ; Roger Waltham, another prebendary of London, who in 1322 became keeper of the King's Wardrobe ; and John de Husthwayt, canon of Lichfield, a former keeper of the Great Wardrobe (1295-1300). Looking at the matter from a somewhat different angle, we see William Airmyn, the most eminent of the masters in Chancery in 1321, then installed at York, London, Lincoln, Lichfield, Hereford and Salisbury ; Roger Northburgh, keeper of the King's Wardrobe, with canonries at York, Lincoln, London, Wells, Hereford and St. David's ; Thomas de Charlton, prebendary at York, Salisbury, London and Lichfield ; Robert Wodehouse, baron of the Exchequer, canon at York, Lincoln and Hereford.

Unfortunately, it is not possible to say what precise effect the membership of cathedral chapters enjoyed by king's clerks had on capitular representation by proctors in parliament : how often, for instance, king's clerks who were cathedral canons themselves acted as proctors for their chapters. The number of letters of parliamentary proxy emanating from cathedral chapters in Edward II's reign and preserved in the Public Record Office (Parliament and Council, Letters of Proxy) is only a small fraction of the whole of that generally incomplete collection for the reign.<sup>1</sup> Not many more than a score of such capitular letters have, in fact, survived for the reign in the Public Record Office, so that the normal current practice of a particular chapter or of chapters in general regarding their proctorial representation cannot be determined. The nearest approach in the collection for this period to a series of such letters is that relating to the cathedral chapter of York. But here in 1315, 1316 and 1317,<sup>2</sup> the parliamentary proctors chosen were generally canons who were king's clerks : in 1315, Adam de Osgodby and Robert de Bardelby, then senior masters in Chancery, along with John de Merkingfeld,

<sup>1</sup> P.R.O., S.C. 10/1-11.

<sup>2</sup> S.C. 10/3, nos. 126, 147 ; S.C. 10/4, nos. 168, 193.

a recent chancellor of the Exchequer (1310-12) ; in January 1316, John de Hustwace (*alias* Husthwayt ?) and Master Nicholas de Ros, both king's clerks, and Robert de Cotingham ; in June 1316, Osgodby and Bardelby again ; and in 1317, the two latter and Merkingfeld once more. It is unhelpful to find that one half of the remaining extant capitular letters of Edward II's reign came from Welsh cathedrals where it was not so usual to give prebends to king's clerks. But from among the few other letters it may be noted that the monastic chapter of Worcester in 1319 appointed one of its monks and Thomas de Evesham, a king's clerk, as its proctors,<sup>1</sup> and that the chapter of Salisbury in 1322 appointed two of its canons, one of whom was Master John de Everdon, a king's clerk and former baron of the Exchequer, who in the next year (1323) was to be admitted as dean of St. Paul's.<sup>2</sup> If the author of the *Modus* was aiming in article II of his treatise to exclude royal officials from the representation of the lower clergy in parliament, some measure of success was likely to accrue if the proctorial representation of the cathedral chapters were abandoned. To secure this end he was evidently also prepared to abandon the direct representation of those cathedral chapters which were monastic in constitution.

Article II of the *Modus* also conflicts with established practice in its implied advocacy of an omission of the deans of cathedral chapters and of archdeacons from among those personally summoned to parliament. They had regularly been summoned since 1295 whenever the "praemunientes" clause was included in the parliamentary summonses of the archbishops and their suffragans. An examination of the state of the nine English secular cathedral deaneries in 1321 reveals that, of the seven that were occupied by Englishmen, three were certainly then filled by king's clerks : the dean of York was Robert de Pickering, professor of Civil Law and formerly archdeacon of Northumberland (already met with as a canon of Lincoln) ; at Lichfield was Stephen de Segrave, formerly archdeacon of Essex, who early in 1321 had been a commissioner for negotiating with Robert I of Scotland and who was soon (in 1324) to become archbishop of

<sup>1</sup> S.C. 10/6, no. 290.

