

# Conscience and the King's Household Clergy in the Early Tudor Court of Requests

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*The early Tudor Court of Requests was closely attached to the king's person and his duty to provide 'indifferent' justice. In practice, however, it was staffed by members of the attendant royal household and council. Utilizing the little-studied but extensive records of the court, this article traces the rising dominance of the dean of the Chapel Royal and the royal almoner as administrators and judges there from the 1490s to the 1520s. It examines the relationship between supposedly 'secular' and 'spiritual' activities within the central administration and between the formal and informal structures and ideologies of the church, the law and the royal household. It explores the politics of proximity and the ad hoc nature of early Tudor governance which made the conscience-based jurisdiction in Requests especially convenient to the king and desperate litigants alike. Overall the article argues that although the influence of clergymen in the court waned towards the end of the sixteenth century in favour of common-law judges, its enduring association with 'poor men's causes' and 'conscience' grew directly from these early clerical underpinnings.*

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In the late fifteenth and early sixteenth centuries, litigants without remedy at the rigid English common law could increasingly sue to the king's extraordinary justice. This justice was executed within an expanding range of distinct central tribunals, including the courts of Chancery and Star Chamber as well as the little-studied Court of Requests, which emerged as the judicial arm of the attendant royal council in the late fifteenth century. In Requests, petitioners from across England, Wales, Ireland, Calais and the Channel Islands presented cases ranging from breaches of faith and trust to accusations of armed riot and serious assault. Their bills of complaint appealed directly to the mercy, pity and charity of the king on the basis of their poverty and other disadvantages relative to powerful local

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opponents. By the late sixteenth century, Requests had come to be known as ‘the poore mannes Courte’ and ‘the courte of conscience’.<sup>1</sup>

Of all the discretionary justice courts of the early Tudor period, Requests was most closely associated with the king. Unlike the Westminster-based Chancery and Star Chamber, Requests was attendant on the royal person; its petitions were invariably addressed to the ‘king our sovereign lord’; and its commissions might be authorized under the king’s signet seal and sign manual. In this sense, Requests best fulfilled the ideal that the administration of ‘indifferent’ justice to all subjects was the ‘chief charge’ of the king himself, as Henry VII’s minister Edmund Dudley expressed it in 1509.<sup>2</sup> A hands-on role for the king in judicial administration could never be expected to work in practice, however, ‘since he is not able to do it by himself in all places’.<sup>3</sup> Dudley and many of his contemporaries felt a workable compromise to be the appointment of particularly ‘well lernyd men’ of ‘good consciens’ to ‘pass without delay a just judgment on anyone requesting it’.<sup>4</sup> In Requests, the application of justice at the king’s discretion was often delegated not to common lawyers or officers of state, as with the chancellor in Chancery and Star Chamber, but to certain clergymen employed within the royal household. Requests therefore serves as a valuable case study for the prominent role of churchmen in early Tudor centralized justice.

This article charts when and how these clergymen handled business in the early Court of Requests. It is based on a full survey of the 3,293 catalogued Henrician-era pleadings files and the six order and decree books surviving in the court’s archives dating from the period between the earliest records in 1493 and 1535.<sup>5</sup> Although these records show that many churchmen, including bishops, abbots and priors, served as judges in Requests in the early Tudor period, this article focuses on the dean of the Chapel Royal and the royal almoner. From 1493 to the 1520s, the individuals holding these offices most consistently received, managed and determined cases

<sup>1</sup> As in the ‘Description of the Cortes of Justice in England’, written by the MP Alexander Fisher of Gray’s Inn in 1576: Kew, TNA, SP12/110, fol. 44<sup>r</sup>.

<sup>2</sup> Edmund Dudley, *Tree of Commonwealth*, ed. D. M. Brodie (Cambridge, 1948), 34.

<sup>3</sup> Stephen Baron, *De regimine principum (1509)*, transl. P. J. Mroczkowski (New York, 1990), 79.

<sup>4</sup> Dudley, *Tree of Commonwealth*, 34; Baron, *De regimine principum*, 79.

<sup>5</sup> TNA, Pleadings series, REQ2, bundles 1–13; Order Books series, REQ1/1–5, 104–5, plus fragments in REQ 3/22, 29, 30.

presented to Requests. Indeed, by the late 1510s they were the two primary judges in the court, virtually to the exclusion of all others.

This research contributes to scholarship over the last thirty years on the innovative discretionary justice courts of fifteenth- and sixteenth-century England.<sup>6</sup> Particularly influential is Gwilym Dodd's recent study of the role of late medieval 'bishop-councillors' in parliament, Chancery, and the king's council, and their blurring of the boundaries between activities typically seen (anachronistically) to pertain to either the church or the state.<sup>7</sup> Indeed, the involvement of churchmen was a 'vital prerequisite' for an emerging form of justice that technically represented the 'secular law' of central government but which operated on the basis of canon- and civil-law notions of reason and conscience, as Dodd argued. Tracing this trend towards the practical and theoretical influence of churchmen in discretionary justice into the sixteenth century, it is contended here that the dean and the almoner played a similarly central role in the Court of Requests. By the late 1510s they were integral to the ability of Requests to offer the conscience-based remedies requested by petitioners in cases which otherwise concerned temporal matters. Moreover, owing to their proximity to the king they were ideally placed to facilitate and embody his personal oversight of indifferent justice.

