

University of Warwick institutional repository: <http://go.warwick.ac.uk/wrap>

This paper is made available online in accordance with publisher policies. Please scroll down to view the document itself. Please refer to the repository record for this item and our policy information available from the repository home page for further information.

To see the final version of this paper please visit the publisher's website. Access to the published version may require a subscription.

Author(s): Kümin, Beat

Article Title: Petitions, Gravamina and the early modern state: local influence on central legislation in England and Germany (Hesse)

Year of publication: 1997

Link to published version:

[http://www.ashgate.com/pdf/tis/9780860785361\\_ROW.pdf](http://www.ashgate.com/pdf/tis/9780860785361_ROW.pdf)

Publisher statement: 'Details of the definitive version are available at [http://www.ashgate.com/pdf/tis/9780860785361\\_ROW.pdf](http://www.ashgate.com/pdf/tis/9780860785361_ROW.pdf)

Petitions, *Gravamina* and the early modern state: local influence on central legislation in England and Germany (Hesse)\*

Beat Kümin and Andreas Würgler

Historiographical perceptions of early modern politics and government are undergoing a process of rapid reassessment. As a result of ever more detailed research on state-formation in general and the growth of regulatory activities in particular,<sup>1</sup> long-cherished generalisations such as 'absolutism' are being applied with increasing caution.<sup>2</sup> While central governments throughout Europe certainly tried to devise administrative machineries allowing them to run their countries with maximum efficiency and minimum interference by rival authorities, the reality 'was not so simple'.<sup>3</sup> Quite apart from the problems presented by the persistent survival of local peculiarities and the lack of a fully developed bureaucracy to enforce all the new directives, the role of the estates and the 'people' attracts increasing attention; not only their continued influence on the government of villages, towns and parishes,<sup>4</sup> but also on the larger political units of counties, provinces and entire kingdoms. State formation, to summarise the overall impression, now appears more like a dynamic process of communication between centre and localities rather than a one-sided drive towards ever greater penetration or acculturation.<sup>5</sup>

This essay hopes to throw some more light on these developments by focusing on two very heterogeneous case studies in the period between the sixteenth and eighteenth centuries.<sup>6</sup> It will

---

\* This essay is based upon papers delivered by the authors at the 46th Conference of the International Commission for the History of Representative and Parliamentary Institutions at Vienna and the '41. Deutscher Historikertag' at Munich, both held in September 1996. We are grateful for the comments and suggestions received on these occasions.

List of Abbreviations: CRO = Cambridgeshire Record Office, Cambridge; *HRG* = *Handwörterbuch zur deutschen Rechtsgeschichte*; LO = Landesordnung(en); LTA = Landtagsabschiede, MP = Member of Parliament; StAM = Hessisches Staatsarchiv, Marburg.

<sup>1</sup> See e.g. *The Origins of the Modern State in Europe*, ed. W. Blockmans and J. P. Genet (7 vols., Oxford, 1995-) or the large-scale *Repertorium der Polizeyordnungen der Frühen Neuzeit*, compiled under the auspices of the Max Planck-Institut für Europäische Rechtsgeschichte (Frankfurt am Main). For a first survey of the many national, chronological and thematic variations apparent from the latter cf. *Policey im Europa der frühen Neuzeit*, ed. Michael Stolleis (Frankfurt, 1996).

<sup>2</sup> N. Henshall, *The Myth of Absolutism: Change and Continuity in Early Modern European Monarchy* (2nd edn., London, 1993). R. G. Asch and H. Duchhardt, *Der Absolutismus - ein Mythos?* (Cologne, 1996).

<sup>3</sup> H. G. Koenigsberger, *Early Modern Europe 1500-1789* (London, 1987), p. 182.

<sup>4</sup> M. Forster, *The Counter-Reformation in the Villages: Religion and Reform in the Bishopric of Speyer 1560-1720* (Ithaca, 1992); B. Kümin, 'The fear of intrusion: communal resilience in early modern England', in *Fear in Early Modern Society*, ed. P. Roberts and W. G. Naphy (Manchester, forthcoming).

<sup>5</sup> P. Blickle, 'Einführung: Mit Gemeinden Staat machen', in *Gemeinde und Staat im Alten Europa*, ed. idem (Munich, forthcoming); M. Braddick, 'State formation and social change in early modern England: a problem stated and approaches suggested', *Social History*, xvi (1991), 1-17.

<sup>6</sup> The argument advanced here draws upon a wider examination of the relationship between local communities and the state in early modern Germany, France and England. The results of this Swiss National Science Foundation project will appear in *Gemeinde und Staat*, ed. Blickle.

examine the range of means employed by the subjects of the Holy Roman Empire, mainly the territory of Hesse, and England to influence the laws by which they were governed. The emphasis, however, is not so much on spectacular, extraordinary occurrences such as riots and rebellions (whose impact is by now widely acknowledged),<sup>7</sup> but on the sort of routine activities which marked everyday political life all across the Continent. Having sketched (i) the differing institutional frameworks of the two case studies, we will proceed to (ii) a comparative discussion of popular participation in legislative activities and propose (iii) some general conclusions about the importance of this phenomenon for our understanding of the making of the modern state.

(i)

The problematic nature of pan-European generalisations emerges from even the quickest glance at the early modern political landscape. The regimes of France and Prussia, conventionally identified as the most striking examples for the growth of ‘absolutist’ tendencies, coexisted with surviving ‘republican’ constitutions such as those of Venice or the Swiss Confederation and a whole host of intermediary systems. No one bi-national comparison can hope to do justice to this enormous variety, but in the following the emphasis will lie on two examples representing the vast middle ground between ‘tyrannical’ and ‘popular’ forms of government.

The county of Hesse, with some 250,000 inhabitants in the second half of the sixteenth century, formed a medium-sized component of the Holy Roman Empire. The most important of its territorial subdivisions was Hesse-Kassel, consisting of approximately 190,000 inhabitants in 1580 and about half a million at the end of the eighteenth century. After the Landgrave had converted to Calvinism in 1605, most of his subjects followed suit, but a substantial minority remained Lutheran and roughly two per cent (in 1800) were Jews.<sup>8</sup> The first evidence of a territorial *Landtag* or diet dates from the late fourteenth century. Convened by the Landgrave on a more regular basis from the fifteenth century,<sup>9</sup> it served as a forum to approve demands for taxation. The diet consisted of nobles and prelates on the one hand, and delegates from towns on the other, which allowed Hesse’s subjects a considerable degree of influence. Those summoned to attend met in advance to condense their demands and complaints into a series of *Gravamina* -

---

<sup>7</sup> See e.g. P. Zagorin, *Rebels and Rulers 1500-1660* (2 vols., Cambridge, 1982); V. Magagna, *Communities of Grain: Rural Rebellion in Comparative Perspective* (London, 1991); P. Blickle, *Unruhen in der ständischen Gesellschaft* (Munich, 1988); A. Würigler, ‘Das Modernisierungspotential von Unruhen im 18. Jahrhundert’, *Geschichte und Gesellschaft*, xxi (1995), 195-217.

<sup>8</sup> K. Demandt, *Geschichte des Landes Hessen* (3rd edn., Kassel, 1980), pp. 239, 240, 247-8, 288; M. Rudersdorf, ‘Hessen’, in *Die Territorien des Reichs im Zeitalter der Reformation und Konfessionalisierung*, ed. A. Schindling and W. Ziegler (Münster, 1992), iv. 254-88, 261-3.

<sup>9</sup> On average once a year in the sixteenth century, but only every three years between 1650-1800: *Hessische Landtagsabschiede 1526-1608*, ed. G. Hollenberg (Marburg, 1994), pp. 401-2, and his ‘Die hessen-kasselischen Landstände im 18. Jahrhundert’, *Hessisches Jahrbuch für Landesgeschichte*, xxxviii (1988), 1-22, esp. 16-22 (table); cf. F. L. Carsten, *Princes and Parliaments in Germany from the Fifteenth to the Eighteenth Century* (Oxford, 1959), pp. 149-90.

also known as *Desideria* or *Petita* - to be presented to the Landgrave. Although this customary practice was not formally recognised as a right until 1764,<sup>10</sup> the estates nevertheless managed to put their own interests on the diets' agenda and to contain absolutist tendencies in the wake of the Thirty Years' War with at least partial success. They retained the right to approve taxes and fought an incessant battle against the Landgrave's increasing demands to fund the new standing army. The prince thus sought to ease his financial problems by letting parts of the armed forces to his allies, when they were not needed at home.<sup>11</sup>

England, of course, was a much larger state and an independent monarchy (with growing overseas interests) in its own right. Nationwide legislation took the form of 'acts' passed by the 'King in Parliament' after a complex procedure involving consideration of the issues by both Lords and Commons. Here lies a crucial difference between English and German representative assemblies: the former had an institutionalised share in the proposing and passing of laws, the Hessian estates were merely allowed to present their *Gravamina* at a diet. At the same time, the jurisdictional functions of both Houses allowed Englishmen to play their part in defining and safeguarding the rule of Common Law.<sup>12</sup> Tudor and Stuart monarchs exercised the right to call and dissolve assemblies at their pleasure,<sup>13</sup> but if a parliament *was* summoned, elections could - at least by the seventeenth century - present opportunities for genuine political debate and involve up to forty per cent of the adult male population.<sup>14</sup> Another striking feature of the English system, 'by comparison with most continental countries, was the wide degree of participation in local government enjoyed by men of humble status'.<sup>15</sup> As there was no host of professional royal officials, middling-sort constables and churchwardens relieved the poor and mended the highways under the watchful eyes of unpaid Justices of the Peace, who were drawn from the ranks of the gentry. All this contributed to a certain local awareness of wider political and administrative issues.<sup>16</sup> Even after the fundamental upheavals provoked by civil war, Commonwealth and Glorious Revolution, early modern England remained an essentially

---

<sup>10</sup> *Hessen-Kasselische Landtagsabschiede 1649-1798*, ed. G. Hollenberg (Marburg, 1989), p. XXIV.

<sup>11</sup> P. K. Taylor, *Indentured to Liberty: Peasant Life and the Hessian Military State 1688-1815* (Ithaca, 1994), pp. 21-48.

<sup>12</sup> J. P. Cooper, 'Differences between English and Continental Government in the early seventeenth century', in *Land, Men and Beliefs: Studies in Early Modern History*, ed. idem (London, 1983), pp. 106-8.