<sup>2</sup> S.C. 10/8, no. 384.

the Irish province of Armagh ; and at Wells was the recent keeper of the Wardrobe of Edward I's widow, Queen Margaret (who died in 1318), John Godelegh, who in 1327 was to become bishop of Exeter. If we investigate the state of the fifty-two English archdeaconries in 1321, the results are more surprising. As many as twelve of them were occupied by cardinals or other members of the Avignonese Curia. The occupants of no fewer than sixteen of the remaining forty English archdeaconries were king's clerks, some of whom we have already encountered among those provided with cathedral prebends. In the diocese of York, with its five archdeaconries, William Airmyn, keeper of the rolls of the Chancery, was archdeacon of the East Riding ; Roger Northburgh, keeper of the Wardrobe, archdeacon of Richmond ; Adrian de Flisco, a royal kinsman and king's clerk, archdeacon of Cleveland. In the diocese of Durham, one of the two archdeacons, he of Northumberland, was a former keeper of the Privy Seal who was personally summoned as a king's clerk to parliament in 1321 : Thomas Charleton (also archdeacon of Wells). In the extensive bishopric of Lincoln, with its eight archdeaconries, were Master John de Stratford, a master in Chancery, archdeacon of Lincoln ; Richard de Northwode, king's clerk, archdeacon of Stowe ; Edmund de London, master in Chancery, archdeacon of Bedford ; and Master Gilbert de Middleton, master in Chancery, archdeacon of Northampton. In the diocese of Norwich, which had four archdeaconries, were William Harleston, master in Chancery and sometime joint-keeper of the Great Seal, archdeacon of Norfolk ; and Alan de Ely (perhaps no longer a king's clerk but in royal service in 1310), archdeacon of Sudbury, who in 1324 became archdeacon of Suffolk. Among the five archdeacons of the diocese of Coventry and Lichfield was a former royal escheator north of Trent and (under Edward I) constable of Bordeaux who had gone abroad with Edward II in 1313 : Richard Havering, archdeacon of Chester. The archdeacon of Middlesex in the London diocese (where were five archdeaconries) was Robert Baldock, controller of the Wardrobe and keeper of the Privy Seal, who in 1323 was appointed to the archdeaconry of Lincoln. Gilbert de Stapleton, king's escheator north of Trent, as archdeacon of Berkshire

administered that one of the four archdeaconries comprising the bishopric of Salisbury. One of the two archdeaconries of the diocese of Chichester, that of Chichester itself, was under Robert Leyset (or Lesset), who had been a king's clerk and the constable of Bordeaux as long ago as 1293-4 but was perhaps no longer occupied with royal business at the centre of affairs. In the diocese of Bath and Wells, Robert Hereward, king's clerk, was archdeacon of Taunton. And perhaps Master Hugh de Statherne, to whom Edward II had granted the archdeaconry of Gloucester in the diocese of Worcester in 1318, during an episcopal vacancy, was a royal clerk, for certainly most of the appointments to archdeaconries made *sede vacante* were of king's clerks. The proportion of king's clerks among Englishmen occupying deaneries and archdeaconries as revealed by these identifications was two out of every five. Their number is all the more significant, of course, because being civil servants, they are not likely to have abstained to any appreciable extent from personal attendance in parliament, when summoned under the "praemunientes" clause. And we must not forget that the absence of the rank and file of the clergy from parliaments was so recurrent as to be a source of serious irritation and dissatisfaction to the royal administration on such occasions (as, for example, in 1316, 1319, 1321, and 1322).<sup>1</sup> In other words, deans of cathedrals and archdeacons who were king's clerks could be better relied upon to attend parliament than deans and archdeacons who were not king's clerks.