It has been argued that the early sixteenth century was a period of 'popularisation' and growth for both new and existing central courts under the prerogative of the strong early Tudor kings.<sup>8</sup> Focus on ecclesiastical personnel and their contributions to innovative, centralized forms of governance aids in de-laicizing traditional administrative histories of this period, beyond the prolonged concentration in the late twentieth century on its two most prominent ministerial figures, Thomas Cromwell and Thomas Wolsey.<sup>9</sup> The Court of

<sup>6</sup> Including John A. Guy, 'Wolsey, the Council, and the Council Courts', *EHR* 91 (1976), 481–505; Timothy S. Haskett, 'Conscience, Justice and Authority in the Late Medieval English Court of Chancery', in Anthony Musson, ed., *Expectations of the Law in the Middle Ages* (Woodbridge, 2001), 151–64.

<sup>7</sup> Gwilym Dodd, 'Reason, Conscience and Equity: Bishops as the King's Judges in Later Medieval England', *History* 99 (2014), 213–40, at 215.

<sup>8</sup> John A. Guy, *The Court of Star Chamber and its Records to the Reign of Elizabeth I* (London, 1985), 6; S. J. Gunn, *Early Tudor Government 1485–1558* (Basingstoke, 1995), 77.

<sup>9</sup> Most famously in G. R. Elton, *The Tudor Revolution in Government: Administrative Changes in the Reign of Henry VIII* (Cambridge, 1953); John Guy restored the balance in Wolsey's favour: 'The Privy Council: Revolution or Evolution?', in Christopher

Requests records make it possible to gain a fuller account of the men at the heart of a burgeoning central institution, and provide the means for looking beyond formalized structures to those more ad hoc patterns of judicial activity around the monarch. A thorough analysis of the records permits a fresh examination of the nature of the household clergy's role in the principle and practice of the court in its formative years.

As various historians of sixteenth-century England have acknowledged, the Requests records, from the bills of complaints to the final decrees, are kept in one relatively coherent archive and are undoubtedly valuable for early Tudor political and legal history.<sup>10</sup> Nevertheless, they have remained little studied since I. S. Leadam's Selden Society volume was published in 1898.<sup>11</sup> Notable exceptions include D. A. Knox's 1974 thesis on the Edwardian Requests, featuring a detailed examination of the court's 'bench', and Tim Stretton's extensive work on the experience of women suing at the Elizabethan Requests.<sup>12</sup> More recently, Hannes Kleineke has emphasized the origins of the court in the conciliar function for receiving 'Requests' under Richard III, although the relationship between the clerk appointed for the same in 1483 (the civil lawyer John Harrington) and the tribunal of judges represented by the surviving Court of Requests archive is yet to be elucidated.<sup>13</sup> After tracing the growing influence of the dean and the almoner through the pleadings and order books for the early Court of Requests, this article examines the significance of these offices to the administration of royal, conscience-based justice. It will be argued that these clergymen

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Coleman and David Starkey, eds, *Revolution Reassessed: Revisions in the History of Tudor Government and Administration* (Oxford, 1986), 59–86.

<sup>10</sup> G. R. Elton, 'Why the History of the early Tudor Council remains unwritten', in idem, ed., *Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946–1972* (Cambridge, 1974), 308–38, at 328; John Baker, *OHLE*, 6: 1483–1558 (Oxford, 2003), 203–4.

<sup>11</sup> I. S. Leadam, ed., *Select Cases in the Court of Requests, A.D. 1496–1569*, SelS 12 (London, 1898).

<sup>12</sup> D. A. Knox, 'The Court of Requests in the Reign of Edward VI 1547–1553' (PhD thesis, Cambridge University, 1974); Tim Stretton, *Women waging Law in Elizabethan England* (Cambridge, 1998).

<sup>13</sup> Hannes Kleineke, 'Richard III and the Origins of the Court of Requests', *The Ricardian* 11 (2007), 22–32.

played a key role in defining the jurisdiction and authority of Requests as it operated for the rest of the Tudor period and beyond.

There are three key pieces of evidence for the staffing of the Court of Requests found routinely within its archives, representing three distinct aspects of activity. The first comprises the lists of attendant judges that are noted most frequently in the earliest order and decree books, alongside entries recording the appearances of accused parties, interlocutory court orders and final decrees. Typically, the names of individuals with spiritual and ecclesiastical offices are listed on the left-hand side, separate from the holders of temporal offices, such as knights and lawyers, who appear in the right margin. On occasion, the lists are supplemented by the signatures of the same judges below the entries, apparently in authorization of the decisions made. The lists and the signatures together represent the actual presence of the judges, wherever the royal court might be situated, for hearings of evidence from the principal parties, as well as their contribution to the decision-making process which led to the court's decrees and awards.