<sup>13</sup> For in-depth studies of the workings of Tudor and Stuart parliaments see G. R. Elton, *The Parliament of England 1559-81* (Cambridge, 1986) and C. Russell, 'The nature of a Parliament in early Stuart England', in *Before the English Civil War*, ed. H. Tomlinson (London, 1983), pp. 123-50.

<sup>14</sup> This argument follows D. Hirst, *The Representative of the People? Voters and Voting in England under the Early Stuarts* (Cambridge, 1975), esp. p. 105. Many MPs had been 'genuinely chosen by a substantial electorate and could not be indifferent to the effect of their doings on those who returned them': Russell, 'Parliament', p. 139.

<sup>15</sup> K. Thomas, 'The Levellers and the franchise', in *The Interregnum: The Quest for Settlement 1646-60*, ed. G. Aylmer (London, 1979), p. 60.

<sup>16</sup> A. Fletcher, *Reform in the Provinces: The Government of Stuart England* (Yale, 1986); B. Kümin, 'Parish und Local Government: Die Politisierung der englischen Kirchgemeinde 1350-1650', in *Gemeinde und Staat*, ed. Blickle (forthcoming).

localised society, where central institutions were by no means limp or powerless, but accountable and kept in check.<sup>17</sup>

Whatever the obvious differences in institutional frameworks, franchise and constitutional powers, both Englishmen and their contemporaries in Hesse-Kassel had *formal* channels to make themselves heard. *Gravamina* and *Landtagsabschiede*, as well as bills and acts are thus well-known to students of representative assemblies in the two countries. Less familiar, perhaps, is another, and arguably yet more prominent, means of *informal* influence: the drafting of petitions.<sup>18</sup> In spite of its prominence in almost all political cultures, the phenomenon has only recently attracted more extensive scholarly attention; above all through its potential to enable historians to look into people's minds and souls,<sup>19</sup> but also as a key to popular participation in numerous political processes and chronological periods.<sup>20</sup>

The roots of petitioning reach to Western Antiquity and beyond. From the early Middle Ages, the Roman law term *supplicatio* was gradually adapted to cover all sorts of requests by European subjects.<sup>21</sup> After about 400 the pope became one of the most popular recipients, particularly in his capacity as highest ecclesiastical judge, patron of benefices and dispenser of many other favours.<sup>22</sup> The enormous number of surviving documents testifies to the attraction of such direct appeals and provides the empirical basis for much recent research into the history of

---

<sup>17</sup> J. Brewer, *The Sinews of Power: War, Money and the English State 1688-1783* (London, 1989).

<sup>18</sup> 'Historians have devoted relatively little attention to the role played by petitions sent from local citizens': Raymond Bailey, *Popular Influence upon Public Policy: Petitioning in Eighteenth-Century Virginia* (Westport, 1979), p. xi. In what follows, 'petition' (or its German equivalents *Supplik*, *Supplikation*) is used in a very wide sense for any written request addressed directly to a person or authority with appropriate powers, i.e. as an umbrella term which includes 'complaints' or 'appeals' as well as explicit 'petitions'. For a more detailed, comparative discussion of the sources see R. Fuhrmann, B. Kümin, A. Würzler, 'Supplizierende Gemeinden. Aspekte einer vergleichenden Quellenbetrachtung', in *Gemeinde und Staat*, ed. Blickle (forthcoming).

<sup>19</sup> Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Cambridge, 1987); Otto Ulbricht, 'Supplikationen als Ego-Dokumente. Bittschriften von Leibeigenen aus der ersten Hälfte des 17. Jahrhunderts als Beispiel', in *Ego-Dokumente: Annäherung an den Menschen in der Geschichte*, ed. W. Schulze (Berlin, 1996), pp. 149-74, and Claudia Ulbrich, 'Zeuginnen und Bittstellerinnen. Überlegungen zur Bedeutung von Ego-Dokumenten für die Erforschung weiblicher Selbstwahrnehmung in der ländlichen Gesellschaft des 18. Jahrhunderts', *ibid.*, pp. 207-26; "Denn das Schreiben gehört nicht zu meiner täglichen Beschäftigung": *Der Alltag kleiner Leute in Bittschriften, Briefen und Berichten aus dem 19. Jahrhundert*, ed. Siegfried Grosse et al. (Bonn, 1989).

<sup>20</sup> O. Guérod, *Enteuxeis: requêtes et plaintes adressés au roi d'Égypte au IIIe siècle avant J.-C.* (Hildesheim, 1988); G. Koziol, *Begging Pardon and Favor. Ritual and Political Order in Early Medieval France* (Ithaca, 1992); H. Neuhaus, 'Supplikationen als landesgeschichtliche Quellen. Das Beispiel der Landgrafschaft Hessen im 16. Jahrhundert', *Hessisches Jahrbuch für Landesgeschichte*, xxviii and xxix (1978 and 1979), 110-190 and 63-97; M. Knights, 'London petitions and parliamentary politics in 1679', *Parliamentary History*, xii (1993), 29-46; G. L. Freeze, *From Supplication to Revolution: A Documentary Social History of Imperial Russia* (Oxford, 1988).

<sup>21</sup> For etymological information cf. H. Neuhaus, *Reichstag und Supplikationsausschuß: Ein Beitrag zur Reichsverfassungsgeschichte der ersten Hälfte des 16. Jahrhunderts* (Berlin, 1975), pp. 75-6, and W. Hülle, 'Das Supplikationswesen in Rechtssachen', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung*, xc (1973), 194-212. A search through the index of the *Sammlung fürstlich hessischer Landes-Ordnungen und Ausschreiben*, ed. C. L. Kleinschmid, C. G. Apell, K. Eggena (8 vols., Kassel, 1767-1816), suggests that the term *Supplik* replaced the older *Supplikation* in Hesse from the late seventeenth century.

<sup>22</sup> Neuhaus, *Supplikationsausschuß*, pp. 79-81.

past mentalities.<sup>23</sup> Princes and other worldly dignitaries were also approached by suitors from the early Middle Ages, with the first procedural guidelines drawn up in Sicily under Frederick II and a gradual 'bureaucratic' institutionalisation thereafter.<sup>24</sup> From the later Middle Ages, furthermore, petitions were addressed to representative bodies such as the German Imperial Diet and the English Parliament.<sup>25</sup> It is important to note that they came from people of all social standings, including the very poor and the very powerful, from individuals, corporations and ad-hoc pressure groups alike.<sup>26</sup> The Imperial Diet, for instance, regularly received *Supplikationen* from reigning monarchs. Petitioning was thus by no means a sign of poverty or despair, but simply reflected the respective legal and political positions of writers and recipients in a given situation. Both proceeded on the understanding that it was the duty of any Christian authority to take note of its subjects' problems and - in line with the Gospels - to show mercy wherever it could.<sup>27</sup> The sheer volume of petitions, however, soon presented the recipients with very real logistical problems and stretched both their patience and administrative resources. It is quite clear that they monitored the phenomenon with mounting resentment.<sup>28</sup>

The popularity of petitioning owed much to the fact that it offered a very flexible means of expressing concern, available in theory at least to everybody at any time, whilst the drafting of *Gravamina* was reserved to a small number of delegates in the short time-span before and during a diet. Hessian registers suggest that the central authorities received some 1,000 petitions a year at the end of the sixteenth century and no fewer than 4,000 at the end of the eighteenth (1787).<sup>29</sup> This, of course, was only the tip of the iceberg, as officials were under orders to deal with interventions at the lowest-possible level of the administrative hierarchy.<sup>30</sup> All types of courts, all seigneurial institutions as well as all urban authorities heard written (and oral) requests on a daily

---

<sup>23</sup> *Illegitimität im Spätmittelalter*, ed. L. Schmugge (Munich, 1994); idem, *Kirche, Kinder, Karrieren: Päpstliche Dispense von der unehelichen Geburt im Spätmittelalter* (Zurich, 1995); idem, P. Hersperger and B. Wiggerhauser, *Die Supplikenregister der päpstlichen Pönitentie aus der Zeit Pius' II. (1458-1464)* (Tübingen, 1996).

<sup>24</sup> Cf. Koziol, *Begging Pardon*; Neuhaus, *Supplikationsausschuß*, pp. 87-90, und G. Dolezalek, 'Suppliken', in *HRG* (Berlin, 1990), iv. 94-7.

<sup>25</sup> Neuhaus, *Supplikationsausschuß*.

<sup>26</sup> Idem, 'Supplikationen'; J. C. Theibault, *German Villages in Crises: Rural Life in Hesse-Kassel and the Thirty Years' War 1580-1720* (Atlantic Highlands, 1995), p. 27.

<sup>27</sup> Cf. H.-J. Becker, 'Recht und Gnade im Bild der Reformationszeit', in *Liber Amicorum: Professor Dr. Herbert Frost zum 65. Geburtstag*, ed. M. Baldus (Köln, 1986), pp. 127-144; H. Krause, 'Gnade', *HRG*, i. 1714-19.

<sup>28</sup> In the run up to the English Revolution of 1649, MPs complained that they could not possibly concentrate on important business 'while the drums beat, or the people tumultuate' in support of petitions: 'A Declaration of some Proceedings' (1648), in *The Leveller Tracts 1647-53*, ed. W. Haller and Davies (Gloucester, Mass., 1964), p. 115. For evidence of similar popular pressure see M. Knights, *Politics and Opinion in Crisis 1678-81* (Cambridge, 1994), p. 239, and G. Dolezalek, 'Suppliken', *HRG*, iv. 93-7.

<sup>29</sup> Figures for 1594 in Neuhaus, 'Supplikationen', i. 120-1; those for 1787 are an estimate based on the evidence of a two-month sample (January/February): StAM, Protokolle II, Kassel Cc 7 Vol. 2a (1787). The archive of the House of Lords, to provide a further quantitative clue, contains some 4,812 folio volumes of appeals: M. Bond, *Guide to the Records of Parliament* (London, 1971), p. 117.