In the light of these enumerations, may we not fairly ask whether article II of the *Modus* was not an attempt to exclude the more important of the king's clerks from parliament in their capacity as proper members of the *gradus* of the lower clergy and, *ipso facto*, restrict their parliamentary rôle to that of mere assistants or technical experts? The suggestion gains point from the fact that among those royal justices, officials, and others "de consilio regis" actually in receipt of a personal summons to parliament in 1321 were Dean Pickering of York, Archdeacon Charleton of Northumberland and Wells, Archdeacon Middleton of Northampton, Archdeacon Stratford of Lincoln, and

<sup>1</sup> Clarke, *op. cit.* pp. 135-44.

Archdeacon Stapleton of Berkshire, and four other king's clerks from our list of the prebendaries of secular cathedrals (Hervey de Staunton, Robert de Wodehouse, Adam de Herwyngton, and Master John de Nassington).<sup>1</sup> That such clerics were largely non-resident in their cathedrals or jurisdictions does not affect the argument, certainly not so far as concerns the deans and archdeacons whose *personal* attendance was required by the "præmunientes" clause of the episcopal summonses to parliament; and the cathedral prebendaries, upon whose services the king had first call, undoubtedly for the most part kept in touch with their chapters, occasionally as a matter of duty as well as of interest, and certainly some of them acted as their parliamentary proctors.<sup>2</sup> Absenteeism from prebendal stall or ecclesiastical office among the king's clerks was perhaps one factor present in the mind of the author of the *Modus* when he proposed the exclusion from the lower clergy in parliament of the deans, archdeacons, and the proctors of cathedral chapters. The main abuse to which he objected was most probably, however, that the existing system under the "præmunientes" clause resulted in too many king's clerks being present among the lower clerical *gradus* in parliament. The author of the *Modus* was evidently confident that he knew which of their two capacities, as civil servants or as ecclesiastical dignitaries or officials, was the more likely to affect the parliamentary conduct (and perhaps especially the attitude to clerical taxation in aid of the Crown) of such of the king's clerks as were deans, archdeacons, and cathedral canons.

If, as I suggest, the author of the *Modus* objected to the way in which the king's clerks were enabled by their ecclesiastical preferments to intrude upon the representation of the clerical estate in parliament, his feelings must have been further exacerbated by the fact that some of the bishops and most of the parliamentary abbots often failed to attend parliament<sup>3</sup> and then very frequently appointed king's clerks as their proctors. In parliaments that were ill-attended by prelates and lower clergy alike—and there were many such in the early fourteenth century—the

<sup>1</sup> *Report on the Dignity of a Peer*, iii. 309.

<sup>2</sup> Edwards, *op. cit.* p. 92.

<sup>3</sup> J. S. Roskell, "The Problem of the Attendance of the Lords in Medieval Parliaments", *Bulletin of the Institute of Historical Research*, xxix (1956), 162-5.

king's clerks must together have sometimes been predominant in the sessions of their order.

The problem posed by the dual capacity of the king's clerks with respect to parliament cannot, of course, be regarded as new in 1321 or thereabouts. If we look at the lists of the "clerici de consilio" individually summoned to parliament under Edward I after 1295, we find a number of such clerks actually designated in their writs as dean or archdeacon, and these would therefore attend as "clerici de consilio" and also, by virtue of the "prae-munientes" clause, as ecclesiastical dignitaries. To the Lent parliament of 1300, for example, were personally summoned as king's clerks the deans of Lichfield and Wells and the archdeacons of Chester, Richmond, and the East Riding of York.<sup>1</sup> Perhaps we need to expand the tag "Quod omnes tangit, ab omnibus approbetur", and make it read, "What touches all should be approved by all, including many of the king's clerks".