Secondly, signatures on the surviving petitions processed by the court in this period show the more day-to-day work of individual judges outside formal hearings. Various accounts discovered in the Requests archive show that prospective petitioners approached the royal court in person to exhibit their written bills of complaint. A list of costs written up by Joan and Thomas Strachey in 1518 referred to the 'tyme as we were at London to compleyne', indicating that they may have attended Requests at Westminster.<sup>14</sup> However, from the early 1490s through to the 1530s petitioners also sought access to Requests as it moved around with the royal progress, especially where this was more convenient for them than a journey to London. In 1511, Roger Dyer presumably submitted his petition concerning the withholding of lands in Mountsorrel in Leicestershire while the royal entourage was nearby on progress, as a writ for commission was subsequently issued from 'or monastery besides oure town of Lestre'.<sup>15</sup> Later on during the same progress, Cecile Arden, a widow from Chester, 'sued by byll of peticion' to the king 'at [the] Castell of Nottyngham'.<sup>16</sup> The reverse side of petitions was usually signed by one of the Requests judges, endorsing the issuing of

<sup>14</sup> TNA, REQ2/13/100.

<sup>15</sup> TNA, REQ2/4/366.

<sup>16</sup> TNA, REQ2/12/198.

privy seal summonses or the committal of a case to local examiners. On occasions when the petition endorsements are ascribed a clear date, they do not usually align with the dates provided in the court's books for formal sittings. These signatures therefore probably reflect the more impromptu administrative capacity of the judges, who were conveniently present at the itinerant royal court each day, for receiving exhibited petitions and for providing immediate remedy in the form of sanctioned process.

Thirdly, some of the judges also acted as counter-signatories on writs for commission formally issued from the court under the signet seal. These writs, declaring themselves to be 'By the King', addressed commissioners directly and called upon them to fulfil the king's intention for 'Justice [to] be equally ministred unto every of our sub-giettes'.<sup>17</sup> Here the judges appear to have acted in an administrative capacity alongside the king, who might lend either his own sign manual or, in the case of Henry VIII after 1510, a stamped signature to the top of the document. The locations from which these writs were issued include the palaces of Westminster, Greenwich and Richmond, as well as the royal manor of Woodstock and more private houses such as Langley, set within acres of royal forest.<sup>18</sup> Such writs and their counter-signatures therefore indicate not only the judges' habitual proximity to the king as he progressed around the country, but also their direct facilitation of the administration of the king's outwardly personal justice.

Examining the attendance lists, petition endorsements and writ counter-signatures together reveals three distinct but concentric circles of activity in Requests: the first and largest contained those sitting at arranged hearings to judge cases; the second represented those receiving and handling petitions in a more ad hoc fashion; and the third and smallest, most private circle included those facilitating the process by which the king personally authorized the court's writs. If the personnel in each of these circles are examined for years in which all three evidence types are extant, then the changing nature of the Requests judiciary during the early sixteenth century in favour of the household clergy can be observed.

<sup>17</sup> TNA, REQ2/1/1 and countless other examples throughout REQ2 and REQ3.

<sup>18</sup> Simon Thurley, *Houses of Power: The Palaces that shaped the Tudor World* (London, 2017), 105, 310–11.

In the years 1496–7 the Requests order book yields seventeen attendance lists, featuring fifteen different named judges.<sup>19</sup> The largest group of sitting judges in this period included six men, observed on just one occasion in March 1496. More commonly three judges sat together, and throughout April and May 1496 Thomas Savage signed several entries off alone. Savage, initially as bishop of Rochester and subsequently as bishop of London, was the most regular attender, appearing in thirteen lists.<sup>20</sup> He seems to have been the presiding judge in the court from early 1495, probably in connection with his capacity as ‘president of the [king’s] council’.<sup>21</sup> Thomas Jan, dean of the Chapel Royal, had been a judge since late 1493, and appeared in eleven lists during these years. Other clergymen, such as Robert Sherborne, archdeacon of Huntingdon and Buckingham and secretary to Henry VII, appeared only once or twice during the same period.