<sup>30</sup> StAM 17e Marburg 420, f. 1 (26.XI.1526); cf. the instruction by Landgrave Philipp of 1 Jan. 1539 in F. Gundlach, *Die Hessischen Zentralbehörden* (3 vols., Marburg, 1930-32), ii. 74-5.

basis. In Hesse, however, it does not seem to have been customary to petition the diet, in marked contrast to the situation in Württemberg, Bavaria, Lower Austria or England.<sup>31</sup> The Imperial Diet, a common port of call in the sixteenth century, saw a marked decline in the number of *Supplikationen* after 1603, leaving the Emperor or his Council as the sole possibilities for those intent on approaching imperial institutions. The lion's share of petitions now accrued to the secular and ecclesiastical princes, in line with the increasing territorialisation of the German political landscape.<sup>32</sup> As for subject matter, petitions to the Hessian Landgrave were very heterogeneous: *Suppliken um Almosen* and *in Gnadensachen* contained pleas for assistance after harvest failures, fire damage or accidents; *Erlaß-Suppliken* and requests for *Dilation* aimed at the waiving or reduction of financial dues, taxes or fines; *Justiz-Suppliken* concerned jurisdictional matters, and supplications against officials and civil servants alerted the prince to faults in his administration by circumventing the usual intermediate channels.<sup>33</sup>

There were, however, alternatives to the German tendency to focus petitions ever more closely on an all-powerful prince. England can serve as a striking example for the continuing prominence of all sorts of different recipients elsewhere. Kings and queens, of course, were by no means excluded, but members of the Privy Council, the Houses of Lords and Commons, individual MPs, county courts, Justices of the Peace, town councils, parish vestries, churchwardens, constables and many other bodies or officials appear just as regularly. Among the latter, to provide an idea of the sort of examples not studied in more detail below, are hundreds of 'Memorials and Petitions presented to the Bedford Level Corporation', which managed the draining of the East Anglian Fens from the early seventeenth century.<sup>34</sup> In 1636, meanwhile, the inhabitants of a prosperous area within the City of Cambridge petitioned two assize judges for a reduction of their excessive share of local taxation, while those of a Suffolk parish attempted to prevent Reformation-related confiscations of communal property by means of a direct appeal to royal commissioners.<sup>35</sup> Ecclesiastical dignitaries continued to attract petitions, too. Up to the break with Rome in 1534, the pope was inundated with requests for promotion, reallocation of church revenues and everyday pastoral problems.<sup>36</sup> Further down the hierarchy,

---

<sup>31</sup> Fuhrmann, Kümin, Würbler, 'Supplizierende Gemeinden', ch. 3.2. (Württemberg); Neuhaus, 'Supplikationen', ii. 71-73 (Bavaria, Lower Austria).

<sup>32</sup> Neuhaus, *Supplikationsausschuß*, pp. 308, 310.

<sup>33</sup> Fuhrmann, Kümin, Würbler, 'Supplizierende Gemeinden', ch. 4.1.

<sup>34</sup> In 1702, for example, the inhabitants of Downham in the Isle of Ely 'humbly sheweth that whereas [their] Cart-bridge is now in great decay ... we humbly implore [you] to repair it so we may safely pass': CRO, S/B/SP, bundle 3, no. 227.

<sup>35</sup> CRO, Audit Book of St Mary's, P30/4/2, p. 64; Suffolk Record Office, Bury St Edmunds, Black Book of Long Melford, FL 509/1/15, f. 27v ('for a byll of complaynte & oder charges for commysshon in Syr William Druryes & Master Kanyelles handes'; 1547-48).

<sup>36</sup> In 1443, for instance, the vicar of Barton Stacey (diocese of Winchester) asked Eugene IV to rebuke the inhabitants of Newton, a township of just nine households, who expected him to celebrate mass in their own chapel, even though the mother church was hardly a mile away: *Calendar of Papal Letters*, ed. J. Twemlow (London, 1912), ix. 335.

petitioning was no less intensive: in a rather moving illustration of the trust placed in church officials, the churchwardens of Linwood in the diocese of Lincoln informed their visitors in 1473 of the long-standing debt of a parishioner and implored them that ‘with owt my lordys help they gete it neauer’.<sup>37</sup> In 1630, to cite one last early modern example, the Bishop of London ordered the church of St Laurence Jewry to adopt to a more broadly-based form of communal government ‘upon the humble peticion of the parishioners’.<sup>38</sup> The sources’ eloquent, although not consistent, use of terminological varieties such as ‘petition’, ‘complaint’, ‘request’, and ‘appeal’ reflects something of the multi-functional, secular as well as religious dimensions of the phenomenon.

Whatever their subject matter, both English ‘humble petitions’ and German ‘untertänige Suppliken’ attempted to flatter their recipients. This apparent emphasis upon deference and submission has led modern interpreters to stress the authorities’ discretion or ‘grace’ and the essentially apolitical and particular character of most of these documents.<sup>39</sup> And yet, while there were, of course, countless pleas by individuals and genuinely impotent subjects, we also find lobbying by influential officeholders, powerful interest groups and urban magistrates. It is the latter we now have to turn to for an examination of the wider and more permanent impact of such initiatives in the early modern state.

(ii)

How exactly could common people influence new laws and regulations? According to contemporary political theory, there was no room for popular participation in the government of the well-ordered police state. The passing of laws formed part of the princely *superioritas territorialis*.<sup>40</sup> ‘Et par ainsi nous conclurons’, argued Bodin in 1576, ‘que la premiere marque du prince souverain, c’est la puissance de donner loy à tous en general, et à chacun en particulier: mais ce n’est pas assez, car il faut adjouster, sans le consentement de plus grand, ny de pareil, ny de moindre que soy’.<sup>41</sup> Legal historians tend to argue a similar case for the Holy Roman

<sup>37</sup> ‘Extracts from Lincoln episcopal visitations’, ed. E. Peacock, *Archaeologia*, xlviii (1885), 249-50.

<sup>38</sup> Lambeth Palace Library, London, Carte Miscellanea, vol. vii, no. 83.

<sup>39</sup> Hülle, ‘Supplikationswesen’, p. 194; Neuhaus, ‘Supplikationen’, i. 121.

<sup>40</sup> Cf. H. Maier, *Die ältere deutsche Staats- und Verwaltungslehre* (2nd edn., Munich, 1980); M. Raeff, *The Well-Ordered Police State: Social and Institutional Change through Law in the Germanies and Russia 1600-1800* (New Haven, 1983); Stolleis, *Policey*.

<sup>41</sup> Cited in H. Mohnhaupt, ‘Die Mitwirkung der Landstände an der Gesetzgebung. Argumente und Argumentationsweise in der Literatur des 17. und 18. Jahrhunderts’, in *Die Bedeutung der Wörter. Studien zur europäischen Rechtsgeschichte*, ed. M. Stolleis et al. (Munich, 1991), pp. 249-64, on p. 252; see also idem, ‘Potestas legislatoria und Gesetzesbegriff im Ancien Régime’, *Ius commune*, iv (1972), 188-239, esp. 190, 200-1.



Empire,<sup>42</sup> for in the age of absolute monarchies legislation had become ‘eine ausschließliche Funktion des Herrschers’ and laws an exclusive ‘Ausgeburt des Herrscherwillens’.<sup>43</sup>

And yet, German political theorists of the seventeenth and eighteenth centuries did not fail to recognise constraints preventing princes from acquiring the extent of Bodin’s sovereignty. In his *Teutscher Fürsten Stat*, a textbook for generations of German students and officials, Veit Ludwig von Seckendorff identified four restrictions on princely omnipotence: religious autonomy, the equitable administration of justice, the approval of taxes by the estates and the upholding of treaties and agreements.<sup>44</sup> The idea of a limited monarchy was thus rather more common than that of an absolutist regime,<sup>45</sup> and many princes consulted their estates on a voluntary basis.<sup>46</sup> Let us now turn to Hesse to examine these issues in practice.<sup>47</sup>

The Hessian estates may have lacked corporate status, independent financial resources, formal legislative competence and their own archive, but they still exercised considerable influence. In return for the approval of taxes they were allowed to present their *Gravamina* at the diet (also known as the ‘communication day’), with the chance to affect its resolutions (*Landtagsabschiede*) as well as subsequent territorial ordinances (*Landesordnungen*) and princely edicts. Resolutions passed by the Diet were drafted in the form of contracts and signed and sealed by the Landgrave as well as the estates. Due to their consensual nature they acquired a particularly prominent place in Hesse’s constitution.<sup>48</sup> The same applied to the ‘fundamental laws’ (*Landesgrundgesetze*), i.e. the mutual agreements between prince and estates concerning important issues such as the settlement of religion,<sup>49</sup> the sale of territory,<sup>50</sup> or the distribution of powers between Landgrave and knights.<sup>51</sup>

---

<sup>42</sup> Mohnhaupt, ‘Mitwirkung’, p. 258. V. L. von Seckendorff, *Teutscher Fürsten Stat* (1665), ed. L. Fertig (Glashütten i.T., 1976), 2/8. 210 assures us ‘daß die Macht und Befugnis solcher Ordnungen aufzurichten/ allein einem Landes-Herrn und Regenten zukomme’.

<sup>43</sup> Quotes in H. Krause, ‘Gesetzgebung’, *HRG*, i. 1617, and D. Willoweit, *Deutsche Verfassungsgeschichte* (Munich, 1990), p. 183. A contrasting opinion in M. Stolleis, *Geschichte des öffentlichen Rechts in Deutschland* (Munich, 1988), i. 131.

<sup>44</sup> Seckendorff, *Fürsten Stat*, 2/4. 78.

<sup>45</sup> H. Dreitzel, ‘Vom reichspatriotischen Konstitutionalismus zum nationalen Liberalismus. Zur Diskussion der landständischen Verfassung in der deutschen Aufklärung’, in *Aufklärung/Lumières und Politik*, ed. H. E. Bödeker and E. François (Leipzig, 1996), pp. 399-432.

<sup>46</sup> Seckendorff, *Fürsten Stat*, 2/4. 78.

<sup>47</sup> Even the most recent studies look at legislation from a theoretical-normative perspective, rather than its making in practice: cf. N. Bulst, ‘Rulers, representative institutions and their members as power elites: rivals or partners?’, in *Power Elites and State Building*, ed. W. Reinhard (Oxford, 1996), pp. 41-58, esp. 53-4.

<sup>48</sup> Hollenberg, *Landtagsabschiede 1649-1798*, p. XVI.

<sup>49</sup> Hollenberg, *Landtagsabschiede 1526-1608*, pp. 256-60 (LTA 1567), 339-46 (LTA 1754).

<sup>50</sup> *Ibid.*, pp. 25-6 (from 1586).