In his paper on the *Modus*, Professor Galbraith considered the question of the possible identity of the author of the tract, and came to the conclusion that the author was "a working official, preferably a Chancery official".<sup>2</sup> Going one stage further, he found himself "left to infer that the author is in all probability the clerk of the parliament magnifying his office as bureaucrats are wont to do". Then, going one stage further still, he named "a man who fills the bill": William Airmyn, "custos rotulorum" from 1316 to 1324 and probably clerk of the parliaments. We have already met with William Airmyn as canon of York, London, Lincoln, Lichfield, Hereford, and Salisbury, and as archdeacon of the East Riding of York; and we found him to be one of a formidable group of king's clerks, in number nearly a score strong, who, as deans and archdeacons, would cease to be personally summoned to parliament under the "prae-munientes" clause and who, as members of cathedral chapters, would cease to be represented by proctors or to act as cathedral proctors themselves, if the recommendation of article II of the *Modus* were

<sup>1</sup> *Dignity of a Peer*, op. cit. iii. 115.

<sup>2</sup> Galbraith, op. cit. p. 89. Miss Clarke and Professor Morris, to judge from their conjectures, would probably not have disagreed with Professor Galbraith's conclusion.

followed, with its restriction of the lower clergy in parliament to the proctors for archdeaconries. It was one of the objects of the *Modus*, we may believe, to prevent or at least check the adulteration of the lower clerical *gradus* in parliament by ecclesiastical dignitaries whose chief concern as king's clerks was to serve the king. If so, for William Airmyn, or any other Chancery clerk, to have written the *Modus* would have been a "traison des clerks", indeed. And unless we can credit the Chancery clerks with a large-minded capacity for devising self-denying ordinances, we may not only rule out William Airmyn as a possible author of the *Modus* but even deny to the Chancery a right to be considered as the milieu from which the *Modus* emanated.

Whoever the author of the *Modus* was, he knew enough about how parliament worked and what it did, to propose important changes in its structure, procedure, and functions. But a knowledge (such as is demonstrated in the *Modus*) of the writs of summons or of the writs *de expensis*, or even of the clerical work of parliament, was surely not confined to Chancery clerks. The Chancery clerks were to have, of course, their place and functions in the parliament of the *Modus*, along with the chancellor. But the increase (in the *Modus*) in the number of clerks of parliament, which Professor Galbraith regarded as the natural act of a bureaucrat "magnifying his office", was simply a consequence of the tract's separation of the "pares parliamenti" into five *gradus*, to each of which a separate clerk just had to be assigned if ever it was to be allowed to function independently. Besides, the *Modus* (article XIV) does not expressly state from which branch of the civil service the expanded corps of parliamentary clerks with special functions was to be drawn, a point worth noticing, because not only were the chancellor's clerks to be in attendance, but also the clerks of the chief justice and the clerks of the treasurer and other officials of the Exchequer. Moreover, even if the two principal clerkships of parliament were to be monopolized by the Chancery—and it is not so stated in the *Modus*—it was to be by one or two justices that their enrolments were, if at all, to be scrutinized and corrected. Regarding the fees of parliamentary clerks, it is provided by the *Modus* (article XVI) that only those not already in receipt of royal fees or wages are to be paid two shillings a day,

and only half this amount if they be “ad mensam regis”. Parliamentary clerkship was perhaps designed by the author of the *Modus* as a career open to talents and not confined to Chancery clerks alone. However this may be, there seems no doubt that such financial regulations of the *Modus* as touch the clerks of parliament are restrictive in tone. And this fact is confirmed by article XXV with its requirement that the clerks are not to deny (“non negabunt”) transcripts of process and must charge no more than a penny for ten lines (and not even that from a needy suitor). Even the width of their vellums is prescribed as 10 inches, although here the *Modus* may only be stating the current width of the rolls in Edward II's reign.