Like the main royal council of which it was a committee, the Court of Requests of the 1490s was characterized by a fluid composition and a balance of professions amongst the judges.<sup>22</sup> The fifteen listed individuals include members of the household clergy, such as the dean and the almoner; high-ranking ecclesiastical figures, such as the bishops of London and Rochester and the prior of St John of Jerusalem; men with temporal offices, including the household knight Charles Somerset (identified usually as *miles*); and peers related to the royal family, such as Viscount Welles and the earl of Derby, Thomas Stanley. They also include three doctors of civil law, Robert Middleton, Edmund Martyn and Richard Hatton; both Martyn and Hatton served as masters in chancery, but additionally all three each held various vicarages, rectories, canonries and

<sup>19</sup> TNA, REQ1/1, fols 3<sup>r</sup>, 21<sup>r</sup>, 23<sup>r</sup>, 23<sup>v</sup>, 30<sup>v</sup>, 156<sup>v</sup>, 160<sup>v</sup>, 165<sup>r</sup>, 165<sup>v</sup>, 166<sup>r</sup>, 166<sup>v</sup>, 167<sup>r</sup>, 168<sup>v</sup>, 171<sup>v</sup>, 178<sup>r</sup>. The figures, in order of frequency of appearance, are Thomas Savage, Thomas Jan, Dr Robert Middleton, John Viscount Welles, Sir John Digby, William Greville, Dr Edmund Martyn, Charles Somerset, Richard Fitzjames, Robert Rydon, Robert Sherborne, the earl of Derby, the prior of St Johns, Richard Mayhew and Dr Richard Hatton; for their biographies, see Leadam, ed., *Select Cases*, cx–cxiv.

<sup>20</sup> Savage was first recorded as bishop of London in the court records in April 1497, following his appointment to that office late in 1496: TNA, REQ1/1, fol. 23<sup>r</sup>. In 1501 he was appointed archbishop of York. At that point his engagement in Requests appears to have ceased, his last attendance being recorded in March 1501: REQ1/2, fol. 128<sup>v</sup>.

<sup>21</sup> A title ascribed to him in the Requests books in December 1497: TNA, REQ1/1, fol. 45<sup>v</sup>; S. B. Chrimes, *Henry VII* (London, 1972), 103.

<sup>22</sup> *Ibid.* 98–103.

deanships across the country and Hatton was also one of the king's chaplains.<sup>23</sup> Some common-law influence is also evident from the inclusion on at least two occasions of William Greville of the Inner Temple, the recorder of Bristol who would become a serjeant-at-law in 1503.<sup>24</sup>

Overall, then, the Requests judges of the mid-1490s were men with diverse backgrounds, positions and expertise, united by their service to the king. Yet apart from Savage, only the dean, Jan, additionally undertook the more administrative responsibility of receiving petitions and providing immediate direction for litigants.<sup>25</sup> Furthermore, the only surviving commission writ from around this time was signed by Henry VII and counter-signed by Jan, at Woodstock.<sup>26</sup> As well as helping to underpin the court's conscience-based judgments in these early years, the household clergy were conveniently placed to ensure that the court's process moved smoothly day by day.

Collating the same information for the years 1520–1 gives a different picture. Attendance registers were, by that time, written into the order books very infrequently, but where they do exist it can be seen that the circle of judges hearing Requests cases comprised a maximum of three men. In all instances this included the dean of the Chapel Royal (John Clerk) and the almoner (with John Stokesley replacing Richard Rawlins in that role some time in 1521) with one additional person.<sup>27</sup> The involvement of an extra sitting judge was occasional and irregular. John Gilbert (or 'Gylberd', referred to only as an *armiger*) and Roger Lupton, the provost of Eton, appear in just one attendance list each.<sup>28</sup> In the absence of more frequent lists, other evidence beyond the Requests books corroborates the dominance (and perhaps the isolation) of the dean and almoner as judges by the late 1510s. From at least 1504, pleas at King's Bench and Common Pleas described hearings before the dean and then, from 1510, before the

<sup>23</sup> A. B. Emden, ed., *A Biographical Register of the University of Cambridge to 1500* (Cambridge, 1963), 293, 1277; Leadam, ed., *Select Cases*, cx, cxiii.

<sup>24</sup> John Baker, *The Men of Court 1440 to 1550: A Prosopography of the Inns of Court and Chancery and the Courts of Law*, SelS supplementary series 18 (London, 2012), 783.

<sup>25</sup> TNA, REQ2/2/90; REQ2/10/8; REQ2/5/319; Richard Mayhew, the almoner, also signed a petition which might be dated to this period: REQ2/4/345.

<sup>26</sup> TNA, REQ2/2/145.

<sup>27</sup> TNA, REQ1/4, fol. 3<sup>v</sup>; REQ1/105, fol. 1<sup>v</sup>.

<sup>28</sup> TNA, REQ1/105, fol. 1<sup>v</sup>.



dean and almoner together.<sup>29</sup> By the mid-1510s, petitioners to Requests referred to the dean as the ‘Presydent of the Kyngs Court of Requests’, and might ask for hearings before him specifically.<sup>30</sup> The earlier fluidity of the Requests tribunal had given way to the more routinized practice of retaining just two specific officers to pass judgment, either alone or as a pair. Furthermore, in 1520–1 only the dean of the Chapel Royal and the almoner endorsed petitions and counter-signed commission writs. The extant records suggest that no-one else was involved in overseeing the court’s process in this period, so that what had earlier been relatively distinct circles of activity had become almost indistinct from one another.