<sup>51</sup> K. Demandt, ‘Die hessischen Landstände im Zeitalter des Frühabsolutismus’, *Hessisches Jahrbuch für Landesgeschichte*, xv (1965), 38-108, esp. 50-7; Hollenberg, *Landtagsabschiede 1649-1798*, pp. 56-66 (1655).

In addition to major matters of state, however, resolutions also covered other concerns voiced by the estates. The *Abschied* of the Diet of 1731, in fact, dealt with nothing else but their *Gravamina*. As it was - very unusually - published, it commanded added authority and exemplifies the estates' influence on the law-making process particularly clearly.<sup>52</sup> Diets thus provide the best illustration for the 'mechanism' of the early modern *Ständestaat*:<sup>53</sup> the transformation of princely propositions, tax demands and suggestions by the estates into mutually agreed resolutions.<sup>54</sup> Some of the issues raised by the knights and burghers, however, were addressed elsewhere, for instance in a new set of territorial ordinances. The latter, a condensation of numerous orders, edicts and instructions may have been formally issued by the Landgrave, but many were still influenced by the estates. On several occasions during the sixteenth and seventeenth centuries, princes voluntarily consulted their subjects. The Reformation Ordinance of Landgrave Philipp in 1524, for instance, regulating areas such as the wool trade, weights or usury, was issued 'mit unserer Landschafft von den Stetten bedencken, Rath, wissen und willen, zu fürderung gedeien und wolahrt gemeines nutzes'.<sup>55</sup> Similarly in 1581, a crafts and labourer ordinance was published 'auf Gutachten und Mitrath gemeiner Landschafft',<sup>56</sup> while a whole series of regulations appeared in 1591 'mit gemeiner Landschafft Rath und Zuthun'.<sup>57</sup> At the end of the Thirty Years War the estates were asked to comment on an ordinance concerning Jews,<sup>58</sup> a *Policey- und Tax-Ordnung*,<sup>59</sup> and matters affecting the militia,<sup>60</sup> but in the 'age of absolutism' such direct forms of participation became increasingly rare.<sup>61</sup>

Undiminished, however, was the potential of *Gravamina* to alert central authorities to the existence of pressing social problems.<sup>62</sup> Many preambles of princely edicts openly acknowledge the initiative or influence of the estates. The Diet of 1731 provides the best example: at least

---

<sup>52</sup> Cf. *ibid.*, LTA 1731.

<sup>53</sup> See B. Hodler, 'Doléances, Requêtes und Ordonnances. Kommunale Einflußnahme auf den Staat in Frankreich im 16. Jahrhundert', in *Gemeinde und Staat*, ed. Blickle (forthcoming).

<sup>54</sup> Hollenberg, *Landtagsabschiede 1526-1608*, p. 26, sees 'die Beschwerdetätigkeit nur sehr indirekt als Mitwirkung an der Gesetzgebung'.

<sup>55</sup> Cited in Siebeck, *Landständische Verfassung Hessens*, p. 150; further examples for 1500-98 *ibid.*, pp. 149-55, 166.

<sup>56</sup> B. W. Pfeiffer, *Geschichte der landständischen Verfassung in Kurhessen* (Kassel, 1834), pp. 67, 71; further 'Gutachten' by the estates in 1533, 1573, 1576, 1581 and 1584: see e.g. Hollenberg, *Landtagsabschiede 1526-1608*, p. 3 (LO, i. 358).

<sup>57</sup> *Ibid.*, LTA 10 March 1591 [§ 3].

<sup>58</sup> Pfeiffer, *Geschichte*, pp. 110-1 (1643).

<sup>59</sup> Siebeck, *Landständische Verfassung Hessens*, pp. 150-1 (1650s); A. Würzler, 'Desideria und Landesordnungen. Kommunaler und landständischer Einfluß auf die fürstliche Gesetzgebung in Hessen-Kassel 1650-1800', in *Gemeinde und Staat*, ed. Blickle (forthcoming), ch. 4.2.

<sup>60</sup> Hollenberg, *Landtagsabschiede 1649-1798*, p. XXIV n. 48 (until 1654).

<sup>61</sup> As elsewhere: K. Bosl, *Die Geschichte der Repräsentation in Bayern* (Munich, 1974), pp. 82, 86-8, 208-9; A. von Stieglitz, *Landesherr und Stände zwischen Konfrontation und Kooperation: Die Innenpolitik Herzog Johann Friedrichs im Fürstentum Calenberg 1665-1679* (Hannover, 1994), pp. 203-38.

<sup>62</sup> Siebeck, *Landständische Verfassung Hessens*, p. 156.

fifteen *Desideria* are mentioned as impulses for ordinances, edicts and orders.<sup>63</sup> Between 1764 and 1767, ‘initiatives from below’ triggered six ordinances concerned with matters as diverse as tithes or brewing,<sup>64</sup> as well as numerous edicts on taxation, urban jurisdiction, fire insurance and many other issues.<sup>65</sup> Further legislative acts were undoubtedly influenced in a similar way without saying so explicitly.<sup>66</sup> Commenting on the sixteenth century in particular, Hans Siebeck credited the estates with a considerable share in the shaping of Hesse’s administration,<sup>67</sup> even though many individual *Desideria* remained unanswered. The ‘communication days’ acted as filters to produce a condensed version of the most pressing complaints, with minority interests or controversial proposals marginalised as ‘particular’ rather than general concerns, allowing the Landgrave to play the part of a powerful mediator.<sup>68</sup> The substance of some *Gravamina*, in contrast, appealed so widely that they became law more or less unaltered. Attempts to renew an ordinance concerning the Jews during the 1730s, for instance, can be traced back to a proposal made originally by the knights and burghers in 1731. In the process, a government draft was rejected, measures devised by the estates were adopted on a temporary basis and the final version of 1739 still owed a great deal to the initiative of 1731.<sup>69</sup> While Jewish affairs were in theory the prerogative of the Landgrave, the estates managed to inject their - anti-Jewish - ideas by means of *Gravamina*.

Advanced or innovative ideas, too, were by no means the preserve of the enlightened bourgeoisie. Many originated with the estates,<sup>70</sup> for instance the request for a common law code covering all parts of the Hessian territory (suggested as early as the sixteenth century),<sup>71</sup> the improvement of schooling in 1731, 1754 and 1764,<sup>72</sup> the promotion of manufactures in 1731 and 1764 as well as the economical use of timber and the reduction of ecclesiastical feast days; the estates also called for more ‘open government’ through the publication of all current ordinances

---

<sup>63</sup> Five *Desideria Generalia* of all estates, seven *Desideria Communia* of prelates and knights and three *Desideria Communia* of all towns concerning labour services, taxes, Jews, sumptuary legislation etc.; detailed references in Würgler, ‘Desideria’, ch. 4.1.2. and 4.1.3.

<sup>64</sup> LO, vi. 400-402 (10.III.1767).

<sup>65</sup> Cf. StAM 17b Fach 8 no. 4 and LO, vi. 153-4 (19.IX.1764), 167 (30.X.1764), 172 (8.I.1765), 396 (7.II.1767), 403-13 (17.III.1767), 422-32 (27.IV.1767), 464 (3.XII.1767).

<sup>66</sup> E.g. ordinances on prices (17.XII.1764: LO, vi. 169-70), the *Lizent* tax (15.II.1766: *ibid.*, 351-2), bankruptcies (1767: StAM 17b Fach 8 no. 4).

<sup>67</sup> *Landständische Verfassung*, pp. 157-8.

<sup>68</sup> *Ibid.*, p. 158.

<sup>69</sup> StAM 17 II no. 1299, f. 487-90 (government proposal for an ‘Edikt wegen der Juden’: 7.II.1732); Hollenberg, *Landtagsabschiede 1649-1798*, p. 270 n. 29; ‘Edikt wegen der Juden’ (27.V.1735: LO, iv. 288); ‘Juden-Ordnung’ (12.VIII.1739: LO, iv. 586-99).

<sup>70</sup> Examples in C. W. Ingrao, *The Hessian Mercenary State: Ideas, Institutions, and Reform under Frederick II, 1760-1785* (Cambridge, 1988), pp. 45, 81.

<sup>71</sup> The project was tackled, but never completed: Hollenberg, *Landtagsabschiede 1526-1608*, LTA 16.II.1581, § 3; LTA 10.III.1591 [§3]. Vgl. Siebeck, *Landständische Verfassung Hessens*, pp. 169-70.

<sup>72</sup> Hollenberg, *Landtagsabschiede 1649-1798*, LTA 1731, § 19b (initiative by the towns); *ibid.*, pp. 344-5 n. 15 (1754); StAM 5 no. 14717, f. 39 (‘Desiderium generale’ 2; 1764) and 5 no. 14686, fos. 329-37 (‘Vorschläge zum Gemeinen Besten’ 1).

(1764), court sentences (1785/86) and resolutions agreed by the diets (1773/74 and 1797).<sup>73</sup> A new fire insurance fund, to take a final example, was set up in consultation with town representatives in 1767, as a late response to an initiative taken by the estates in 1731.<sup>74</sup>

The Hessian situation was by no means unusual. The compilation of *Gravamina* had become a very widespread phenomenon in early modern Europe and its effect on legislative processes in territories such as Lower Austria, Hohenlohe or Württemberg, and even 'absolutist' kingdoms such as France, was comparable to that outlined here.<sup>75</sup>

English subjects, in contrast, had reached an even more advanced level of influence. Instead of dealing with *Gravamina*, the Houses of Parliament read 'bills' (documents of draft legislation), which they transformed - in a complex process, involving both Lords and Commons - into 'Acts of Parliament'. Upon closer inspection it is apparent that interventions from town and country could affect almost all stages of the proceedings, with MPs explicitly accepting 'the right of the subject to petition'.<sup>76</sup>

The very conspicuous degree of local participation in English central legislation from the late Middle Ages owed much to the fact that the Westminster Parliament discussed not only high matters of state, but also a good deal of 'parochial' business. The statute books are full of acts providing for the building of bridges, the reorganisation of the local ecclesiastical network or the foundation of schools.<sup>77</sup> It was thus important for all parties concerned to put their case to those

---

<sup>73</sup> StAM 5 no. 14686, f. 332 ('Vorschläge zum Gemeinen Besten' 4; 1731); StAM 73 no. 117, vol. 4, no. 160; 5 no. 14717 (*Desideria*; 1764); Ingrao, *Mercenary State*, pp. 48, 63, 66; Hollenberg, *Landtagsabschiede 1649-1798*, p. 433 n. 19; Ingrao, *Mercenary State*, p. 103 (feast days; 1770s); StAM 63 no. 1313 Anlage 54 ('Allgemeines Desiderium' 6; 28.XI.1785); LO, vii. 18 (extract from the minutes of the secret council; 23.XII.1785: rejection); StAM 17b Fach 8 no. 10 (1797); A. Lichtner, *Landesherr und Stände in Hessen-Kassel 1797-1821* (Göttingen, 1913), p. 54. For the calls for more 'open government' see also A. Würzler, *Unruhen und Öffentlichkeit: Städtische und ländliche Protestbewegungen im 18. Jahrhundert* (Tübingen, 1995).