There seems, in fact, to be precious little magnification in the *Modus* of the parliamentary rôle of the Chancery. The chancellor is inevitably referred to on a number of occasions along with other officials. But nothing exceptional is said of him, save that when he finds a plea difficult it is to go for settlement to the special committee of twenty-five, chosen by the earl steward, the earl constable, and the earl marshal. This is practically the solution propounded at greater length in the Lancastrian tract about the duties of the steward of England, by which this proposal of the *Modus* may well have been inspired.<sup>1</sup> And the general tone of *that* tract anent the chancellor's part in hard and ambiguous legal causes is not likely to have recommended itself to any Chancery clerk, let alone the chancellor. Moreover, while the chancellor is noticed in the *Modus* in these ways, the Chancery itself is never mentioned at all. Nor is there any special mention of the Chancery clerks as such. These are perhaps omissions of some relevance, if we are considering the possibility of a Chancery provenance for the *Modus*. One way for a Chancery author to magnify his office would surely have been to appropriate at least the principal clerkships of parliament to the Chancery at a time when (in the reigns of Edward II and Edward III) the single clerk of the parliament was still (as Professor Galbraith admits) “not necessarily a Chancery clerk”. Another way would have been to anticipate the historically impending transference to Chancery

<sup>1</sup> L. W. Vernon Harcourt, *His Grace the Steward and Trial of Peers* (1907), p. 165.



of the custody of the parliament rolls. The *Modus*, however, actually lays down, in article XV, that the two master-copies of the principal rolls of the parliament are to be surrendered (before the departure of parliament) into the keeping of the treasurer and kept in the Treasury.

Especially in view of this last fact, the *Modus*, at the time of its production, is likely to have had a stronger interest for the Exchequer than for the Chancery. With this possibility in mind, it is worth noting the important emphasis (in article II) on the summoning of prelates, secular and religious, on the basis of tenure by barony, and more especially the recommendation (in article III) that the summonses of barons be normally restricted to those with lands equal to the (supposititious) feudal content and monetary value of an earldom or barony. With its reference to the twenty knights' fees of an earl and the  $13\frac{1}{3}$  fees of a baron, this article obviously recalls the arrangements of Magna Carta (as modified in the *Confirmatio* of 1297) for the payment of reliefs on succession to the baronies of earls and barons and to individual knights' fees not held by barony.<sup>1</sup> The suggestion in article III of the *Modus* that lay magnates be summoned after this fashion, perhaps betrays, or was designed to appeal to, the "Pipe-roll mind". In 1321, moreover, the Exchequer was doubtless being made very well aware (if ever it needed to be reminded) of the knight's fee as the basic unit of the feudal structure: on 14 January 1321 letters close had ordered the sheriffs to proclaim that all tenants-in-chief by knight service should deliver into the Exchequer (before the quindene of Michaelmas) information about all their demesne and subinfeudated fees.<sup>2</sup> Elsewhere in the *Modus* its author is preoccupied with the financial incidentals of parliamentary meetings, the fees of the clerks of the parliaments and the expense-allowances of the commons apart: article IX provides a detailed set of proposals for the imposition of formidable fines for non-attendance of £100 or 100 marks depending on the status of the defaulting individuals or communities. (For this purpose the duplicate sealed warrants of the elected proctors and lay representatives

<sup>1</sup> Clarke, *op. cit.* p. 197.

<sup>2</sup> F. Palgrave, *Parliamentary Writs*, i. 537, no. 10.

were, of course, essential as a check on attendance.) And then there are some occasional enumerations of the higher-grade members of the Exchequer staff present in parliament *ex officio*, a feature conspicuously lacking in the case of the Chancery staff, whose head alone is specifically referred to in the *Modus*. For instance, in article VIII it was laid down that on the second day of the parliament the treasurer, chamberlains,<sup>1</sup> and barons of the Exchequer are to be in attendance, and in article XIV the seats for all these officers “ at the king’s left foot ” are noticed.