Conversely, as the dean and the almoner came to the fore, the formal input of bishops, abbots and priors, common lawyers, knights and peers of the realm to the court’s business appears to have declined significantly. This was notwithstanding the continuing role of the bishops of Durham, Winchester, Norwich and Hereford alongside the justices of the common-law benches, knights and noblemen, in the judicial business of the main royal council throughout the 1510s.<sup>31</sup> Temporary committees founded to expedite cases from Star Chamber in 1518, 1519 and 1520 also featured prominent ecclesiastical councillors as their leading members, including the ‘Lorde of Westminster’, ‘Deane of Paules’, and ‘Lorde of Sainte Johnes’.<sup>32</sup> Senior churchmen and other councillors did not withdraw from conciliar justice entirely at this time, then, but only from Requests. This perhaps reflects the increasing separation of Requests from the main royal council during the institutional reforms at Westminster under Wolsey and the growing volume of business in the larger conciliar courts based there, where such leading ecclesiastical figures were routinely employed. By 1520–1, these developments had left the dean and the almoner almost exclusively responsible for the management and provision of judgments in Requests. This reduction in the number of active judges was despite the fact that the volume

<sup>29</sup> See Baker’s summary of these cases: John Baker, *The Reinvention of Magna Carta 1216–1616* (Cambridge, 2017), 459–60.

<sup>30</sup> TNA, REQ2/6/207; REQ2/1/1; REQ2/2/74; REQ2/3/126, 183; REQ2/4/160; REQ2/6/182; REQ2/12/77.

<sup>31</sup> The business of the main council was distinct from the Requests tribunal in that it handled disputes between peers of the realm and those matters touching the king directly, such as instances of seditious speech: San Marino, CA, HL, MS Ellesmere 2655, fols 1<sup>r</sup>–18<sup>v</sup>.

<sup>32</sup> TNA, SP1/19, fol. 142<sup>r</sup>; HL, MS Ellesmere 2655, fols 12<sup>r</sup>, 16<sup>r</sup>.

of business coming before Requests was also increasing, with the number of cases heard there in 1520–1 more than double that for 1496–7.<sup>33</sup>

The association between Requests and these two offices and their incumbents by the late 1510s has not gone entirely unnoticed, but the reasons for, and implications of, their dominance (or isolation) there are yet to be fully explained.<sup>34</sup> From the court's earliest surviving records in 1493 to the 1530s, seven successive deans of the Chapel Royal and six successive almoners acted in Requests. Of the deans, the majority were doctors in canon law or civil law (or both), although Geoffrey Symeon (1501–8) and William Atwater (1508–14) were theologians. In comparison, the almoners were all doctors of theology, with the single exception of Wolsey (1509–14), for whom there is no evidence of a doctorate. Few of these deans or almoners had any previous experience of legal practice, and none possessed any formal common-law qualifications that might fill the gap left by the absence of routine common-law input in the court by the mid-1510s. They may well have gained experience of administering that law through suits conducted in the context of their private or official business, however, and it is probable that some had engaged in matters of common law as royal councillors. For example, while operating as the presiding figure in Requests, Dean Veisy also led a series of enclosure commissions in various counties across England.<sup>35</sup>

Additionally, most of the deans and almoners were ordained and had risen to prominence in the king's inner circle as royal confessors or chaplains. As part of his office, the dean had oversight of all the clergy who made up the peripatetic Chapel Royal, responsible for supporting the king's spiritual needs, and would himself frequently have conducted divine service and administered the sacraments to the king and queen.<sup>36</sup> The almoner was frequently depicted in accounts of the royal household and chronicles of this period at the

<sup>33</sup> TNA, REQ1/1 gives 244 entries for 1496–7, whilst REQ1/104, 105, and the fragments in REQ3/22, 29 and 30 together give 511 entries for 1520–1.

<sup>34</sup> Guy, 'Wolsey', 495–6.

<sup>35</sup> I. S. Leadam, ed., *The Domesday of Inclosures 1517–1518, being the extant Returns to Chancery for Berks, Bucks, Cheshire, Essex, Leicestershire, Lincolnshire, Northants, Oxon, Warwickshire by the Commissioners of Inclosures in 1517 and for Bedfordshire in 1518*, 2 vols (London, 1897), 1: 81, 83–6.

<sup>36</sup> David Baldwin, *The Chapel Royal: Ancient and Modern* (London, 1990), 231.

king's right-hand side, proffering advice and wisdom while also being central to courtly processions and rituals, including the distribution of royal alms.<sup>37</sup> Both offices would therefore have required attendance upon the king and his court, and the dean at least was often also sworn in as a member of the main royal council.