<sup>74</sup> StAM 5 no. 14686, f. 337 ('Vorschläge zum gemeinen Besten' 12; 1731); for the insurance fund see LO, vi. 422-432 (27.IV.1767). Cf. Hollenberg, *Landtagsabschiede 1649-1798*, pp. 433 n. 19, 509-10 n. 11. For its success: *ibid.*, LTA 1798, § 3. Taylor, in contrast, sees it as another government ploy to plunder peasant resources (*Military State*, p. 42).

<sup>75</sup> J. Pauser, 'Gravamina and Policey: the influence of estate-complaints on the practice of legislation in the Lower Austrian lands 1521-64' (Paper delivered to the 46th Conference of ICHRPI, Vienna, 5 September 1996); T. Robisheaux, *Rural Society and the Search for Order in Early Modern Germany* (Cambridge, 1989) (Hohenlohe); R. Fuhrmann, 'Amtsbeschwerden, Landtagsgravamina und Supplikationen in Württemberg zwischen 1550 und 1629', in *Gemeinde und Staat*, ed. Blickle (forthcoming); Hodler, 'Doléances'.

<sup>76</sup> Elton, *Parliament*, p. 61; the quote from *Journals of the House of Commons*, v. 375 (1647). From a European perspective, it is striking that this was not a nineteenth-century innovation - as in many Continental countries - or a result of the Glorious Revolution of 1688-89 - as is sometimes asserted (J. H. Kumpf, 'Petition', *HRG*, iv. 1639-46), but a right dating back to the thirteenth century: N. Wilding and P. Laundy, *An Encyclopaedia of Parliament* (4th edn., London, 1972), p. 561.

<sup>77</sup> *Statutes of the Realm* (vol. IV/2, London, 1819; reprinted 1963), 43 Eliz. I, c. 16 ('An Acte for the reedifienge repairinge and maintayninge of Two Bridges over the Ryver of Eden'; 1601); 1. Jac. I, c. 30 ('An Acte for the Erectinge of the Parische Church of Radipoll, and for the makinge the ould Church of Radipoll a Chappell belonging to the same'; 1603-04); 4. Jac. I, c. 7 ('An Acte for the foundinge and incorporatinge of a Free Grammer Schoole in the Town of Northleech'; 1606-07).

involved in the legislative process (from the monarch down to the Commons), be it through the mediation of the local MP or by means of a petition presented in person.<sup>78</sup> In both cases proposals from below could take the form of ready-made drafts for particular acts - neither the initiative nor the formulation of a piece of legislation needed to originate with the king or his council.<sup>79</sup>

The head of state was always an obvious target for the subjects' petitions. Among the most persistent topics are requests for the granting or renewal of borough charters. Thomas Menesse, for instance, acting for the Cinque Ports in Kent at the coronation of Queen Mary in 1553, incurred expenses of £42 in presenting their petition.<sup>80</sup> The impact of other public concerns can be gauged from the preambles of many pieces of legislation. One statute of the 1580s revoked previous regulations with the argument that they had proved 'by Experience ... verie harde and extreme to many of the Queenes Majesties Subjectes'.<sup>81</sup> Mass petitions from no fewer than thirty-eight of the forty English counties reached Charles I between December 1641 and August 1642 to complain about unapproved taxes, autocratic government and unpopular religious innovations. Most had been initiated by exponents of the local gentry, but the latter spared no efforts to obtain the support of as many people as possible. Almost 30,000 signatures were gathered for a petition from Essex, which must have involved a campaign reaching very far down the social scale.<sup>82</sup> The House of Commons itself approached monarchs by means of petitions, too, most famously perhaps with the 'Supplication against the Ordinaries' of 1532, a polemical denouncement of the secular powers of the Church on the eve of the Reformation, and the 'Great Remonstrance', a catalogue of royal failures, in the troublesome 1640s.<sup>83</sup>

Individual privy councillors, i.e. members of the government's inner circle, could also be targeted by petitioners.<sup>84</sup> More frequently, however, requests were addressed to the Lords or Commons at Westminster, where they went through increasingly formalised proceedings. In 1624, for instance, the upper chamber decided to evaluate petitions in committees rather than

---

<sup>78</sup> For examples of MPs promoting the case of their constituents see e.g. *Journal of the House of Lords*, i. 600 (a bill introduced on behalf of the City of Exeter; 1563), and A. Fletcher, 'National and local awareness in the county communities', in *Before the English Civil War*, ed. Tomlinson, pp. 168-9 (the newly chosen Northamptonshire MPs, John Crewe and Sir Gilbert Pickering, are presented with a petition to bring before Parliament; 1640).

<sup>79</sup> Elton, *Parliament*, pp. 62, 86.

<sup>80</sup> *A Calendar of the White and Black Books of the Cinque Ports 1432-1955*, ed. F. Hull (London, 1966), p. 250.

<sup>81</sup> 27 Elizabeth, c. 13; the Queen received hundreds of petitions every year: J. S. Hart, *Justice upon Petition* (London, 1991), p. 33.

<sup>82</sup> A. Fletcher, *The Outbreak of the English Civil War* (London, 1981), pp. 191-6.

<sup>83</sup> Wilding and Laundry, *Parliament*, p. 562; for the 'Supplication' cf. C. Haigh, *English Reformations* (Oxford, 1993), pp. 111-12; the 'Great Remonstrance with the Petition accompanying it' (1641), in *The Constitutional Documents of the Puritan Revolution 1625-60*, ed. S. R. Gardiner (3rd edn., Oxford, 1906), pp. 202-32.

<sup>84</sup> One example from the Elizabethan period, calling for improvements at the port of Rye in Sussex, in Elton, *Parliament of England*, p. 52.

plenary sessions.<sup>85</sup> No fewer than 850 were received during the first nine months of the Restoration Parliament in 1660, some of which backed by people who had travelled from the northernmost counties to plead their cause.<sup>86</sup>

The House of Commons, of course, was by its very nature an ‘assembly of petitioners on behalf of the realm’.<sup>87</sup> A considerable increase in the intensity of such lobbying during the sixteenth century, a period marked by religious change and socio-economic crises, resulted in a series of procedural adjustments from 1571.<sup>88</sup> It is very difficult to follow the fortunes of individual initiatives through the complex parliamentary stages, but local interests undoubtedly had a significant share in the making of English laws. Urban authorities in particular were always ‘among the most eager to watch what happened in Parliament and to promote their own needs’.<sup>89</sup> This sort of endeavour did not come cheaply. When London pushed for the navigability of the river Lea in the 1560s, it incurred administrative and parliamentary expenses of over £40, but in the end achieved the transformation of a communal ‘bill’ into a national ‘act’.<sup>90</sup>

Given the unprecedented political crisis and the breakdown of censorship during the revolutionary 1640s,<sup>91</sup> popular pressure on Parliament reached new degrees of intensity: between 1 December 1647 and 31 January 1648 the House of Commons recorded the receipt of 106 petitions, mostly from individuals, but twenty-six from entire hundreds, towns or ‘all the free people’ of a particular area. By now, many were printed in an innovative attempt to influence public opinion.<sup>92</sup> MPs were also confronted with the physical presence of large groups of supporters. On 11 February 1642 some 3,000 inhabitants of Buckinghamshire rode to Westminster, where their representatives were admitted to present the petition and to hear a more or less satisfactory reply by the speaker, who thanked them for their interest in the common weal of the nation and promised serious consideration of their cause.<sup>93</sup>

At times, however, the House was clearly intimidated by public pressure. Most effective among the radical agitators was the Leveller movement during the years 1647-49. Led by

---

<sup>85</sup> For procedural details see *ibid.*, *passim*, Bond, *Parliament*, pp. 172-3, and Hart, *Justice*, pp. 35-7.

<sup>86</sup> Hart, *Justice*, Table 1.3; the minutes of 23 January 1702 record that ‘the Lords Spiritual and Temporal ... upon reading the Petition of the Inhabitants of Bawtry, in the County of York’ decided that the petitioners should be heard ‘as desired, on Monday next, at Eleven a Clock’: *Journal of the House of Lords*, xvii. 255.

<sup>87</sup> Elton, *Parliament of England*, p. 17.

<sup>88</sup> Including refined formal requirements, the setting up of committees etc.: Bond, *Parliament*, pp. 240-1.

<sup>89</sup> Elton, *Parliament of England*, pp. 76 (quote), 273 (the importance of local influence). In the 1560s, for instance, Guildford successfully petitioned for the establishment of a grammar school: 5 Eliz. I, OA 33.

<sup>90</sup> 13 Eliz. I, c. 18.

<sup>91</sup> For a summary see D. Hirst, *Authority and Conflict: England 1603-58* (London, 1986); an introduction to the complex historiography in R. C. Richardson, *The Debate on the English Revolution Revisited* (2nd edn., London, 1988).

<sup>92</sup> Figures calculated from *The Journals of the House of Commons*, vol. v; D. Zaret, ‘Petitions and the “invention” of public opinion in the English Revolution 1640-60’, *American Journal of Sociology*, ci (1996), 1497-1555. ‘Petitioning had become the most potent weapon in the provincial armoury’: Fletcher, *Outbreak*, p. 191.