One further point in favour of an Exchequer as against a Chancery background for the *Modus* is that the exclusion from parliament of those clerical representatives who were king’s clerks first and only secondarily local ecclesiastical dignitaries, would not have affected the Exchequer as it would have done the Chancery. Certainly, the staff of the Exchequer was by no means so exclusively clerical as was the Chancery. The proportion of lay to clerical barons of the Exchequer, for example, over the whole reign of Edward II was twelve to eleven, and in 1321 itself it was four to three in favour of the lay element.<sup>2</sup> Moreover, of the seven barons of the Exchequer in 1321 only one, Robert Wodehouse, was a pluralist holder of cathedral prebends ; and, of the rest of the more dignified members of the Exchequer staff who were king’s clerks, only the chancellor of the Exchequer (Hervey Staunton) and one of the two chamberlains (Master James de Ispania) held any cathedral stall. Not one of the king’s clerks employed in the Exchequer in 1321 held a cathedral deanery or an archdeaconry, the holders of which offices were excluded by the *Modus* from attendance in parliament in their proper ecclesiastical capacity.

<sup>1</sup> Some doubt has been expressed whether the word “ chamberlains ” in this context ought not to be read in the singular, and be taken to refer to Hugh Despenser the younger, who was king’s chamberlain from 1318 until his death (save during his short exile in 1321) and not to the chamberlains of the Exchequer. But the best texts of the *Modus* certainly give the word in the plural (Clarke, *op. cit.* p. 204), and the interposition of the word *camerarii* between references to the treasurer and the barons of the Exchequer confirms, in fact, the interpretation I have accepted (cf. Vernon Harcourt, *op. cit.* p. 164, where, in the tract on the Stewardship of England, the Exchequer officials are given as the treasurer, barons and chamberlains).

<sup>2</sup> Tout, *Chapters*, ii. 193n.

So far as the problem of the authorship of the *Modus* is concerned, I should hesitate to do more than suggest that the tract was written by someone who possessed an expert knowledge of parliament, was aware of the ecclesiastical practices of the northern province of York, knew enough of the alliance in 1321 of the earls of Lancaster and Hereford and of their recent aims and activities to be able to appeal to their sympathy and interest, and desired to reform the scheme of clerical representation in parliament in order to resurrect (and in some ways transform) the general parliament of estates of 1295. That the *Modus* here and there draws special attention to the Exchequer and its officials, and especially to the head of that office as the proper custodian of parliamentary records, might be taken to suggest that the author was someone bent on attracting the interest of this still most important office of State and appealing to its departmental *amour propre*.

Certainly, the reform of clerical representation envisaged in the *Modus* is not likely to have excited the disapproval of Walter Stapeldon, bishop of Exeter, treasurer of the Exchequer from 18 February 1320 to 25 August 1321, when he was exonerated (it was said) at his own request. Stapeldon had not achieved the episcopate by way of a career in the royal administration. His background, rather, was an academic one: he had once been a professor of canon law in the University of Oxford and already (in 1314) had founded Stapeldon Hall (now Exeter College) for poor scholars going up to Oxford from his diocese. One of the Lords Ordainer appointed in 1310, he was politically a moderate man, and in the summer of 1321 (when still treasurer of the Exchequer) he was one of the bishops who vainly tried to mediate between Edward II and the earls of Lancaster and Hereford.<sup>1</sup> After the royalist triumph at Boroughbridge, he was once more appointed treasurer on 9 May 1322 and so was enabled to continue, down to 1325, the important work of reform at the Exchequer which he had already begun in his first spell of office. His own forthright attitude to the great current problem of ecclesiastical representation in parliament had been one largely dictated by his

<sup>1</sup> *Dictionary of National Biography*, xviii. 979-80.