Yet all the known occupants of both these posts in the early Tudor period simultaneously held various non-resident ecclesiastical posts, from vicarages and rectories to archdeaconries, across the country. As dean, Symeon was very active in handling Requests petitions in the later years of Henry VII's reign, whilst also serving as dean of Chichester from 1504 and Lincoln from 1506. Closer to the royal court, the deans of the Chapel Royal were often also canons and deans at St George's Chapel at Windsor or St Stephen's Chapel at Westminster. All these more minor ecclesiastical positions, as well as the deanship or almonership, would have been surrendered on appointment as a bishop. This was a career path followed by almost all the deans and almoners active in this period, whether immediately, as in the case of Wolsey (who moved from being almoner to being bishop of Lincoln and then archbishop of York, all in 1514), or sometime later in their careers (as was the case for almoner Stokesley, who was appointed bishop of London in 1530, seven years after leaving the almonership, during which time he served as archdeacon of Dorset).

With a stint judging the interpersonal disputes of supplicants to the king as a stepping-stone in an otherwise largely ecclesiastical career, it is tempting to perceive these men merely as 'state functionaries' seeking preferment through service to the crown.<sup>38</sup> Yet it was not simply that the dean and the almoner happened incidentally to take upon themselves seemingly 'secular' state duties at the royal court. Their involvement in Requests had come by the 1510s to be part and parcel of their numerous duties within the king's household clergy. The work associated with Requests – hearing cases, directing petitions and signing writs – stayed with these offices, and did not

<sup>37</sup> C. M. Woolgar, *The Great Household in Late Medieval England* (New Haven, CT, 1999), 163; James Gairdner, ed., *Letters and Papers illustrative of the Reigns of Richard III and Henry VII* (London, 1861), 392; Edward Hall, *Hall's Chronicle; containing the History of England during the Reign of Henry the Fourth and the succeeding Monarchs, to the End of the Reign of Henry the Eighth* (London, 1809), 540, 565, 674, 730.

<sup>38</sup> A viewpoint discussed, and dismissed, by Dodd: 'Reason, Conscience, and Equity', 222.

move with their incumbents. So, where Richard Halswell's suit to the court in 1519 was examined before 'the reverent fader yn god Doctor John Veyse ... then Dene of yor Chapell', once Veisy had been created bishop, 'Mr Doctor Clerk [was] ordeyned by yor grace Deane of yor Chapell', and he took over the management of the case.<sup>39</sup> The duties in Requests belonged to the office, a reversal of the situation in the 1490s, when individuals such as Thomas Savage (as bishop of Rochester and bishop of London) might attend Requests hearings in numerous successive roles. Just as Dodd argued of the fifteenth-century clerical chancellors (who, he suggested, officialized the earlier ad hoc engagement of clerics in conciliar tribunals and royal commissions) the dean and almoner came routinely to personify the 'indivisibility of church and state' through the 'ideological bridge' of equitable discretionary justice, despite their relatively junior place in the ecclesiastical hierarchy.<sup>40</sup>

In the first instance, the growing connection between the offices of dean and almoner and Requests from 1493 to the 1520s evolved as a result of the continuing day-to-day attendance of both dean and almoner at court. Here, in the public spaces of the royal residences and at moments of religious ritual, they might be on hand to receive and direct petitions and available to sit with other judges to hear cases. Additionally, owing to their spiritual counselling of the king, these men also had the most direct access to the monarch's person and thus to those faculties for royal mercy and pity that petitioners explicitly sought. These fell under the broader conceptual aegis of conscience, which had several potential facets when expressed as a legal principle in Requests. It was occasionally evoked in reference to the conscience of the defendant and the need to save them from dishonesty or sin, a concept found also in Chancery. Far more often, however, conscience in Requests meant the personal conscience of the king himself, and the more universal notions of fairness and reason that he was expected to exemplify and inculcate in his justice system. The offices of the dean and the almoner lay at the intersection between the formal structures of the royal household and the ecclesiastical hierarchy, within which the majority of the holders of these offices quickly rose, and the more informal arrangements resulting from the politics of proximity.

<sup>39</sup> TNA, REQ2/3/134.

<sup>40</sup> Dodd, 'Reason, Conscience, and Equity', 226–39.

Seeing the dean and the almoner as thus integral to the very nature of Requests business, how did they apply these notions of conscience? The early Requests dealt with a wide range of case types, testing the reason and legal expertise of its judges, including typically common-law cases of debt and title to land as well as more unusual matters, such as an alleged riot against a Derbyshire rent collector in 1496, the potentially deliberate fire at a London inn in 1513, and the attempt to force William Cartwright's servant 'to have eten all yor seid prevy seal with the wex' in 1517.<sup>41</sup> Yet, regardless of specific case type, the court was generally appealed to when litigants had been otherwise prevented from accessing the common law, due as much to the petitioner allegedly being 'not of substance' or a general fear of powerful opponents as to issues relating to technical jurisdictional boundaries between equity or conscience and civil or common law.