<sup>93</sup> A further example is the ‘Humble Petition of the Committee and Inhabitants of the County of Middlesex’: *Journals of the House of Commons*, v. 375 (7 Dec. 1647).

charismatic leaders with a strong appeal to the London masses, it combined the presentation of petitions with large-scale demonstrations calling for the restoration of the 'native rights' of all 'freeborn Englishmen'. To achieve maximum exposure, it devised a sophisticated organisational structure based upon local assemblies, recruitment campaigns and various fund-raising devices. According to an enquiry conducted on behalf of the House of Commons, this sort of behaviour threatened the very fabric of the established political order.<sup>94</sup> On 6 January 1648 MPs decided to arrest anyone responsible for tumultuous behaviour around the Parliament building.<sup>95</sup> Two weeks later, John Lilburne and other Leveller leaders were summoned to the House, charged with treason and their *Earnest Petition of Many Free-Born People of this Nation* banned as an incitement to disorder. The minutes of the day state categorically that 'any meetings or Actions upon the Petition' were to be forcefully suppressed.<sup>96</sup>

The petitions of the 1640s allow an unprecedented insight into the ideological diversity of 'public opinion'. Broadly-based evangelical calls for the abolition of bishops appeared alongside vociferous defences of the Church of England. Between 1640 and 1642, for instance, Parliament registered two dozen 'traditionalist' petitions, among others a distinctly anti-puritan pamphlet with 9,000 signatures from the county of Chester (December 1641).<sup>97</sup> It was by no means a confrontation between 'advanced' members of the social elite and a 'backward', conservative population at large. On the contrary, the most far-reaching and innovative programme of popular sovereignty was put forward by the Levellers and their middling sort supporters. It is here that we find calls for periodical Parliaments, the accountability of all public offices and the extension of the franchise to all householders irrespective of wealth - proposals which startled even radical MPs such as Oliver Cromwell.<sup>98</sup> These ideas are normally related to the ecclesiology of puritan sects or explained as borrowings from Continental theories of resistance and contemporary political thought. Historians tend to emphasise their 'individual', 'strangely modern' and even 'social democratic' components.<sup>99</sup> And yet, while there can be no doubt about the complex mixture of influences on such a heterogeneous movement, it looks as if the most important model for Leveller thought was rather more mundane and traditional, namely the practice of local

---

<sup>94</sup> W. Frost, *A Declaration of Some Proceedings of Lt Col Iohn Lilburne and his Associates* (1648).

<sup>95</sup> *Journals of the House of Commons*, v. 421.

<sup>96</sup> *Ibid.*, 437-8.

<sup>97</sup> More details on 'puritan' county petitions in Fletcher, *Outbreak*, p. 210, and on their conservative counterparts in J. Maltby, "'By this Book": parishioners, the Prayer Book and the established Church', in *The Early Stuart Church 1603-42*, ed. K. Fincham (Basingstoke, 1993), pp. 115-37. For a spirited defence of bishops and king see e.g. Sir Thomas Aston, *A Remonstrance against Presbytery ... with a brief Review of ... the Ancient and Venerable Order of Bishops* (1641).

<sup>98</sup> See the numerous petitions and manifestoes printed in *Leveller Tracts*, ed. Haller and Davies (Gloucester, Mass., 1964).

<sup>99</sup> P. Wende, "'Liberty" und "Property" bei den Levellern: Ein Beitrag zur Entstehungsgeschichte des politischen Individualismus im England des 17. Jhs.', *Zeitschrift für historische Forschung*, i (1974), 147-73; T. Pease, *The Leveller Movement* (Washington, 1916), p. 217; J. Frank, *The Levellers: A History of the Writings of three Seventeenth-Century Social Democrats* (Cambridge, Mass., 1955).

government up and down the country. Accountability of aldermen, village constables and churchwardens, periodical assemblies in cities and wards, as well as regular audits of parochial accounts formed part of the political horizon of all Leveller protagonists, in spite of undeniable tendencies towards oligarchisation. A survey of London parish government in 1636 confirms that roughly half of all churches still ordered their affairs by general vestries of all householders.<sup>100</sup> William Walwyn, for instance, one of the most active Leveller pamphleteers, had demonstrably been involved in the day-to-day running of St James Garlickhithe, where he experienced and encouraged - years before turning his attention to Parliament - the exercise of political rights by the humbler members of a parish community.<sup>101</sup> What we observe in 1647-49 was the proposed transfer - through petitions and broadly-based *Agreements of the People* - of customary local government principles onto the national level of king and Parliament. This amounted to one of the most spectacular examples of 'innovation from below' ever attempted, even though only a fraction of the programme had any chance of acceptance at the time.<sup>102</sup>

After the restoration of the monarchy, the political establishment sought to prevent similar challenges by passing a 'Tumultuous Petitioning Act' in 1661 and further legislation in the following decades. The 'right to petition' remained in force, but documents now had to be written by hand, submitted through local MPs and the parties involved had to be clearly identified.<sup>103</sup> But whatever the bureaucratic complications, petitioning remained a pillar of the political culture. When the 'free burgesses' of the City of Colchester informed the Commons on 4 November 1702 about the 'Bribes, Threats, Treats, and other Means' used by Sir Thomas Cook to ensure his election to Parliament, the minutes record 'that the Consideration of the said Petition be referred to the Committee of Privileges and Elections; and that they do examine the Matter thereof, and report the same, with their opinion therein, to the House'.<sup>104</sup> The 1720s, in turn, saw a concerted campaign against the South Sea Company, whose speculative investments had caused a huge financial scandal.<sup>105</sup> On 15 February 1721 the City of Cambridge decided 'that this Corporation doe petition the Honourable House of Commons in Parliament assembled relating to the decay of Trade & for the calling to account the late Directors of the South Sea'. Two and a half months later the council minutes reveal that Sir John Hynde Cotton, one of the local MPs, had been

<sup>100</sup> Lambeth Palace Library, London, Carte Miscellanea, vol. vii, *passim*.

<sup>101</sup> Walwyn's role is documented in London, Guildhall Library, MS 4813/1: Vestry Minutes of St James Garlickhithe, fos. 52r-54v; for parochial government in general cf. B. Kümin, *The Shaping of a Community: The Rise & Reformation of the English Parish 1400-1560* (Aldershot, 1996), ch. 6.2.

<sup>102</sup> For an elaboration of this argument cf. idem, 'Gemeinde und Revolution: Die kommunale Prägung der englischen Levellers', in *Gemeinde und Staat*, ed. Blickle (forthcoming).

<sup>103</sup> 13 Charles II, Session I, c. 5 (1661); details of these changes, as well as further alterations in 1685, 1689 and 1713, in Bond, *Records of Parliament*, pp. 240-1, and Wilding and Laundy, *Parliament*, pp. 562-3.

<sup>104</sup> *Journals of the House of Commons*, xiv. 13.

<sup>105</sup> See the numerous petitions in *ibid.*, xix. 493-590, e.g. by the city authorities of London (502-3) or Oxford (534).



charged with presenting ‘The humble Petition of the Mayor Recorder Aldermen & the Rest of the free Burgesses of the Antient Corporation of the Town of Cambridge’ to his Westminster colleagues, expressing the city’s deep concern about ‘the Deplorable Condition this Nation at present is in by the Villainous Management of the late South Sea Directors’ and asking for just punishment of those responsible, ‘Be they never so great’.<sup>106</sup> Cotton performed this duty on 2 May, and as a consequence of the flood of similar complaints the House produced a series of reports and legislative measures against the Company.<sup>107</sup> It has thus been argued that petitioning remained the ‘primary weapon’ for the promotion of social and political reforms throughout the early modern period.<sup>108</sup> All the more so, as local and regional bodies with legislative competence were subject to the same sort of lobbying.<sup>109</sup>

*Gravamina*, to return to the Hessian case study, are normally distinguished from petitions by the more general nature of their subject matter, but it should be noted that the borderline was not always clear-cut. The former, for instance, could represent a condensed version of many of the latter.<sup>110</sup> If the estates registered a feeling of widespread unease, they had the opportunity to express it at a diet. ‘Aus allen Gegenden unsers Vaterlandes laufen bittere Klagen über die Härte des ... Auswanderungs-Edicts vom 11ten März 1774 ein’, was how they motivated one of the *Desideria* formulated in 1786.<sup>111</sup> *Gravamina* also served as just another formal means to express a particular concern. Homberg an der Ohm in 1553, as well as numerous other towns between the sixteenth and eighteenth centuries, petitioned for the granting of additional market days to enhance their economic prospects,<sup>112</sup> with similar requests made also at diets.<sup>113</sup>

This sort of influence, however, was not restricted to an urban environment. Many of the smaller towns with a largely agricultural economy, which were represented at the *Landtag*, raised

---

<sup>106</sup> CRO, Cambridge Corporation Archives, Common Day Book 1681-1722: C/2, p. 685 (decision) and 686-7 (text of petition).

<sup>107</sup> ‘A Petition of the Mayor, Recorder, Aldermen, and the rest of the free Burgesses of the ancient Corporation of Cambridge was presented to the House and read [...] praying, That all Endeavours will be used to bring the Guilty to condign punishment’: *Journal of the House of Commons*, xix. 534.

<sup>108</sup> Bond, *Parliament*, p. 241.

<sup>109</sup> For a regulative measure taken by the Buckinghamshire Quarter Sessions resulting from a complaint of the township of Fulmer in 1679 see *Calendar of Session Records 1678-94*, ed. W. Le Hardy (Aylesbury, 1933), p. 15; an unsuccessful attempt by ‘every company in the city’ to restrict the trading privileges of strangers at Chester in 1619 in *Calendar of Chester City Council Minutes*, ed. M. Groombridge (Blackpool, 1956), p. 100.

<sup>110</sup> Neuhaus, ‘Supplikationen’, 2, 83. Another example in M. Cramer-Fürtig, *Landesherr und Stände im Fürstentum Pfalz-Neuburg* (Munich, 1995), p. 213.

<sup>111</sup> StAM 63 no. 1315 Anlage 418 (‘Allgemeines Desiderium’ 44; 23.III.1786).

<sup>112</sup> See e.g. StAM 17e Homberg/O no. 4 (1553), Helmarshausen no. 16 (1584), no. 67 (1652), Brotterode no. 4 (1665). Cf. A. Sieburg, *Repertorien des Hessischen Staatsarchivs Marburg, Bestand 17 II* (Marburg, 1976), p. 189 (examples 1739-1821).