principles or prejudices as a diocesan bishop. In 1315, according to his own episcopal register, he alone of all the bishops refused to act upon either the "praemunientes" clause of the episcopal writs of summons or the provincial mandate of *venire faciatis*: on that occasion he probably led the resistance of the clergy to the breach of their liberty implied in the form of summons and regarding their right to make grants only in their own convocations, an attitude which then probably cost him his place in the royal council.<sup>1</sup> Careful though he was of ecclesiastical privilege, Stapeldon nonetheless regarded parliament as of supreme importance. When, in December 1321, the award of exile against the Despensers was declared erroneous and revoked in a meeting of convocation which he himself did not attend, and his personal consent to the repeal was demanded by the king, Stapeldon took his stand on the need to seek proper parliamentary authority: his answer was that only in parliament should its acts be abrogated.<sup>2</sup> As Miss Clarke put it, "Stapeldon, like the northern clergy at Sherburn, insisted on the exclusive competence of Parliament, at least for the matters under consideration". The reform of ecclesiastical representation in parliament suggested by the *Modus*, in order to make parliament the real representative organ of the commonalty of the realm lay and clerical alike, may very well have been intended to appeal to such a mind as Stapeldon's, and perhaps came from someone, directly or indirectly, in contact with him.

As there is so much in the *Modus* suggesting some connection between its author and the Exchequer, the question arises whether he may not have been even a member of its staff, and not that most important one of the Chancery masters, William Airmyn, who was Professor Galbraith's candidate for the honour. In view of the startlingly magnified place given to the chamberlains of the Exchequer among those members of the king's council whose *ex officio* attendance in parliament was required in the *Modus* (article VIII, "De Modo Parliamenti", and article XIV, "De Locis et Sessionibus in Parlamento"), it may be of some interest, when considering the possible identity of the author of

<sup>1</sup> Clarke, *op. cit.* pp. 134-6.

<sup>2</sup> *Ibid.* pp. 169-70.

the treatise, to inquire who were the two chamberlains of the Exchequer in 1321. One of the chamberlains was Master James de Ispania, canon of St. Paul's, who for a short time in 1322 was receiver of the King's Chamber : hardly the sort of man to whom the treatise could be attributed. The other chamberlain was Master William Maldon. And if we were to entertain the idea of an Exchequer provenance for the *Modus*, it would be unwise to assert that Maldon was an impossible choice as its author. Formerly a public notary, he had been a chamberlain of the Exchequer since September 1315. He had certainly some proper experience of parliament : he had been one of the two receivers of petitions of Gascony, Wales, Ireland, and Scotland in the Lincoln parliament of January 1316,<sup>1</sup> when he must have been made well aware of the adverse effects of the delayed arrival of some of the magnates and the failure of several others to appear at all,<sup>2</sup> a by no means abnormal situation, but one which the *Modus* proposed to discourage by the levy of formidable amercements (article IX "De inchoatione parliamenti"). More recently (since August 1320), as chamberlain of the Exchequer, Maldon had been directly associated with Stapeldon in a great overhaul of Exchequer and Treasury and other records.<sup>3</sup> If we were to go so far as to postulate William Maldon as the author of the *Modus*, his close involvement in the re-arrangement of Treasury records, a process which lasted from August 1320 until about January 1322,<sup>4</sup> would well consort with the concern of the author of the *Modus* that the Treasury should be *the* repository for the rolls of parliaments (article XV, "De principalibus clericis parliamenti") and with that author's knowledge of the rolls themselves (article XXV, "De transcriptis recordorum et processuum in parlamento").

There remains the possible requirement of a North Country connection, conceivably a connection with Yorkshire (or even the city of York), to be fulfilled by any author of the *Modus*, because

<sup>1</sup> *Rotuli Parliamentorum*, i. 350.

<sup>2</sup> Roskell, *op. cit.* pp. 163-4.

<sup>3</sup> Tout, *The Place of Edward II in English History* (2nd edn.), p. 170.