Although Requests cases concerned purely temporal matters of real property and money rather than issues of sin or personal impropriety typical of the ecclesiastical courts, petitioners nevertheless framed their suits in moralistic terms. The unconscionable behaviour of accused parties was described as an affront to 'right and good conscience' and a 'perilous example' to others. It was in this sense that Requests was both a court for 'poor men's causes' and a court of conscience and reason. The king's duty to provide indifferent justice for all, combined with the acknowledged limitations of the common-law courts and the relative flexibility of the extraordinary equitable jurisdictions in both process and remedy, meant that Requests could be a particularly productive avenue for vulnerable litigants. The judgments provided at the discretion of the dean and the almoner and recorded in the order books weighed up the evidence and individual circumstances of both parties and compelled them to reach a friendly reconciliation. This was typically to be achieved through the restoration of property or money to the petitioner and the threat of a fine for obstinate defendants. Like the fifteenth-century 'bishop-councillors' of the council and Chancery, the judges in Requests benefited from the favour of the king and the prestige of exercising justice at his discretion, and from the rewards that followed. Yet in the course of their work in the court, conducted alongside their clerical duties within the royal household, they were also

<sup>41</sup> TNA, REQ2/2/81, 192; REQ2/4/337.

able to cultivate their spiritual vocation. The creative jurisdiction of Requests, unbound by the customs, maxims and statutes of English law, allowed them to put their administrative experience and learning in natural law to use in the care of vulnerable litigants.<sup>42</sup>

Perhaps the firmest evidence of the discretion of the dean and the almoner at work within the Requests process is to be found in the provisions for the admission of destitute litigants to the court *in forma pauperis*. A statute of 1495 had stipulated that ‘poor’ litigants might have their fees for counsel and process entirely waived in the king’s ‘Courtes of Recorde’, although this was a category probably not including Requests, as equity courts were typically held to operate beyond the law of the land and without setting legal precedent.<sup>43</sup> Such provisions had a much longer heritage in Roman civil law and canon law and had been offered in English church courts throughout the late medieval period, to the extent that the church was perceived to specialize in poor people’s litigation.<sup>44</sup> The survey of the Henrician Requests pleadings archive has uncovered only twenty-eight visible admissions *in forma pauperis*. Twenty-three date to between 1517 and 1523, roughly coinciding with the period in which the dean and the almoner were most predominant; indeed, most were signed off by the Deans Veisy (trained in the civil law) and Clerk (a canonist), or the Almoner Stokesley (a doctor of divinity).<sup>45</sup> It might be speculated that the dominance of these clergymen and the relative absence of common-law input allowed canon- and civil-law decretals concerning the care of destitute litigants to come to the fore in the court’s practice.<sup>46</sup>

<sup>42</sup> Dodd, ‘Reason, Conscience, and Equity’, 221–3, 225–6.

<sup>43</sup> ‘An Acte to admytt such persons as are poore to sue in forma pauperis’ (1495), 11 Hen. VII c.12; it is probable that several bishops helped formulate this statute: C. G. Bayne and William Huse Dunham, *Select Cases in the Council of Henry VII*, SelS 75 (London, 1958), 28.

<sup>44</sup> R. H. Helmholz, *Canon Law and the Law of England* (London, 1987), 47; James A. Brundage, ‘Legal Aid for the Poor and the Professionalization of Law in the Middle Ages’, *JLH* 9 (1988), 169–79, at 171.

<sup>45</sup> TNA, REQ2/1/2; REQ2/2/54, 66; REQ2/3/140, 165; REQ2/4/50, 52; REQ2/5/58, 323; REQ2/6/34; REQ2/7/40, 122, 127, 130; REQ2/8/339; REQ2/12/126, 155, 159; REQ3/6 Tolby v Knight; REQ3/9 Cause v Abbot of Furness; REQ3/10 Pante v Knight, Symmes v Bekford.

<sup>46</sup> There are just ‘two dozen’ identified in Chancery for 1515–29: Franz Metzger, ‘The Last Phase of the Medieval Chancery’, in Alan Harding, ed., *Law-Making and Law-Makers in British History: Papers presented to the Edinburgh Legal History Conference, 1977* (London, 1980), 79–89, at 82; and only two admissions in Star Chamber for the

Otherwise, the influence of the dean and the almoner was most strongly felt in the continuing involvement of the king himself in Requests throughout the 1510s. Their spiritual vocation, understanding of theology and canon law and proximity to the king's person meant that they were best placed to interpret his conscience in practice. Their obtaining of the signatures of both Henry VII and Henry VIII successively on the writs for commission is especially indicative of the notion of royal care for justice put into action through the encouragement of his continually attendant spiritual counsellors. That this practice reached a peak in the early years of Henry VIII's reign and that no such role for the king is observable in the other conciliar courts would appear to confirm that it was the dean and the almoner specifically who helped to foster the perception of Requests as a court overseen by the 'king our sovereign lorde' directly. This principle of personal royal involvement in Requests remained enshrined in its petitioning protocol, its position in the household and the authorization of its process under the royal sign manual throughout the late fifteenth and early sixteenth centuries, even when the hands-on Henry VII was succeeded in 1509 by a young king who admitted to finding all writing 'tedius and paynefull'.<sup>47</sup>