<sup>113</sup> StAM 63 no. 1315 Anlage 335 (‘Desiderium speciale’, Kirchhain; 11.III.1786).

problems also on behalf of their surrounding villages, which were not.<sup>114</sup> Complaints about the *Kontribution*, the heaviest form of taxation, and the damage caused by deer and other wild beasts, both of which appeared in petitions and *Gravamina* alike, can serve as examples. One *Supplik* dating from 1700 asserted that ‘*Stätte und Dorffschafftenn durch den Wildt Fraß in all zu großen Schaden gesetzt*’.<sup>115</sup> *Gravamina* and petitions of the 1770s, to focus on another, particularly successful synthesis, expressed widespread resentment of the ‘Hufen-Edict’, a land law interfering with traditional inheritance customs. After countless individuals had asked for a personal dispensation, the estates as a whole criticised the edict at the diets of 1778/79 and 1785/86, even though they had earlier pressed for a revision of the rules themselves.<sup>116</sup> Now they emphasised the devastating social and economic consequences: impoverishment of heirs, sharp decline in land prices, fewer marriages and increasing emigration. In the end the (new) Landgrave gave in and revoked the edict.<sup>117</sup>

On the other hand, of course, interventions from below might cancel each other out by advancing contrasting points of view. When the butchers of Oldendorf requested in 1786, ‘sie bey ihrem Zunfft-Brief gnädigst zu schützen und den dortigen Juden das Viehschlachten und den Handel mit Fleisch zu untersagen’,<sup>118</sup> they were at odds with a petition presented by the local Jews Jacob Herz, Siemon and Perez Levi in defence of their long-standing right to slaughter animals themselves.<sup>119</sup> The government thus moved into the position of arbitrator or judge, as it did in other conflicts. The lathe-turners of Kassel, for instance, obtained an order of 1718 stipulating that their rural competitors ‘mit ihren Waaren außer denen Jahrmärkten nicht hausiren, auf solchen Märkten aber länger nicht als die gesetzte Zeit und Stunden feil haben sollen’.<sup>120</sup>

Numerous ordinances explicitly reacted to concerns voiced in supplications, complaints and other forms of protest without the mediation or support of a diet: the regulations governing the chancellery were revised in 1713 ‘nachdem offters viele Klagden undt Beschwerden wegen langsahmen fortgangs der Justiz [...] vor Unß gelanget’,<sup>121</sup> while popular complaints provoked a reorganisation of billeting in 1725 as well as new ordinances concerning the cloth trade in 1732,

---

<sup>114</sup> H. Gräf, ‘Small towns in early modern Germany: the case of Hesse 1500-1800’, in *Small towns in early modern Europe*, ed. P. Clark (Cambridge, 1995), pp. 184-205.

<sup>115</sup> StAM 5 no. 14671, f. 189 (our emphasis); cf. Würgler, ‘Desideria’, ch. 4.1.1. and Fuhrmann, Kümin, Würgler, ‘Supplizierende Gemeinden’, ch. 4.2.

<sup>116</sup> LO, iv. 1068-1070 (‘Hufen-Edict’; 1750). Cf. B. Vits, *Die Wirtschafts- und Sozialstruktur ländlicher Siedlungen in Nordhessen vom 16. bis zum 19. Jahrhundert* (Marburg, 1993), pp. 65-6, and Taylor, *Military State*, pp. 70-4.

<sup>117</sup> Ingrao, *Mercenary State*, pp. 119-21, 134, 141, 149-50, 203; Vits, *Wirtschafts- und Sozialstruktur*, pp. 65-77; Würgler, ‘Desideria’, ch. 4.3.2.

<sup>118</sup> StAM Protokolle II, Kassel Cc 6 vol. 2a, 16.V.1786, no. 72/287.

<sup>119</sup> Ibid., 23.VII.1786, no. 10/413 und 11/414.

<sup>120</sup> LO, iii. 807 (‘Regierungs-Ausschreiben’; 14.XII.1718).

<sup>121</sup> LO, iii. 709 (9.V.1713).

servants in 1736, rag-picking in 1739 and the abolition of an agricultural tax in 1765.<sup>122</sup> Reportedly ‘zum Besten des Landes, und auf Anrufen des vernünftigsten Theils Unserer getreuen Unterthanen’, the Landgrave issued a ‘Erneuerte und geschärfte Verordnung gegen das Caffee trinken’ in 1773, imposing substantial financial penalties on the trade.<sup>123</sup> Crafts seem to have been particularly successful: petitions involving ‘sämtliche Meister der Seyler-Zunft Unseres Nieder- und theils Ober-Fürstenthums’ obtained an edict against some unwelcome competitors in 1733.<sup>124</sup>

These last examples offer glimpses of the ambiguity of political petitioning. Vague bodies such as the ‘most reasonable part of our subjects’ or small pressure groups such as crafts allowed the authorities to justify their own policies with reference to ‘popular’ demand. In practice, however, most petitions reflected particular rather than general interests, although there were occasions on which a mass of similar requests provided the government with genuine support for its ordinances.

Apart from provoking decisions on their immediate subject matter, petitions and *Gravamina* had two interesting side effects. First, at a time of limited bureaucratic development, they allowed the government invaluable insights into the state of the nation and the effect of legislative or executive measures.<sup>125</sup> Petitions, for instance, could alert authorities to the availability of suitable candidates for vacant positions,<sup>126</sup> to the existence of pressing problems, corrupt officials, resistance against new regulations as well as providing many other important clues. Popular complaints and appeals, furthermore, allowed a degree of control by the subjects over state institutions (and vice versa). Political visitations or *Enquêtes*, held in Hesse at irregular intervals between 1514 and 1820 to gather information from the population, attempted to offer an institutionalised channel of communication for the same purpose.<sup>127</sup>

Second, petitions and *Gravamina* tended to provoke modifications of administrative procedures and the creation of new institutions. Renate Blicke has recently emphasised the important share of *Supplikationen* in the genesis of the Bavarian *Hofrat* in the late Middle Ages. In England, meanwhile, the growing wave of petitions addressed to the Chancellor played a crucial part in the development of equity jurisdiction in Chancery from the fourteenth century. Their authors thus provided themselves with a much less formalised forum for litigation than that

---

<sup>122</sup> Ibid., 969 (21.VIII.1725), LO, iv. 175 (25.VIII.1732); 410-1 (8.IX.1736); 568 (22.IV.1739); LO, vi. 228-9 (6.IV.1765).

<sup>123</sup> Ibid., 677-9 (11.III.1773). Subsequent reissues of the ordinance acknowledge the difficulty of enforcement: LO, vi. 761-2 (5.IV.1774), 827 (6.VI.1775), 851 (21.XII.1775), 997 (21.II.1780).

<sup>124</sup> LO, iv. 215-6 (1.IX.1733); similarly ibid., 561-2 (14.II.1739).

<sup>125</sup> Dolezalek, ‘Suppliken’.

<sup>126</sup> An English example in *Chester City Council Minutes*, ed. Groombridge, p. 123.

<sup>127</sup> Cf. Fuhrmann, Kümin, Würzler, ‘Supplizierende Gemeinden’, ch. 5, and Würzler, ‘Desideria’, ch. 4.3.1.

offered by the established Common Law courts.<sup>128</sup> In Hesse, in contrast, petitions played their part in the abolition rather than the creation of an institution, namely the rural councillors (*Landräte*, created in 1774) and their urban equivalents, the *Commissarii Loci*.<sup>129</sup> As a result of *Suppliken* and complaints from both town and country,<sup>130</sup> the estates called for the ‘Wiederaufhebung der Landraths-Funktionen’ at the Diet of 1779 (and again in 1786).<sup>131</sup> The criticism of the inefficiency of these officers came from below,<sup>132</sup> and was by no means - as suggested in the *Deutsche Verwaltungsgeschichte* - a wise insight by the Secret Council.<sup>133</sup> Eventually in 1798 the Landgrave accepted the town delegates’ argument ‘daß der Nutzen, welchen das Amt der Landraethe gewaehret, nicht durchgängig mit dem großen Kostenaufwand, welchen das Land deshalb tragen muß, im Verhaeltniß stehe’, and he abolished the office against the opposition of prelates and knights.<sup>134</sup>

As for administrative reorganisations, we have already observed the sort of procedural changes made by the English Parliament over the course of the early modern period. In Hesse, petitioning became the object of specific ordinances (from 1539 through to the late eighteenth century) and was also addressed in the more general regulations for the chancellery. In the latter, it was stated from 1581 that ‘alle und jede bey der Regierung einlauffende Supplicationes und Vorstellungen gleich zu anfang der Session distribuiret, und daruff resolviret, die nachher einkommende Exhibita aber auff den andern Rathts-Tag hingelegt werden sollen’.<sup>135</sup> In addition, there were rules about how ‘Supplicationes’ had to be treated: after they were read out to the council, the Landgrave’s deputy asked each member for his opinion, if he considered the matter to be important or uncertain. Clear-cut cases, however, were referred to individual councillors for consideration and a draft response. No more discussions followed, unless other members disagreed with the verdict. Petitions concerning seigneurial rents and estates,

---

<sup>128</sup> R. Blickle, ‘Laufen gen Hof’, in *Gemeinde und Staat*, ed. Blickle (forthcoming); S. F. C. Milsom, *Historical Foundations of the Common Law* (2nd edn., London, 1981), p. 82.

<sup>129</sup> Ingrao, *Mercenary State*, p. 96. Cf. Stefan Brakensiek, ‘Lokalbehörden und örtliche Amtsträger im Spätabolutismus. Die Landgrafschaft Hessen-Kassel 1750-1806’, in *Kultur und Staat in der Provinz*, ed. idem (Bielefeld, 1992), pp. 129-64, esp. 139-44. *Landräte* had been created in the Prussian mould to promote enlightened reforms in the country at large: Ingrao, *Mercenary State*, pp. 95-7; Hollenberg, *Landtagsabschiede 1649-1798*, pp. 491-2 n. 9-10, 510 n. 14; *ibid.*, LTA 1774, ‘Eingang’ and § 1.

<sup>130</sup> Urban examples e.g. in LO, vi. 838 (Felsberg 1775); StAM 5 no. 143 (Hersfeld 1776); 5 no. 5155 (1779), 5 no. 6176 (1780-81); StAM 5 no. 14747 (‘Desiderium speciale’ 21: ‘Sämtliche Städte’; 30.III.1786); rural examples: StAM 5 no. 359 (Oberaula complains about the appointment of its mayor by the *Landrat*, 1787-89); StAM 17e Lohra no. 18 (1776); StAM 5 no. 5145 (Obernkirchen 1793).