<sup>4</sup> *Essays in Medieval History presented to T. F. Tout* (ed. A. G. Little and F. M. Powicke), V. H. Galbraith, "The Tower as an Exchequer Record Office in the Reign of Edward II", pp. 231 ff.

of his occasional Lancastrian bias, his evident knowledge of the Lancastrian treatise on the office of Steward of England (perhaps produced shortly before the *Modus* in 1321, when Lancaster was negotiating for support from the magnates and clergy of the northern shires in his pseudo-parliaments at Pontefract and Sherburn-in-Elmet), his awareness of the practice of proctorial representation in the northern convocation by archdeaconries and his adaptation of it to his scheme for the proctorial representation of the lower clergy in the parliament of the *Modus*, and also because of his particular reference in the *Modus* (noted by Morris) to the mayor and citizens of York among the civic recipients of writs of summons, the only other city specifically named being London (article VI, "De civibus"). There is no reason why its author's special interest in York and in the representational usages of the northern convocation (which met there, of course) should necessarily drive us to seek his identity in someone personally connected with the northern metropolis. If the *Modus* was written about 1321, its author may be looked for in someone connected with York merely officially, especially if he knew much about the parliaments of Edward II (which he evidently did). Between 1314 and 1320 parliament had sat at York on no fewer than four occasions, and was to do so twice again in 1322. But not only had York been recently the scene of parliaments. From September 1319 to February 1320 the Exchequer itself had operated from York, and it was to migrate there again in April 1322, because of the Scottish war. And on both occasions of the removal of the rolls, writs, and treasure of the Exchequer from Westminster to York, William Maldon, as one of the two chamberlains, was senior officer in charge of the large convoy of carts employed in the flitting.<sup>1</sup> It is a fair assumption that in each case he worked in York throughout the stay of the Exchequer.

<sup>1</sup> *Essays in Medieval History presented to T. F. Tout* (ed. A. G. Little and F. M. Powicke), D. M. Broome, "Exchequer Migrations to York in the Thirteenth and Fourteenth Centuries", pp. 291 ff., for the migration of April 1322. For that of 1319 see Exchequer, L.T.R. Memoranda Roll 12 Edward II, P.R.O., E 368/89, mem. 159d (*brevia irretornabilia*, Trinity term) and Exchequer K.R. Memoranda Roll 12 Edward II, P.R.O., E. 159/92 (*irretornabilia*, Trinity term), mem. 5d.

All this suggestion that the *Modus* may be attributed to William Maldon, a chamberlain of the Exchequer when the tract was very possibly composed, rests on the slender foundation of its magnification of his office, if magnification it was. It is to be doubted whether any attribution of authorship could rest upon anything more solid than mere conjecture or hypothesis quite unsusceptible to proof. The authorship of the *Modus* is almost bound to remain an open question. It is in any case perhaps the least important of the problems posed by the *Modus*.

A far more crucial one of those problems is, as I have suggested, that which is posed in the clause "De clero" (article II) concerning the reform of clerical representation in parliament. What the *Modus* says about the place in parliament of the elected representatives of the lay communities of shire, city, and borough, was, as the later history of parliament has shown, full of great prospective significance. Within less than a generation of the probable date of composition of the *Modus* the representatives of the clerical communities of diocese and cathedral-chapter had seceded for all practical purposes from parliament proper. And it is more than doubtful whether any change in the unit of proctorial representation (as suggested in the *Modus*) would have retarded or reversed this development. When the *Modus* was produced, clerical representation in parliament was already foundering in the shallows of clerical privilege: summoned at the king's request, the convocations were to be the assemblies in which the separatist instincts of the clerical order soon found satisfaction. The author of the *Modus*, in proposing a reform of clerical representation designed to give a greater interest to the lower clergy in the working of parliament, was perhaps swimming against the tide. But the reform proposed in the *Modus* relating to this subject has at least some significance: it helps to illuminate that slow change of opinion which conditioned the grafting on to the older curialist tradition of parliament, of the newer principle of the constant representation there, by processes of election, of local communities. The most important single item in the doctrine of the *Modus* is the novel construction its author placed on the word "community". His proposed reform of

clerical representation was entirely of a piece with his general theory : the “*communitas parliamenti*” ought to be the sum of the local communities, clerical as well as lay, ecclesiastical as well as secular, all of whose representatives should be chosen by local election.