Thereafter, although Requests would continue to be seen as the monarch's own court through to its demise in 1643, from the mid-1520s onwards it settled increasingly at Westminster, severing its physical connection with the king. It also experienced a period of general decline in its business, and in the presence of the dean and the almoner as its judges. Richard Sampson and Edward Lee, the dean and the almoner respectively from c.1523, were relatively inactive in Requests in comparison to some of their predecessors, though this was probably a result of their being on diplomatic embassies rather than a deliberate effort to reallocate Requests business to non-ecclesiastical figures. Indeed, in January 1529, a list of 'Counsaillours as be appointed ... in the kynges Courte of Requestes' entered into the order book (on an otherwise blank page, distinct from any recorded court business) nominated the 'dean of the kinges chapel', the bishops of Lincoln and of

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same period: Guy, *Court of Star Chamber*, 62; one better known example of such decretals is William Lyndwood, *Provinciale seu constitutiones Angliae* (Oxford, 1679), 68c.

<sup>47</sup> *L&P* 3: 1.

St Asaph, the abbot of Westminster, the prior of St John's and the vicar of Croydon, as well as various members of the royal household and council and the common lawyers Thomas Nevill and William Sulyard.<sup>48</sup>

Amongst these names, at the bottom of the list, was Christopher 'St Jermyne', the author of the legal treatise *Doctor and Student* (1528), which examined the place of conscience as a juridical principle alongside the maxims, customs and statutes of English common law.<sup>49</sup> St German's inclusion despite his advanced age (in 1529 he was nearly seventy) and the fact that he had not practised law since 1511 indicates that the list probably did not truly reflect the present judges in Requests in the same way that the 1490s lists and accompanying signatures generally did.

Nevertheless, a strong clerical presence in the Requests judiciary was sustained throughout the reign of Edward VI, with Thomas Thirlby (dean of the Chapel Royal and later bishop of Westminster, Norwich and Ely) particularly active in endorsing petitions.<sup>50</sup> Requests would never again see the same domination of its business by the royal household clergy specifically, however. By the Elizabethan period it was staffed by lay masters of Requests, who were invariably formally appointed officials and politicians trained at the common-law inns of court.

In contrast, as this article has shown, the late fifteenth-century Court of Requests had reflected the trend, identified by Dodd, for the increasing centrality of 'bishop-councillors' to the enactment of discretionary justice. Later, in the distinctive context of the early sixteenth-century attendant Court of Requests, this form of discretionary justice came to be dominated by the lesser ecclesiastics of the household clergy, who in turn became integral to the conscience-based remedies offered there. The engagement of the dean of the Chapel Royal and the almoner in Requests was a result in the first instance of the need to have some practical and convenient means to serve petitioners arriving at the royal court. Indeed, facilitating petitioners' claims to conscience in Requests would, for the men holding these offices, have aligned with their duties in almsgiving and

<sup>48</sup> TNA, REQ1/5, fol. 43<sup>v</sup>.

<sup>49</sup> Christopher St German, *Doctor and Student*, ed. T. F. T. Plucknett and J. L. Barton, Sels 91 (London, 1974).

<sup>50</sup> Knox, 'Court of Requests', 70–3.



leading divine service. As such, there was no true divide between the judges' spiritual and secular duties, or between those they owed to the church and to the state. In Requests, more than in any other early Tudor court, the care for the king's soul and his delegated duties as justice-giver converged.

As the earlier ad hoc administrative fluidity of Requests evolved into settled formality, and as jurisdictional boundaries became increasingly blurred, the sway held by these clergymen over its management was increasingly controversial and their presence undoubtedly declined. Yet in 1580 the politician and antiquarian William Lambard still observed that 'within these 40 years' the Court of Requests had predominantly served 'very poore men, not able to sue at the Common Law', and its association with 'conscionable Cases' presented through supplication to the monarch's mercy was sustained into the following century.<sup>51</sup> The principles and processes inherent in the Court of Requests were thus permanently shaped by the early Tudor clergymen who had once been on hand to administer and determine causes there.

<sup>51</sup> William Lambard, *Archeion or, a Discourse upon the High Courts of Justice in England*, ed. Charles H. McIlwain and Paul L. Ward (Cambridge, 1957), 118; Thomas Blount, *Nomo-Lexikon, a Law-Dictionary, interpreting such Difficult and Obscure Words and Terms, as are found either in our Common or Statute, Ancient or Modern Lawes* ([London], 1670), s.v. 'Court of Requests'.