<sup>131</sup> StAM 63 no. 1332, Anlage 275 (‘Pro Memoria der Landschaft’; 26.III.1779) and Anlage 320 (‘Pro Memoria der Landschaft’; 13.IV.1779); Hollenberg, *Landtagsabschiede 1649-1798*, LTA 1764, § 9.

<sup>132</sup> StAM 63 no. 1314, Anlage 272 (‘Landschaftliches Desiderium’ 4; 25.II.1786).

<sup>133</sup> Hans Philippi, ‘Der Oberrheinische Kreis’, in *Deutsche Verwaltungsgeschichte*, ed. K. G. A. Jeserich, H. Pohl and G.-C. von Unruh (Stuttgart, 1983), i. 647.

<sup>134</sup> Hollenberg, *Landtagsabschiede 1649-1798*, LTA 1798, § 19b; the *Commissarii Loci* were also abolished: *ibid.*, LTA 1786, § 11c.

<sup>135</sup> Cited in LO, iv. 57-8 (16.VIII.1731); cf. LO, i. 438-47, at 439 (Ordinance of 1581, Tit. II, § 1), and *ibid.*, 452 n. 3.

meanwhile, were passed on to the rent chamber. The most important documents, containing matters of principle, reports of serious crimes or complaints against officials, went directly to the Landgrave.<sup>136</sup> According to an edict of 1716 all requests for a reduction or waiving of seigneurial duties had to be forwarded to the prince with a statement by the local officials and a draft resolution by the rent chamber.<sup>137</sup> He also dealt with cases where ‘gantze Communen umb moderation ihres monatlichen ContributionsVorschusses nachsuchen’, and even with requests for the granting of timber for the repair of public buildings.<sup>138</sup> Furthermore, he reserved the sole privilege to decide upon pardons in criminal cases and appeals for a reduction of the respective penalties.<sup>139</sup>

(iii)

There is no doubting the relative increase in state power over the course of the early modern period. ‘Territorialisation’ and ‘Confessionalisation’ remain striking characteristics of these centuries, and ‘absolutist’ tendencies can be found - at least temporarily - in both Hesse and England. And yet it is essential to acknowledge the continuing influence of ‘popular’ initiatives, be it in the ecclesiastical field, where directives from above were modified and adapted in line with local priorities,<sup>140</sup> or - as suggested here - in the political life of the nation. English acts were passed by the ‘King in Parliament’ and even the Hessian Landgrave had no legislative monopoly, whatever the constitutional theory. The status quo was constantly challenged by popular complaints and suggestions, with many an advanced solution testifying to the existence of ‘innovation from below’. Early modern subjects employed a sophisticated range of formal and informal means of influence, from a humble plea to a passing prince to a fully-fledged draft for a particular piece of legislation, in effect anticipating the modern *Gesetzesinitiative*.<sup>141</sup> In addition to the well-known *Gravamina* presented at diets and the revolts or legal proceedings discussed in

---

<sup>136</sup> LO, i. 438-40 (Ordinance of 1581).

<sup>137</sup> StAM 5 no. 11112 (24.I.1716).

<sup>138</sup> Cited in K. Ehrhardt, ‘Die innenpolitische Organisation des Hessen-Kasselischen Staates während der Regierungszeit König Friedrichs I. von Schweden und Landgraf Wilhelm VIII. (1730-1760)’ (Diss. phil. Marburg, 1954, typescript), p. 39; LO, iii. 560 (4.XII.1706).

<sup>139</sup> Ehrhardt, *Organisation*, p. 42. See e.g. StAM 17e Trendelburg no. 35, 36, 37, 40, 43, 44 (six volumes containing pleas for reduced penalties; 1686-99). For the seigneurial right of pardon: Krause, ‘Gnade’.

<sup>140</sup> See e.g. Heinrich R. Schmidt, *Dorf und Religion: Reformierte Sittenzucht in Berner Landgemeinden der frühen Neuzeit* (Stuttgart, 1995); Forster, *Counter Reformation*.

<sup>141</sup> Looking back at the old German Empire, constitutional lawyers argued as early as 1830 ‘daß die Stände ... unter der Form ... von Desiderien, Beschwerden, Wünschen etc. auf das gesammte Gebiet der landesherrlichen und landeshoheitlichen Gestzgebung einwirkten’; ‘Factisch übten [sie] schon längst eine Gesetz-Initiative’: Karl Vollgraff, *Was bedürfen, was wünschen und was erwarten demnach Kurhessens Bewohner von ihrem erhabenen Fürstenhause und dem auf den 16. October 1830 einberufenen engeren Landtage in Beziehung auf Verfassung und Verwaltung?* (Frankfurt, 1830), pp. 40, 25.

a large body of scholarly work,<sup>142</sup> petitions also deserve particular attention. In spite of the deferential tone, they contained a great deal of creative and - at times - explosive potential. Addressed to a variety of recipients, they contributed to the discovery of problems, to their solution, to the establishment of new authorities and the reorganisation of administrative proceedings. Furthermore, they can throw considerable light on the political, moral and ideological orientation of the humbler members of society. Without petitions, early modern politics would have looked very different indeed.

The phenomenon, of course, survived the demise of the Ancien Régime.<sup>143</sup> Thousands of petitions supported the English electoral reform movement in the years 1828-32 and millions of people put their signatures to those of the Chartists.<sup>144</sup> In Germany, too, petitions were readily used by the early labour movement, before it turned strikes into its most effective weapon.<sup>145</sup> Participants in the constitutional debates of the *Vormärz* did not only call for a formal right to petition, but actively used the medium to put their arguments forward,<sup>146</sup> pointing to the presentation of *Gravamina* and *Desideria* by the German estates as an important historical precedent.<sup>147</sup> Petitions allowed those without full political rights a degree of influence well before they were given more formal instruments to affect the decision-making process.<sup>148</sup> The Revolution of 1848/49, finally, brought the transfer of the practice onto the national level, as illustrated by the 25-30,000 petitions, among which many from Hesse,<sup>149</sup> addressed to the Frankfurt National Assembly.<sup>150</sup> In this case they did not serve as substitutes for direct

---

<sup>142</sup> See note 7 above and W. Troßbach, *Soziale Bewegung und politische Erfahrung. Bäuerlicher Protest in hessischen Territorien 1648-1806* (Weingarten, 1987).

<sup>143</sup> For what follows see H. Sengemann, *Der Zugang des Einzelnen zum Staat abgehandelt am Beispiel des Petitionsrechts* (Hamburg, 1965).

<sup>144</sup> C. Tilly, *Popular Contention in Great Britain 1758-1834* (Cambridge, Mass., 1995), pp. 295-7, 308-12, 321-31; L. Bergeron, 'England', in idem, F. Furet, R. Koselleck, *Das Zeitalter der europäischen Revolutionen 1780-1848* (15th edn., Frankfurt, 1983), pp. 197-8; Sengemann, *Zugang*, p. 61.

<sup>145</sup> *Bis vor die Stufen des Throns: Bittschriften und Beschwerden von Bergarbeitern*, ed. K. Tenfelde and H. Trischler (Munich 1986), pp. 9-13; R. W. Reichard, *From the Petition to the Strike: A History of Strikes in Germany 1869-1914* (New York, 1991).

<sup>146</sup> Examples from Kurhessen, Baden, Württemberg, Schleswig-Holstein etc. in H. Seier, 'Liberalismus in Kurhessen 1815-1866', in *Liberalismus und Region*, ed. L. Gall and D. Langewiesche (Munich, 1995), pp. 109-34; E. Fehrenbach, *Verfassungsstaat und Nationsbildung 1815-1871* (Munich, 1992), pp. 10-11; Sengemann, *Zugang*, pp. 48-55; H.-U. Wehler, *Deutsche Gesellschaftsgeschichte* (Munich, 1987), ii. 360, 364, 428.

<sup>147</sup> An influential, liberal encyclopedia defined 'das Recht zu Petitionen im Allgemeinen oder das Recht zu bitten' as 'ein allgemeines Menschenrecht', with reference to the former German estates' right to present 'desideria und gravamina': C. Welcker, 'Petitionsrecht', in idem and K. von Rotteck, *Staats-Lexikon* (Altona, 1848), x. 557-8.

<sup>148</sup> With the rise of associations, unions and political parties on the one hand, and the establishment of constitutional rights such as parliamentary initiatives and motions on the other, petitions naturally lost some of their previous importance: Kumpf, 'Petition'.

<sup>149</sup> M. Köhler, *Die nationale Petitionsbewegung zu Beginn der Revolution 1848 in Hessen: Eingaben an das Vorparlament und an den Fünfzigerausschuß aus Hessen (März bis Mai 1848)* (Darmstadt, 1985), pp. 65-87.

<sup>150</sup> The petitions carried some 2.5 to 3 million signatures, amounting to about a quarter of the male adult population. See W. Conze, 'Allgemeine Einleitung', in *Die Protokolle des Volkswirtschaftlichen Ausschusses der Deutschen Nationalversammlung 1848/49 mit ausgewählten Petitionen*, ed. idem and W. Zorn (Boppard a.R., 1992), pp. 1-18, esp. 10.

representation, but provided a platform for the expression of public opinion, which, demonstrably,<sup>151</sup> influenced the parliamentary proceedings.<sup>152</sup>

Considering the long-standing tradition of popular influence described in this essay, the spectacular Continental ‘Petitionsstürme’ of the *Vormärz* and the Revolution of 1848 no longer appear as nineteenth-century inventions. The roots of the right to petition should not only be sought in the French Revolution or its Atlantic predecessors, as might be suspected from a survey of much of the older legal and constitutional textbooks.<sup>153</sup> The vigorous expression of needs and interests from below much rather continues the early modern practice of writing petitions and *Gravamina*, whose influence on legislative processes - in different ways and forms - is evident from all over Europe.

---

<sup>151</sup> Conze, ‘Allgemeine Einleitung’, p. 14.

<sup>152</sup> O. Best, *Interessenpolitik und nationale Integration 1848/49: Handelspolitische Konflikte im frühindustriellen Deutschland* (Göttingen, 1980), pp. 126, 291-2; J. H. Kumpf, *Petitionsrecht und öffentliche Meinung im Entstehungsprozeß der Paulskirchenverfassung 1848/49* (Frankfurt, 1983), pp. 146-7, 386-95.

<sup>153</sup> Cf. Würbler, *Unruhen und Öffentlichkeit*, pp. 323-4.